

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
FORT WORTH DIVISION**

American Airlines, Inc., a Delaware corporation,	)	
	)	
Plaintiff,	)	
	)	Civil Action No.: 4:11-cv-244-Y
vs.	)	
	)	
Travelport Limited, et al.	)	
	)	
Defendants.	)	

**APPENDIX IN SUPPORT OF  
AMERICAN AIRLINES INC.'S SUPPLEMENTAL BRIEF IN SUPPORT OF ITS  
MOTION TO EXTEND SCHEDULING ORDER DEADLINES**

American Airlines, Inc. respectfully files this Appendix in Support of its Supplemental Brief in Support of its Motion to Extend Scheduling Order Deadlines.

Ex.	App. Pages	Date	Description
A	1-126	1/25/12	Defendants Travelport Limited and Travelport, LP's Notice of Third-Party Subpoenas
B	127-662	1/26/12	Defendants Travelport Limited and Travelport, LP's Notice of Third-Party Subpoenas
C	663-682	1/30/12	Defendant Travelport's Third Set of Requests for Production of Documents to Plaintiff American Airlines, Inc.
D	683-739	2/2/12	Defendant Travelport's Limited and Travelport, LP's Notice of Third-Party Subpoenas

DATED: February 2, 2012

Respectfully submitted,

s/ Yolanda C. Garcia

Yolanda C. Garcia

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**CERTIFICATE OF SERVICE**

I hereby certify that all counsel of record who are deemed to have consented to electronic service are being served with a copy of the foregoing document via the Court's CM/ECF system pursuant to the Court's Local Rule 5.1(d) this 2nd day of February 2012

s/ Robert S. Velevis

\_\_\_\_\_

Robert S. Velevis

# **Exhibit A**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS**

AMERICAN AIRLINES, INC.,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	Case No. 4:11-cv-0244-Y
	)	
TRAVELPORT LIMITED, et al.,	)	
	)	
Defendants.	)	
	)	

**DEFENDANTS TRAVELPORT LIMITED AND  
TRAVELPORT, LP'S NOTICE OF THIRD-PARTY SUBPOENAS**

TO: Plaintiff American Airlines, Inc., by and through its attorneys of record, Yetter Coleman LLP, 909 Fannin St., Suite 3600, Houston, Texas 77010.

Defendants Sabre, Inc., Sabre Holdings Corporation, and Sabre Travel International Ltd., by and through their attorneys of record, Cantey Hanger LLP, 600 West 6th Street, Suite 300, Fort Worth Texas 76102.

Defendant Orbitz Worldwide, LLC, by and through its attorneys of record, Little Pedersen Fankhauser LLP, 901 Main Street, Suite 4110, Dallas, Texas 75202.

Please take notice that Defendants Travelport Limited and Travelport, LP, by and through its undersigned counsel, will issue third-party subpoenas pursuant to Federal Rule of Civil Procedure 45 commanding the parties identified below to produce documents and tangible things. Copies of the subpoenas are attached hereto as follows:

1. Exhibit 1 is a true and correct copy of the subpoena to Airline Tariff Publishing Company.
2. Exhibit 2 is a true and correct copy of the subpoena to Amadeus North America, Inc.
3. Exhibit 3 is a true and correct copy of the subpoena to Boston Consulting Group LLP.
4. Exhibit 4 is a true and correct copy of the subpoena to Farelogix, Inc.

5. Exhibit 5 is a true and correct copy of the subpoena to the Kayak Software Corporation.
6. Exhibit 6 is a true and correct copy of the subpoena to Open AXIS Group, Inc.
7. Exhibit 7 is a true and correct copy of the subpoena to PASS Consulting Corporation.

Dated: January 25, 2012

/s/ Michael L. Weiner

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**CERTIFICATE OF SERVICE**

I hereby certify that on January 24, 2012, I caused a true and correct copy of Defendants Travelport Limited and Travelport, LP's Notice of Third-Party Subpoenas to be served via Federal Express and email, upon each of the following:

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*Attorney of Record for Defendant  
Orbitz Worldwide LLC*

/s/ Justin N. Pentz  
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# **EXHIBIT 1**

UNITED STATES DISTRICT COURT
for the
Southern District of Florida

American Airlines, Inc.
Plaintiff
v.
Travelport Limited, et al.
Defendant
Civil Action No. 4:11-cv-00244-Y
(If the action is pending in another district, state where:
Northern District of Texas)

SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS
OR TO PERMIT INSPECTION OF PREMISES IN A CIVIL ACTION

To: Airline Tariff Publishing Company, by and through its registered agent, CT Corporation System, 1200 South Pine Island Rd., Plantation, FL 33324

Production: YOU ARE COMMANDED to produce at the time, date, and place set forth below the following documents, electronically stored information, or objects, and permit their inspection, copying, testing, or sampling of the material: See Schedule A attached hereto.

Table with 2 columns: Place (Duane Morris LLP, Suite 3400, 200 South Biscayne Boulevard, Miami, FL 33131) and Date and Time (02/17/2012 9:00 am)

Inspection of Premises: YOU ARE COMMANDED to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

Table with 2 columns: Place and Date and Time (empty)

The provisions of Fed. R. Civ. P. 45(c), relating to your protection as a person subject to a subpoena, and Rule 45 (d) and (e), relating to your duty to respond to this subpoena and the potential consequences of not doing so, are attached.

Date: 01/25/2012

CLERK OF COURT

OR

Signature of Clerk or Deputy Clerk

Attorney's signature

The name, address, e-mail, and telephone number of the attorney representing (name of party) Defendants Travelport Limited and Travelport, LP, who issues or requests this subpoena, are: Craig G. Falls, Dechert LLP, 1775 I Street, NW, 20006, (202) 261-3300, craig.falls@dechert.com

Civil Action No. 4:11-cv-00244-Y

**PROOF OF SERVICE**

*(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)*

This subpoena for *(name of individual and title, if any)* \_\_\_\_\_  
was received by me on *(date)* \_\_\_\_\_.

I served the subpoena by delivering a copy to the named person as follows: \_\_\_\_\_

\_\_\_\_\_ on *(date)* \_\_\_\_\_; or

I returned the subpoena unexecuted because: \_\_\_\_\_

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also  
tendered to the witness fees for one day's attendance, and the mileage allowed by law, in the amount of  
\$ \_\_\_\_\_.

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ \_\_\_\_\_ 0.00 \_\_\_\_\_.

I declare under penalty of perjury that this information is true.

Date: \_\_\_\_\_  
\_\_\_\_\_  
*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc:

### Federal Rule of Civil Procedure 45 (c), (d), and (e) (Effective 12/1/07)

#### (c) Protecting a Person Subject to a Subpoena.

**(1) Avoiding Undue Burden or Expense; Sanctions.** A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The issuing court must enforce this duty and impose an appropriate sanction — which may include lost earnings and reasonable attorney’s fees — on a party or attorney who fails to comply.

#### **(2) Command to Produce Materials or Permit Inspection.**

**(A) Appearance Not Required.** A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

**(B) Objections.** A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing or sampling any or all of the materials or to inspecting the premises — or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

**(i)** At any time, on notice to the commanded person, the serving party may move the issuing court for an order compelling production or inspection.

**(ii)** These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party’s officer from significant expense resulting from compliance.

#### **(3) Quashing or Modifying a Subpoena.**

**(A) When Required.** On timely motion, the issuing court must quash or modify a subpoena that:

**(i)** fails to allow a reasonable time to comply;

**(ii)** requires a person who is neither a party nor a party’s officer to travel more than 100 miles from where that person resides, is employed, or regularly transacts business in person — except that, subject to Rule 45(c)(3)(B)(iii), the person may be commanded to attend a trial by traveling from any such place within the state where the trial is held;

**(iii)** requires disclosure of privileged or other protected matter, if no exception or waiver applies; or

**(iv)** subjects a person to undue burden.

**(B) When Permitted.** To protect a person subject to or affected by a subpoena, the issuing court may, on motion, quash or modify the subpoena if it requires:

**(i)** disclosing a trade secret or other confidential research, development, or commercial information;

**(ii)** disclosing an unretained expert’s opinion or information that does not describe specific occurrences in dispute and results from the expert’s study that was not requested by a party; or

**(iii)** a person who is neither a party nor a party’s officer to incur substantial expense to travel more than 100 miles to attend trial.

**(C) Specifying Conditions as an Alternative.** In the circumstances described in Rule 45(c)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

**(i)** shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and

**(ii)** ensures that the subpoenaed person will be reasonably compensated.

#### (d) Duties in Responding to a Subpoena.

**(1) Producing Documents or Electronically Stored Information.** These procedures apply to producing documents or electronically stored information:

**(A) Documents.** A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

**(B) Form for Producing Electronically Stored Information Not Specified.** If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

**(C) Electronically Stored Information Produced in Only One Form.** The person responding need not produce the same electronically stored information in more than one form.

**(D) Inaccessible Electronically Stored Information.** The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

#### **(2) Claiming Privilege or Protection.**

**(A) Information Withheld.** A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

**(i)** expressly make the claim; and

**(ii)** describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

**(B) Information Produced.** If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information to the court under seal for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

**(e) Contempt.** The issuing court may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena. A nonparty’s failure to obey must be excused if the subpoena purports to require the nonparty to attend or produce at a place outside the limits of Rule 45(c)(3)(A)(ii).

**SCHEDULE A**

Pursuant to Rule 45 of the Federal Rules of Civil Procedure, defendants Travelport Limited and Travelport L.P. d/b/a Travelport, hereby request that you produce the documents described below by the date and time set forth in the Subpoena.

**DEFINITIONS**

1. The terms “AA,” “American” and “American Airlines” mean plaintiff American Airlines, Inc. including all divisions, subsidiaries, affiliates, controlled entities, joint ventures, related companies, any predecessors, successors, or assigns, individually or in any combination, and any agents or persons acting on behalf of or under American Airlines, Inc.’s control, including present and former officers, directors, employees, agents, attorneys, accountants, and representatives of any of the entities listed above, and any other person who currently or formerly acted or purported to act on behalf of, or who are or have been subject to the direction or control of, any of the entities listed above.

2. The term “AA Content” means information about the schedules, availability, and prices of AA flights and AA ancillary products or services, and the ability to book such flights and ancillary services.

3. The term “AA Direct Connect” means the technology developed by and/or on behalf of AA that distributes AA’s flight, fare, and availability information from AA’s internal reservation system directly to travel agencies (including those in-house at corporate customers), whether or not that direct distribution to travel agencies is facilitated or supported by a GDS or other third party.

4. The term “airline content” means information about the schedules, availability, and prices of an airline’s flights and ancillary services, and the ability to book such flights and ancillary services.

5. The term “ancillary services” means “optional services” as that term is used by AA in its Distribution Update Blog;<sup>1</sup> and any other services, products or related fees unbundled from the cost of a ticket, including, but not limited to, services, products, or related fees for checked baggage, onboard Internet connectivity, seat selection, ticket cancellation, changes in previously purchased tickets, seats with greater legroom, lounge access, food, drink, pillows, blankets, or priority boarding.

6. The term “back-office” means the portion of a travel agency’s computer system that handles accounting and other reporting functions.

7. The term “booking” means an airline passenger segment for transportation that is created by or reserved, purchased, or ticketed through a GDS, Direct Connect, or other distribution source.

8. The term “communication” means the transmittal of information in the form of facts, ideas, inquiries or otherwise.

9. The term “corporate customer” means a corporation or other entity that purchases travel either through a travel agency or directly from a GDS or airline.

10. The term “direct connect” means any technology developed by and/or on behalf of an airline that allows travel agencies, corporate customers, or other entities to connect directly to that airline’s internal reservation system in order to obtain information about that airline’s

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<sup>1</sup> American Airlines Distribution Update Blog, *available at* <http://www.aa.com/i18n/agency/distribution/main.jsp?anchorLocation=DirectURL&title=distribution>.

content, make reservations, book travel, obtain tickets, and/or perform post-ticketing service functions, whether or not that direct connect is facilitated or supported by a GDS or other third party.

11. The term “distribution channels” means all direct and indirect channels or outlets through which airline content is displayed, reviewed, booked and/or sold, including but not limited to GDSs, non-GDS booking tools, direct connect systems, internal airline reservation systems (including airline call centers, airline ticket counters, mobile platforms, and websites), travel agencies of any type, and corporate booking tools.

12. The term “document” is defined to be synonymous in meaning and equal in scope to the usage of the term “documents or electronically stored information” in Fed. R. Civ. P. 34, including all records and other tangible forms of expression, whether stored in paper or electronic form and whether in final or draft form, and includes without limitation: writings, data, drawings, spreadsheets, graphs, charts, photographs, sound recordings, and images. A draft or non-identical copy is a separate document within the meaning of this term.

13. The term “Farelogix” means Farelogix, Inc. including any predecessors or successors, individually or in any combination, and any agents or persons acting on behalf of or under Farelogix, Inc.’s control, including representatives, agents and employees. “Farelogix” includes its affiliates, controlled entities, joint ventures, related companies, predecessors, successors and assigns; and present and former officers, directors, employees, agents, attorneys, accountants, and representatives of any of the entities listed above; and any other person who currently or formerly acted or purported to act on behalf, or who are or have been subject to the direction or control of, any of the entities listed above.

14. The term “front-office” means the portion of a travel agency’s computer systems that interacts with suppliers, customers, or the general public, and which enables travel agencies to compare fares and make travel arrangements.

15. The term “GDS” means a “Global Distribution System,” a computer reservation system that allows users to view and compare airline content from multiple airlines and/or content from other travel providers, book and issue tickets and/or perform post-ticketing service functions. For the purposes of these Requests only the term GDS includes those systems operated under the Sabre, Galileo, Apollo, Worldspan and Amadeus brands.

16. The term “including” means “including but not limited to.”

17. The term “interline” means passenger air travel where segments of the same ticket are flown by different airlines.

18. The term “mid-office” means the information management portion of a travel agency’s computer systems, as distinct from the booking and fare comparison systems (see “front-office) and accounting functions (see “back-office”).

19. The term “non-GDS booking tools” means software or webpages, not owned by an airline or a GDS, that enable travel agencies or corporate travelers to book air travel, and includes but is not limited to booking tools offered by BookingBuilder, Concur, Rearden, NuTravel, and Agent Ware.

20. The term “online travel agencies” means Orbitz; Hotwire.com; CheapTickets; Expedia; Priceline; Travelocity; CheapOair; BookIt.com; Vegas.com; CheapAir; OneTravel; Globester; AirGorilla; and any other company that primarily serves travelers by enabling a traveler to book travel services through a publicly available webpage.



21. The term “Open Axis Group” refers to an association of airlines and “allied” companies as reflected at <http://www.openaxisgroup.org>.

22. The term “Orbitz” means Orbitz Worldwide, LLC including any predecessors or successors, individually or in any combination, and any agents or persons acting on behalf of or under Orbitz Worldwide, LLC’s control, including representatives, agents, and employees.

23. The terms “relate to,” “refer to,” “relating to,” and “referring to” and “regarding” mean constituting, comprising, evidencing, reflecting, respecting, discussing, stating, describing, recording, noting, considering, embodying, evaluating, analyzing, mentioning, containing, concerning, indicating, pertaining to, showing, bearing upon, or studying – in any manner logically, factually, directly or indirectly to the matters discussed in the applicable Request.

24. The term “Sabre” means Sabre, Inc., Sabre Holdings Corporation, and Sabre Travel International Ltd., including any predecessors or successors, individually or in any combination, and any agents or persons acting on behalf or under Sabre, Inc., Sabre Holdings Corporation, or Sabre Travel International Ltd., control, including representatives, agents and employees.

25. The term “Take Travel Forward” refers to an organization as reflected at <http://taketravelforward.com/about/>.

26. The term “traditional brick and mortar travel agency” means any travel agency other than an online travel agency or Travel Management Company.

27. The terms “travel agency” or “travel agencies” mean any company or companies that make travel arrangements for travelers, or enable travelers to make their own travel arrangements, by booking services from suppliers such as airlines, car rental companies, cruise

lines, hotels, and/or railways, whether independently or in packages, and include online travel agencies, traditional brick and mortar travel agencies, and Travel Management Companies.

28. The term “Travel Management Companies” includes Carlson Wagonlit Travel, Hogg Robinson Group, American Express, BCD Travel Services, Egencia, and any other company that, in addition to making travel arrangements, serves clients by negotiating and managing travel-related services and by monitoring and analyzing travel expenditures.

29. The term “Travelport” means Travelport Limited and Travelport, L.P. and any predecessors or successors, including specifically Worldspan and Galileo, individually or in any combination, and any agents or persons acting on behalf of or under Travelport Limited or Travelport, L.P.’s control, including representatives, agents and employees.

30. The term “US Airways” means US Airways Group, Inc. including any predecessors or successors, individually or in any combination, and any agents or persons acting on behalf of or under US Airways Group, Inc.’s control, including representatives, agents, employees, attorneys and investigators.

31. The terms “you,” “your,” “yours,” or “your company” mean the entity to whom this subpoena is addressed, including all present and former parents, subsidiaries, affiliates, predecessors, successors, present and former officers, directors, employees, partners, agents, representatives, and other persons acting on the entity’s behalf.

## INSTRUCTIONS

1. In addition to the specific instructions set forth below, these document requests incorporate by reference the instructions set forth in Rule 45 of the Federal Rules of Civil Procedure.
2. In construing the document requests, you should give effect to the Definitions set forth above. Undefined words and terms should be given their common meaning. If you are unsure of the definition of a particular term or word, you should use the definition that you believe to be the most accurate and state that definition in your response.
3. Whenever necessary to bring within the scope of these requests documents that might otherwise be construed to be outside its scope:
  - a. “and” and “or” shall be construed conjunctively or disjunctively,
  - b. “each,” “every” and “all” shall be construed as “each, every and all;”
  - c. “including” means “including without limitation;”
  - d. the use of the singular form of any word shall include the plural and vice versa;
  - e. the use of a verb in any tense shall be construed as the use of that verb in all other tenses;
  - f. a request that requests “documents” shall be construed as requesting “any and all documents;” and
  - g. the use of the feminine, masculine or neuter genders shall include all genders.
4. If you cannot respond fully, or if you object in any part, to any document request, you should nevertheless respond to the remaining portions.

5. If objection is made to any of the requests, the response shall state whether documents are being withheld from inspection and production on the basis of such objection, or whether inspection and production of the responsive documents will occur notwithstanding such objection.

6. All documents requested herein shall be produced in their entirety, along with any attachments, drafts, and non-identical copies, including copies that differ due to handwritten notes or other notes or markings.

7. Documents produced shall be numbered consecutively, with a prefix identifying the name of the producing entity.

8. Except as otherwise specified below, electronically stored information should be produced in standard summation, multi-page tiff format, as well as in searchable text format, with the following fields of metadata produced where available: (i) for emails –custodian, date, from, to, cc, bcc, subject, text, and attachment count; and (ii) for other electronic documents – custodian, original file name, original file path, date created, date last modified, subject/title, and author. Searchable text should be the extracted text from the native file for electronic documents, or OCR scanned text for paper or any redacted electronic documents, and should be produced for each document in a separate text file. All documents with file types compatible with Microsoft Excel (e.g., .xls, .xlsx) and Microsoft PowerPoint (e.g., .ppt, .pptx) should also be produced in native format. Travelport reserves the right to request that additional particular documents or categories of documents also be produced in their native format.

9. Except where otherwise specified these requests cover the time period from April 12, 2007 to the present.

10. A Protective Order has been issued in this case and, as a subpoenaed third party, you may elect to avail yourself of that Order and become a Supplying Party, as defined in the Order. A copy of that order is attached to this subpoena.

## REQUESTS TO PRODUCE DOCUMENTS

1. All documents you have received from or provided to the United States Department of Justice (“DOJ”) or the United States Department of Transportation (“DOT”), whether on a voluntary basis, in response to a Civil Investigative Demand (“CID”), or otherwise, relating to the distribution of airline flight, fare, and availability information through any distribution channel, including but not limited to a copy of any such CID, documents produced by you in response to any such CID, and any communications between you and the DOJ or DOT regarding any such CID.

2. All documents you have received from or provided to AA, US Airways, Sabre, or Orbitz, whether on a voluntary basis, in response to a subpoena, in the course of any federal or state litigation, or otherwise, other than in the ordinary course of business, relating to the distribution of airline flight, fare, and availability information through any distribution channel, including but not limited to a copy of any such subpoena, documents produced by you in response to any such subpoena, and any communications between you and AA, US Airways, Sabre, or Orbitz regarding any such subpoena.

3. All documents and communications that refer or relate to AA Direct Connect.

4. All communications with AA that refer or relate to Travelport or Farelogix.

5. All documents and communications that refer or relate to competition among distribution channels.

6. Documents sufficient to describe your services, products, and commercial offerings, including your role and status in the markets for: (i) information relating to airline

ticket fares, ticket availability, flight operation, and related data; (ii) airline ticket sales; and (iii) ancillary services.

7. All documents and communications referring or relating to your ability to collect, compile, distribute, post, provide, or supply information regarding ancillary services, and the ability of GDSs to access this ancillary services information.

8. All documents and communications that refer or relate to the sale or distribution of ancillary services, including, but not limited to, the ability of airlines to distribute and sell ancillary services through a GDS.

9. Any actual or proposed contracts or agreements between you and AA or you and Farelogix, and any communications between you and AA or Farelogix relating to such contracts or agreements and/or the negotiation of such contracts or agreements, including but not limited to any agreements relating to AA Direct Connect.

10. Documents and communications relating to any airline's request that you not provide certain types of content to any particular travel agency or any group of travel agencies, including but not limited to any requests from AA that you not provide certain types of AA content to certain online travel agencies.

11. Documents comparing AA Direct Connect or any Farelogix product to any GDS or GDSs in general or analyzing the advantages and/or disadvantages of AA Direct Connect or any Farelogix product, including business strategy documents and internal or external communications relating to:

- a. the technological limitations of AA Direct Connect or any Farelogix product, including limitations on the ability of AA Direct Connect or any Farelogix

product to: compare fares across airlines; process interline bookings; integrate with travel agencies' front-office, mid-office, and back-office tools; or perform any other function provided by a GDS;

- b. the need or desirability for AA Direct Connect or any Farelogix product to interface with a GDS in order to be useful to a travel agency;
- c. the costs to travel agencies of adopting AA Direct Connect or any Farelogix product, including but not limited to fees and charges, integration costs, equipment costs, bandwidth costs, out-of-pocket expenses, labor costs, equipment costs, and sacrificed efficiency; and
- d. any complaints from any person about the performance, capabilities, or costs of AA Direct Connect or any Farelogix product.

12. Documents discussing or analyzing AA's market power in the United States, in any city within the United States, or in regard to any air travel between two cities within the United States; AA's ability to force travel agencies to subscribe to AA Direct Connect; or any actual or potential threat or step by AA to deny your company, any other travel agency, or any group of travel agencies access to any AA content.

13. All documents that refer or relate to Open Axis Group or Take Travel Forward.



# **EXHIBIT 2**

UNITED STATES DISTRICT COURT

for the

Southern District of Florida

American Airlines, Inc. )
Plaintiff )
v. ) Civil Action No. 4:11-cv-00244-Y
Travelport Limited, et al. )
Defendant ) (If the action is pending in another district, state where: Northern District of Texas )

SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS OR TO PERMIT INSPECTION OF PREMISES IN A CIVIL ACTION

To: Amadeus North America, Inc., through its registered agent Corporate Creations Network, Inc., 11380 Prosperity Farms Road #221E, Palm Beach Gardens, FL 33410

Production: YOU ARE COMMANDED to produce at the time, date, and place set forth below the following documents, electronically stored information, or objects, and permit their inspection, copying, testing, or sampling of the material: See Schedule A attached hereto.

Place: Duane Morris LLP Suite 3400, 200 South Biscayne Boulevard Miami, FL 33131 Date and Time: 02/17/2012 9:00 am

Inspection of Premises: YOU ARE COMMANDED to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

Place: Date and Time:

The provisions of Fed. R. Civ. P. 45(c), relating to your protection as a person subject to a subpoena, and Rule 45 (d) and (e), relating to your duty to respond to this subpoena and the potential consequences of not doing so, are attached.

Date: 01/25/2012

CLERK OF COURT

OR

Signature of Clerk or Deputy Clerk

Attorney's signature

The name, address, e-mail, and telephone number of the attorney representing (name of party) Defendants Travelport Limited and Travelport, LP, who issues or requests this subpoena, are: Steig D. Olson, Quinn Emanuel Urquhart & Sullivan, LLP, 51 Madison Avenue, 22nd Floor, New York, New York, 10010, (212) 849-7000, steigolson@quinnemanuel.com

Civil Action No. 4:11-cv-00244-Y

**PROOF OF SERVICE**

*(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)*

This subpoena for *(name of individual and title, if any)* \_\_\_\_\_  
was received by me on *(date)* \_\_\_\_\_.

I served the subpoena by delivering a copy to the named person as follows: \_\_\_\_\_

\_\_\_\_\_ on *(date)* \_\_\_\_\_; or

I returned the subpoena unexecuted because: \_\_\_\_\_

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also  
tendered to the witness fees for one day's attendance, and the mileage allowed by law, in the amount of  
\$ \_\_\_\_\_.

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ \_\_\_\_\_ 0.00 \_\_\_\_\_.

I declare under penalty of perjury that this information is true.

Date: \_\_\_\_\_  
\_\_\_\_\_  
*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc:

### Federal Rule of Civil Procedure 45 (c), (d), and (e) (Effective 12/1/07)

#### (c) Protecting a Person Subject to a Subpoena.

**(1) Avoiding Undue Burden or Expense; Sanctions.** A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The issuing court must enforce this duty and impose an appropriate sanction — which may include lost earnings and reasonable attorney’s fees — on a party or attorney who fails to comply.

#### **(2) Command to Produce Materials or Permit Inspection.**

**(A) Appearance Not Required.** A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

**(B) Objections.** A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing or sampling any or all of the materials or to inspecting the premises — or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

**(i)** At any time, on notice to the commanded person, the serving party may move the issuing court for an order compelling production or inspection.

**(ii)** These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party’s officer from significant expense resulting from compliance.

#### **(3) Quashing or Modifying a Subpoena.**

**(A) When Required.** On timely motion, the issuing court must quash or modify a subpoena that:

**(i)** fails to allow a reasonable time to comply;

**(ii)** requires a person who is neither a party nor a party’s officer to travel more than 100 miles from where that person resides, is employed, or regularly transacts business in person — except that, subject to Rule 45(c)(3)(B)(iii), the person may be commanded to attend a trial by traveling from any such place within the state where the trial is held;

**(iii)** requires disclosure of privileged or other protected matter, if no exception or waiver applies; or

**(iv)** subjects a person to undue burden.

**(B) When Permitted.** To protect a person subject to or affected by a subpoena, the issuing court may, on motion, quash or modify the subpoena if it requires:

**(i)** disclosing a trade secret or other confidential research, development, or commercial information;

**(ii)** disclosing an unretained expert’s opinion or information that does not describe specific occurrences in dispute and results from the expert’s study that was not requested by a party; or

**(iii)** a person who is neither a party nor a party’s officer to incur substantial expense to travel more than 100 miles to attend trial.

**(C) Specifying Conditions as an Alternative.** In the circumstances described in Rule 45(c)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

**(i)** shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and

**(ii)** ensures that the subpoenaed person will be reasonably compensated.

#### (d) Duties in Responding to a Subpoena.

**(1) Producing Documents or Electronically Stored Information.** These procedures apply to producing documents or electronically stored information:

**(A) Documents.** A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

**(B) Form for Producing Electronically Stored Information Not Specified.** If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

**(C) Electronically Stored Information Produced in Only One Form.** The person responding need not produce the same electronically stored information in more than one form.

**(D) Inaccessible Electronically Stored Information.** The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

#### **(2) Claiming Privilege or Protection.**

**(A) Information Withheld.** A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

**(i)** expressly make the claim; and

**(ii)** describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

**(B) Information Produced.** If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information to the court under seal for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

**(e) Contempt.** The issuing court may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena. A nonparty’s failure to obey must be excused if the subpoena purports to require the nonparty to attend or produce at a place outside the limits of Rule 45(c)(3)(A)(ii).

**SCHEDULE A**

Pursuant to Rule 45 of the Federal Rules of Civil Procedure, defendants Travelport Limited and Travelport L.P. d/b/a Travelport, hereby request that you produce the documents described below by the date and time set forth in the Subpoena.

**DEFINITIONS**

1. The terms “AA,” “American” and “American Airlines” mean plaintiff American Airlines, Inc. including all divisions, subsidiaries, affiliates, controlled entities, joint ventures, related companies, any predecessors, successors, or assigns, individually or in any combination, and any agents or persons acting on behalf of or under American Airlines, Inc.’s control, including present and former officers, directors, employees, agents, attorneys, accountants, and representatives of any of the entities listed above, and any other person who currently or formerly acted or purported to act on behalf of, or who are or have been subject to the direction or control of, any of the entities listed above.

2. The term “AA Content” means information about the schedules, availability, and prices of AA flights and AA ancillary products or services, and the ability to book such flights and ancillary services.

3. The term “AA ancillary fare content” means information about the availability and prices of AA ancillary services, and the ability to book such ancillary services.

4. The term “AA Direct Connect” means the technology developed by and/or on behalf of AA that distributes AA’s flight, fare, and availability information from AA’s internal reservation system directly to travel agencies (including those in-house at corporate customers),

whether or not that direct distribution to travel agencies is facilitated or supported by a GDS or other third party.

5. The term “airline content” means information about the schedules, availability, and prices of an airline’s flights and ancillary services, and the ability to book such flights and ancillary services.

6. The term “ancillary services” means “optional services” as that term is used by AA in its Distribution Update Blog;<sup>1</sup> and any other services, products or related fees unbundled from the cost of a ticket, including, but not limited to, services, products, or related fees for checked baggage, onboard Internet connectivity, seat selection, ticket cancellation, changes in previously purchased tickets, seats with greater legroom, lounge access, food, drink, pillows, blankets, or priority boarding.

7. The term “booking” means an airline passenger segment for transportation that is created by or reserved, purchased, or ticketed through a GDS, Direct Connect, or other distribution source.

8. The term “booking source premium” means any charge an airline imposes or threatens to impose on travel agencies for booking through a particular channel.

9. The term “bulk fare” means any fare available only when buying groups of seats or any fare privately negotiated with airlines by consolidators or tour operators.

10. The term “communication” means the transmittal of information in the form of facts, ideas, inquiries or otherwise.

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<sup>1</sup> American Airlines Distribution Update Blog, *available at* <http://www.aa.com/i18n/agency/distribution/main.jsp?anchorLocation=DirectURL&title=distribution>.

11. The term “direct connect” means any technology developed by and/or on behalf of an airline that allows travel agencies, corporate customers, or other entities to connect directly to that airline’s internal reservation system in order to obtain information about that airline’s content, make reservations, book travel, obtain tickets, and/or perform post-ticketing service functions, whether or not that direct connect is facilitated or supported by a GDS or other third party.

12. The term “document” is defined to be synonymous in meaning and equal in scope to the usage of the term “documents or electronically stored information” in Fed. R. Civ. P. 34, including all records and other tangible forms of expression, whether stored in paper or electronic form and whether in final or draft form, and includes without limitation: writings, data, drawings, spreadsheets, graphs, charts, photographs, sound recordings, and images. A draft or non-identical copy is a separate document within the meaning of this term.

13. The term “full content” means all of a particular airline’s airline content.

14. The term “GDS” means a “Global Distribution System,” a computer reservation system that allows users to view and compare airline content from multiple airlines and/or content from other travel providers, book and issue tickets and/or perform post-ticketing service functions. For the purposes of these Requests only the term GDS includes those systems operated under the Sabre, Galileo, Apollo, Worldspan and Amadeus brands.

15. The term “including” means “including but not limited to.”

16. The term “online travel agencies” means Orbitz; Hotwire.com; CheapTickets; Expedia; Priceline; Travelocity; CheapOair; BookIt.com; Vegas.com; CheapAir; OneTravel;

Globester; AirGorilla; and any other company that primarily serves travelers by enabling a traveler to book travel services through a publicly available webpage.

17. The term “opaque fare” means a fare, together with associated inventory, offered for sale by or on behalf of an airline in such a way that there is no disclosure of the airline’s identity until after there has been an irrevocable commitment to purchase.

18. The term “Orbitz” means Orbitz Worldwide, LLC including any predecessors or successors, individually or in any combination, and any agents or persons acting on behalf of or under Orbitz Worldwide, LLC’s control, including representatives, agents, and employees.

19. The terms “relate to,” “refer to,” “relating to,” and “referring to” and “regarding” mean constituting, comprising, evidencing, reflecting, respecting, discussing, stating, describing, recording, noting, considering, embodying, evaluating, analyzing, mentioning, containing, concerning, indicating, pertaining to, showing, bearing upon, or studying – in any manner logically, factually, directly or indirectly to the matters discussed in the applicable Request.

20. The term “Sabre” means Sabre, Inc., Sabre Holdings Corporation, and Sabre Travel International Ltd., including any predecessors or successors, individually or in any combination, and any agents or persons acting on behalf or under Sabre, Inc., Sabre Holdings Corporation, or Sabre Travel International Ltd., control, including representatives, agents and employees.

21. The term “Source Premium Policy” refers to AA’s policy regarding different rules and/or fees that apply to Travel Agencies depending on the distribution source they use, as reflected at [http://www.aa.com/i18n/agency/Agency/SP\\_Master/SP.jsp](http://www.aa.com/i18n/agency/Agency/SP_Master/SP.jsp).



22. The term “traditional brick and mortar travel agency” means any travel agency other than an online travel agency or Travel Management Company.

23. The terms “travel agency” or “travel agencies” mean any company or companies that make travel arrangements for travelers, or enable travelers to make their own travel arrangements, by booking services from suppliers such as airlines, car rental companies, cruise lines, hotels, and/or railways, whether independently or in packages, and include online travel agencies, traditional brick and mortar travel agencies, and Travel Management Companies.

24. The term “Travel Management Companies” includes Carlson Wagonlit Travel, Hogg Robinson Group, American Express, BCD Travel Services, Egencia, and any other company that, in addition to making travel arrangements, serves clients by negotiating and managing travel-related services and by monitoring and analyzing travel expenditures.

25. The term “Travelport” means Travelport Limited and Travelport, L.P. and any predecessors or successors, including specifically Worldspan and Galileo, individually or in any combination, and any agents or persons acting on behalf of or under Travelport Limited or Travelport, L.P.’s control, including representatives, agents and employees.

26. The term “US Airways” means US Airways Group, Inc. including any predecessors or successors, individually or in any combination, and any agents or persons acting on behalf of or under US Airways Group, Inc.’s control, including representatives, agents, employees, attorneys and investigators.

27. The term “wholesale fare” means a discounted fare for air travel that is typically offered to tour operators and consolidators.

28. The terms “you,” “your,” “yours,” or “your company” mean the entity to whom this subpoena is addressed, including all present and former parents, subsidiaries, affiliates, predecessors, successors, present and former officers, directors, employees, partners, agents, representatives, and other persons acting on the entity’s behalf.

## INSTRUCTIONS

1. In addition to the specific instructions set forth below, these document requests incorporate by reference the instructions set forth in Rule 45 of the Federal Rules of Civil Procedure.

2. In construing the document requests, you should give effect to the Definitions set forth above. Undefined words and terms should be given their common meaning. If you are unsure of the definition of a particular term or word, you should use the definition that you believe to be the most accurate and state that definition in your response.

3. Whenever necessary to bring within the scope of these requests documents that might otherwise be construed to be outside its scope:

- a. “and” and “or” shall be construed conjunctively or disjunctively,
- b. “each,” “every” and “all” shall be construed as “each, every and all;”
- c. “including” means “including without limitation;”
- d. the use of the singular form of any word shall include the plural and vice versa;
- e. the use of a verb in any tense shall be construed as the use of that verb in all other tenses;
- f. a request that requests “documents” shall be construed as requesting “any and all documents;” and
- g. the use of the feminine, masculine or neuter genders shall include all genders.

4. If you cannot respond fully, or if you object in any part, to any document request, you should nevertheless respond to the remaining portions.

5. If objection is made to any of the requests, the response shall state whether documents are being withheld from inspection and production on the basis of such objection, or whether inspection and production of the responsive documents will occur notwithstanding such objection.

6. All documents requested herein shall be produced in their entirety, along with any attachments, drafts, and non-identical copies, including copies that differ due to handwritten notes or other notes or markings.

7. Documents produced shall be numbered consecutively, with a prefix identifying the name of the producing entity.

8. Except as otherwise specified below, electronically stored information should be produced in standard summation, multi-page tiff format, as well as in searchable text format, with the following fields of metadata produced where available: (i) for emails –custodian, date, from, to, cc, bcc, subject, text, and attachment count; and (ii) for other electronic documents – custodian, original file name, original file path, date created, date last modified, subject/title, and author. Searchable text should be the extracted text from the native file for electronic documents, or OCR scanned text for paper or any redacted electronic documents, and should be produced for each document in a separate text file. All documents with file types compatible with Microsoft Excel (e.g., .xls, .xlsx) and Microsoft PowerPoint (e.g., .ppt, .pptx) should also be produced in native format. Travelport reserves the right to request that additional particular documents or categories of documents also be produced in their native format.

9. Except where otherwise specified these requests cover the time period from April 12, 2007 to the present.

10. A Protective Order has been issued in this case and, as a subpoenaed third party, you may elect to avail yourself of that Order and become a Supplying Party, as defined in the Order. A copy of that order is attached to this subpoena.

## REQUESTS TO PRODUCE DOCUMENTS

1. All documents you have received from or provided to the United States Department of Justice (“DOJ”) or the United States Department of Transportation (“DOT”), whether on a voluntary basis, in response to a Civil Investigative Demand (“CID”), or otherwise, relating to the distribution of airline flight, fare, and availability information through any distribution channel, including but not limited to a copy of any such CID, documents produced by you in response to any such CID, and any communications between you and the DOJ or DOT regarding any such CID.

2. All documents you have received from or provided to AA, US Airways, Sabre, or Orbitz, whether on a voluntary basis, in response to a subpoena, in the course of any federal or state litigation, or otherwise, other than in the ordinary course of business, relating to the distribution of airline flight, fare, and availability information through any distribution channel, including but not limited to a copy of any such subpoena, documents produced by you in response to any such subpoena, and any communications between you and AA, US Airways, Sabre, or Orbitz regarding any such subpoena.

3. All pleadings and other documents filed or served by you or AA in *Amadeus IT Group, S.A., et al. v. American Airlines, Inc., et al.*, 06 Civ. 6052 (LTS) (S.D.N.Y.) which contained redactions or were filed under seal, and any pleadings or other documents filed or served in any subsequent arbitration proceedings related to that litigation.

4. All documents that refer or relate to competition among entities that distribute airline flight, fare, and availability information in the United States, including:

- a. documents that refer or relate to competition for share of airline bookings;

- b. documents that refer or relate to your efforts to obtain business from other entities involved in the distribution of airline flight, fare, and availability information in the United States;
  - c. business plans or strategic documents discussing your company's efforts or plans to compete with Travelport, Sabre, or any other entity that provides airline booking products and services;
  - d. documents comparing the capabilities of your company's products to the capabilities of any GDS, GDSs generally, or any direct connect product;
  - e. documents comparing your company's booking fees to those of other GDSs;
  - f. documents that refer or relate to any influence or effect your fees, products, and services have had on the fees, products, and services provided by other GDS companies, including, but not limited to, any influence or effect caused by your development, introduction, or operation of Amadeus One; and
  - g. documents that refer or relate to any airlines' threats to discontinue using you, Sabre, or Travelport.
5. Any actual or proposed contracts or agreements between you and AA, and any communications between you and AA relating to such contracts or agreements and/or the negotiation of such contracts or agreements.
6. All documents discussing or analyzing the importance to you of having full content from any airline, including any documents discussing or analyzing the actual, contemplated, or expected impact of losing access to full content on your company's revenue,

costs, or competitiveness, and any documents discussing concessions your company has offered to airlines in exchange for full content.

7. All documents discussing or analyzing the importance to your company of having access to AA content (including AA ancillary fare content and wholesale, bulk, or opaque AA fares), including (i) documents discussing or analyzing the actual, contemplated, or expected impact of losing access to AA content on your company's revenue, costs, or competitiveness and (ii) communications from or to your customers about the importance of AA content.

8. All documents discussing or analyzing AA's market power in the United States, in any city within the United States, or in regard to any air travel between two cities within the United States; AA's ability to force travel agencies to subscribe to or adopt AA Direct Connect; or any actual or potential threat or step by AA to deny your company, any other travel agency, or any group of travel agencies access to any AA content.

9. All documents and communications relating to any airline's request that your company not provide certain types of content to any particular travel agency or any group of travel agencies, including but not limited to any requests from AA that your company not provide certain types of AA content to certain online travel agencies.



# **EXHIBIT 3**

UNITED STATES DISTRICT COURT

for the

Eastern District of Pennsylvania

American Airlines, Inc. )
Plaintiff )
v. ) Civil Action No. 4:11-cv-00244-Y
Travelport Limited, et al. )
Defendant ) (If the action is pending in another district, state where:
Northern District of Texas )

SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS OR TO PERMIT INSPECTION OF PREMISES IN A CIVIL ACTION

To: The Boston Consulting Group LLP, by and through its registered agent, The Corporation Trust Company, Corporation Trust Center, 1209 Orange St., Wilmington, DE 19801

Production: YOU ARE COMMANDED to produce at the time, date, and place set forth below the following documents, electronically stored information, or objects, and permit their inspection, copying, testing, or sampling of the material: See Schedule A attached hereto.

Table with 2 columns: Place (Dechert LLP, 2929 Arch St., Philadelphia, PA 19104) and Date and Time (02/17/2012 9:00 am)

Inspection of Premises: YOU ARE COMMANDED to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

Table with 2 columns: Place and Date and Time (empty)

The provisions of Fed. R. Civ. P. 45(c), relating to your protection as a person subject to a subpoena, and Rule 45 (d) and (e), relating to your duty to respond to this subpoena and the potential consequences of not doing so, are attached.

Date: 01/25/2012

CLERK OF COURT

OR

Signature of Clerk or Deputy Clerk

Handwritten signature of attorney

Attorney's signature

The name, address, e-mail, and telephone number of the attorney representing (name of party) Defendants Travelport Limited and Travelport, LP, who issues or requests this subpoena, are: Craig G. Falls, Dechert LLP, 1775 I Street, NW, Washington, D.C. 20006, (202) 261-3300, craig.falls@dechert.com

Civil Action No. 4:11-cv-00244-Y

**PROOF OF SERVICE**

*(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)*

This subpoena for *(name of individual and title, if any)* \_\_\_\_\_  
was received by me on *(date)* \_\_\_\_\_.

I served the subpoena by delivering a copy to the named person as follows: \_\_\_\_\_

\_\_\_\_\_ on *(date)* \_\_\_\_\_ ; or

I returned the subpoena unexecuted because: \_\_\_\_\_

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also  
tendered to the witness fees for one day's attendance, and the mileage allowed by law, in the amount of  
\$ \_\_\_\_\_.

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ \_\_\_\_\_ 0.00 \_\_\_\_\_.

I declare under penalty of perjury that this information is true.

Date: \_\_\_\_\_  
\_\_\_\_\_  
*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc:

### Federal Rule of Civil Procedure 45 (c), (d), and (e) (Effective 12/1/07)

#### (c) Protecting a Person Subject to a Subpoena.

**(1) Avoiding Undue Burden or Expense; Sanctions.** A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The issuing court must enforce this duty and impose an appropriate sanction — which may include lost earnings and reasonable attorney’s fees — on a party or attorney who fails to comply.

#### **(2) Command to Produce Materials or Permit Inspection.**

**(A) Appearance Not Required.** A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

**(B) Objections.** A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing or sampling any or all of the materials or to inspecting the premises — or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

**(i)** At any time, on notice to the commanded person, the serving party may move the issuing court for an order compelling production or inspection.

**(ii)** These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party’s officer from significant expense resulting from compliance.

#### **(3) Quashing or Modifying a Subpoena.**

**(A) When Required.** On timely motion, the issuing court must quash or modify a subpoena that:

**(i)** fails to allow a reasonable time to comply;

**(ii)** requires a person who is neither a party nor a party’s officer to travel more than 100 miles from where that person resides, is employed, or regularly transacts business in person — except that, subject to Rule 45(c)(3)(B)(iii), the person may be commanded to attend a trial by traveling from any such place within the state where the trial is held;

**(iii)** requires disclosure of privileged or other protected matter, if no exception or waiver applies; or

**(iv)** subjects a person to undue burden.

**(B) When Permitted.** To protect a person subject to or affected by a subpoena, the issuing court may, on motion, quash or modify the subpoena if it requires:

**(i)** disclosing a trade secret or other confidential research, development, or commercial information;

**(ii)** disclosing an unretained expert’s opinion or information that does not describe specific occurrences in dispute and results from the expert’s study that was not requested by a party; or

**(iii)** a person who is neither a party nor a party’s officer to incur substantial expense to travel more than 100 miles to attend trial.

**(C) Specifying Conditions as an Alternative.** In the circumstances described in Rule 45(c)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

**(i)** shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and

**(ii)** ensures that the subpoenaed person will be reasonably compensated.

#### (d) Duties in Responding to a Subpoena.

**(1) Producing Documents or Electronically Stored Information.** These procedures apply to producing documents or electronically stored information:

**(A) Documents.** A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

**(B) Form for Producing Electronically Stored Information Not Specified.** If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

**(C) Electronically Stored Information Produced in Only One Form.** The person responding need not produce the same electronically stored information in more than one form.

**(D) Inaccessible Electronically Stored Information.** The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

#### **(2) Claiming Privilege or Protection.**

**(A) Information Withheld.** A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

**(i)** expressly make the claim; and

**(ii)** describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

**(B) Information Produced.** If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information to the court under seal for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

**(e) Contempt.** The issuing court may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena. A nonparty’s failure to obey must be excused if the subpoena purports to require the nonparty to attend or produce at a place outside the limits of Rule 45(c)(3)(A)(ii).

**SCHEDULE A**

Pursuant to Rule 45 of the Federal Rules of Civil Procedure, Travelport Limited and Travelport L.P., hereby request that you produce the documents described below by the date and time set forth in the Subpoena.

**DEFINITIONS**

1. The terms “AA,” “American,” and “American Airlines” mean plaintiff American Airlines, Inc. including all divisions, subsidiaries, affiliates, controlled entities, joint ventures, related companies, any predecessors, successors, or assigns, individually or in any combination, and any agents or persons acting on behalf of or under American Airlines, Inc.’s control, including present and former officers, directors, employees, agents, attorneys, accountants, and representatives of any of the entities listed above, and any other person who currently or formerly acted or purported to act on behalf of, or who are or have been subject to the direction or control of, any of the entities listed above.

2. The term “AA content” means information about the schedules, availability, and prices of AA flights and AA ancillary products or services, and the ability to book such flights and ancillary services.

3. The term “AA ancillary fare content” means information about the availability and prices of AA ancillary services, and the ability to book such ancillary services.

4. The term “AA Direct Connect” means the technology developed by and/or on behalf of AA that distributes AA’s flight, fare, and availability information from AA’s internal reservation system directly to travel agencies (including those in-house at corporate customers),

whether or not that direct distribution to travel agencies is facilitated or supported by a GDS or other third party.

5. The term “airline content” means information about the schedules, availability, and prices of an airline’s flights and ancillary services, and the ability to book such flights and ancillary services.

6. The term “airline ancillary fare content” means information about the availability and prices of an airline’s ancillary services, and the ability to book such ancillary services.

7. The term “ancillary services” means “optional services” as that term is used by AA in its Distribution Update Blog;<sup>1</sup> and any other services, products or related fees unbundled from the cost of a ticket, including, but not limited to, services, products, or related fees for checked baggage, onboard Internet connectivity, seat selection, ticket cancellation, changes in previously purchased tickets, seats with greater legroom, lounge access, food, drink, pillows, blankets, or priority boarding.

8. The term “booking” means an airline passenger segment for transportation that is created by or reserved, purchased, or ticketed through a GDS, Direct Connect, or other distribution source.

9. The term “Boston Consulting Group” means the Boston Consulting Group, Inc. including any predecessors or successors, individually or in any combination, and any agents or persons acting on behalf of or under Boston Consulting Group, Inc.’s control, including representatives, agents and employees.

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<sup>1</sup> American Airlines Distribution Update Blog, *available at* <http://www.aa.com/i18n/agency/distribution/main.jsp?anchorLocation=DirectURL&title=distribution>.

10. The term “communication” means the transmittal of information in the form of facts, ideas, inquiries or otherwise.

11. The term “corporate customer” means a corporation or other entity that purchases travel either through a travel agency or directly from a GDS or airline.

12. The term “direct connect” means any technology developed by and/or on behalf of an airline that allows travel agencies, corporate customers, or other entities to connect directly to that airline’s internal reservation system in order to obtain information about that airline’s content, make reservations, book travel, obtain tickets, and/or perform post-ticketing service functions, whether or not that direct connect is facilitated or supported by a GDS or other third party.

13. The term “distribution channels” means all direct and indirect channels or outlets through which airline content is displayed, reviewed, booked and/or sold, including but not limited to GDSs, non-GDS booking tools, direct connect systems, internal airline reservation systems (including airline call centers, airline ticket counters, mobile platforms, and websites), travel agencies of any type, and corporate booking tools.

14. The term “document” is defined to be synonymous in meaning and equal in scope to the usage of the term “documents or electronically stored information” in Fed. R. Civ. P. 34, including all records and other tangible forms of expression, whether stored in paper or electronic form and whether in final or draft form, and includes without limitation: writings, data, drawings, spreadsheets, graphs, charts, photographs, sound recordings, and images. A draft or non-identical copy is a separate document within the meaning of this term.

15. The term “Farelogix” means Farelogix, Inc. including any predecessors or successors, individually or in any combination, and any agents or persons acting on behalf of or under Farelogix, Inc.’s control, including representatives, agents and employees. “Farelogix” includes its affiliates, controlled entities, joint ventures, related companies, predecessors, successors and assigns; and present and former officers, directors, employees, agents, attorneys, accountants, and representatives of any of the entities listed above; and any other person who currently acts or formerly acted or purported to act on behalf, or who are or have been subject to the direction or control of, any of the entities listed above.

16. The term “full content” means all of a particular airline’s airline content.

17. The term “full content agreement” means an agreement entitling an entity to access all and book any of a particular airline’s airline content.

18. The term “GDS” means a “Global Distribution System,” a computer reservation system that allows users to view and compare airline content from multiple airlines and/or content from other travel providers, book and issue tickets, and/or perform post-ticketing service functions. For the purposes of these Requests only the term GDS includes those systems operated under the Sabre, Galileo, Apollo, Worldspan, and Amadeus brands.

19. The term “including” means “including but not limited to.”

20. The term “interline” means passenger air travel where segments of the same ticket are flown by different airlines.

21. The term “non-GDS booking tools” means software or webpages, not owned by an airline or a GDS, that enable travel agencies or corporate travelers to book air travel, and



includes but is not limited to booking tools offered by BookingBuilder, Concur, Rearden, NuTravel, and Agent Ware.

22. The term “online travel agencies” means Orbitz, Hotwire.com, CheapTickets, Expedia, Priceline, Travelocity, CheapOair, BookIt.com, Vegas.com, CheapAir, OneTravel, Globester, AirGorilla, and any other company that primarily serves travelers by enabling a traveler to book travel services through a publicly available webpage.

23. The term “Open Axis Group” refers to an association of airlines and “allied” companies as reflected at <http://www.openaxisgroup.org>.

24. The term “Orbitz” means Orbitz Worldwide, LLC including any predecessors or successors, individually or in any combination, and any agents or persons acting on behalf of or under Orbitz Worldwide, LLC’s control, including representatives, agents, and employees.

25. The terms “relate to,” “refer to,” “relating to,” and “referring to” and “regarding” mean constituting, comprising, evidencing, reflecting, respecting, discussing, stating, describing, recording, noting, considering, embodying, evaluating, analyzing, mentioning, containing, concerning, indicating, pertaining to, showing, bearing upon, or studying – in any manner logically, factually, directly, or indirectly to the matters discussed in the applicable Request.

26. The term “Sabre” means Sabre, Inc., Sabre Holdings Corporation, and Sabre Travel International Ltd., including any predecessors or successors, individually or in any combination, and any agents or persons acting on behalf or under Sabre, Inc., Sabre Holdings Corporation, or Sabre Travel International Ltd., control, including representatives, agents, and employees.

27. The term “Take Travel Forward” refers to an organization as reflected at <http://taketravelforward.com/about/>.

28. The term “traditional brick and mortar travel agency” means any travel agency other than an online travel agency or Travel Management Company.

29. The terms “travel agency” or “travel agencies” mean any company or companies that make travel arrangements for travelers, or enable travelers to make their own travel arrangements, by booking services from suppliers such as airlines, car rental companies, cruise lines, hotels, and/or railways, whether independently or in packages, and include online travel agencies, traditional brick and mortar travel agencies, and Travel Management Companies.

30. The terms “Travel Management Companies” or “TMCs” include Carlson Wagonlit Travel, Hogg Robinson Group, American Express, BCD Travel Services, Egencia, and any other company that, in addition to making travel arrangements, serves clients by negotiating and managing travel-related services and by monitoring and analyzing travel expenditures.

31. The term “Travelport” means Travelport Limited and Travelport, L.P. and any predecessors or successors, including specifically Worldspan and Galileo, individually or in any combination, and any agents or persons acting on behalf of or under Travelport Limited or Travelport, L.P.’s control, including representatives, agents, and employees.

32. The term “US Airways” means US Airways Group, Inc. including any predecessors or successors, individually or in any combination, and any agents or persons acting on behalf of or under US Airways Group, Inc.’s control, including representatives, agents, employees, attorneys, and investigators.

33. The terms “you,” “your,” “yours,” or “your company” mean the entity to whom this subpoena is addressed, including all present and former parents, subsidiaries, affiliates, predecessors, successors, present and former officers, directors, employees, partners, agents, representatives, and other persons acting on the entity’s behalf.

## INSTRUCTIONS

1. In addition to the specific instructions set forth below, these document requests incorporate by reference the instructions set forth in Rule 45 of the Federal Rules of Civil Procedure.
2. In construing the document requests, you should give effect to the Definitions set forth above. Undefined words and terms should be given their common meaning. If you are unsure of the definition of a particular term or word, you should use the definition that you believe to be the most accurate and state that definition in your response.
3. Whenever necessary to bring within the scope of these requests documents that might otherwise be construed to be outside its scope:
  - a. “and” and “or” shall be construed conjunctively or disjunctively,
  - b. “each,” “every” and “all” shall be construed as “each, every and all;”
  - c. “including” means “including without limitation;”
  - d. the use of the singular form of any word shall include the plural and vice versa;
  - e. the use of a verb in any tense shall be construed as the use of that verb in all other tenses;
  - f. A request that requests “documents” shall be construed as requesting “any and all documents;” and
  - g. the use of the feminine, masculine or neuter genders shall include all genders. The use of the singular form includes the plural and vice versa, any use of gender includes both genders, and a verb tense includes all other verb tenses;
4. If you cannot respond fully, or if you object in any part, to any document request, you should nevertheless respond to the remaining portions.

5. If objection is made to any of the requests, the response shall state whether documents are being withheld from inspection and production on the basis of such objection, or whether inspection and production of the responsive documents will occur notwithstanding such objection.
6. All documents requested herein shall be produced in their entirety, along with any attachments, drafts, and non-identical copies, including copies that differ due to handwritten notes or other notes or markings.
7. Documents produced shall be numbered consecutively, with a prefix identifying the name of the producing entity.
8. Except as otherwise specified below, electronically stored information should be produced in standard summation, multi-page tiff format, as well as in searchable text format, with the following fields of metadata produced where available: (a) for emails – custodian, date, from, to, cc, bcc, subject, text, and attachment count; and (b) for other electronic documents – custodian, original file name, original file path, date created, date last modified, subject/title, and author. Searchable text should be the extracted text from the native file for electronic documents, or OCR scanned text for paper or any redacted electronic documents, and should be produced for each document in a separate text file. All documents with file types compatible with Microsoft Excel (e.g., .xls, .xlsx) and Microsoft PowerPoint (e.g., .ppt, .pptx) should also be produced in native format. Travelport reserves the right to request that additional particular documents or categories of documents also be produced in their native format.
9. Except where otherwise specified these requests cover the time period from April 12, 2007 to the present.

10. A Protective Order has been issued in this case and, as a subpoenaed third party, you may elect to avail itself of that Order and become a Supplying Party, as defined in the Order. A copy of that order is attached to this subpoena.

## **REQUESTS TO PRODUCE DOCUMENTS**

1. All documents you have received from or provided to the United States Department of Justice (“DOJ”) or the United States Department of Transportation (“DOT”), whether on a voluntary basis, in response to a Civil Investigative Demand (“CID”), or otherwise, relating to the distribution of airline content through any distribution channel, including but not limited to a copy of any such CID, documents produced by you in response to any such CID, and any communications between you and the DOJ or DOT regarding any such CID.

2. All documents you have received from or provided to AA, US Airways, Sabre, or Orbitz, whether on a voluntary basis, in response to a subpoena, or otherwise, other than in the ordinary course of business, relating to the distribution of airline content through any distribution channel, including but not limited to a copy of any such subpoena, documents produced by you in response to any such subpoena, and any communications between you and AA, US Airways, Sabre, or Orbitz regarding any such subpoena.

3. All contracts, engagement letters, or other agreements between American and Boston Consulting Group.

4. All contracts, engagement letters, or other agreements between Boston Consulting Group and any airline or association of airlines relating to direct connect or airline distribution strategy.

5. Documents sufficient to show the total fees paid by AA or any other airline or association of airlines for services performed by Boston Consulting group related to direct connect or airline distribution.

6. All documents and communications related to AA Direct Connect or AA distribution strategy, including, but not limited to:
- (a) all presentations and drafts of presentations discussing AA Direct Connect or AA distribution strategy;
  - (b) all white papers, memoranda, business plans, or other analyses of AA Direct Connect or AA distribution strategy;
  - (c) all communications between Boston Consulting Group and AA related to AA Direct Connect or AA distribution strategy;
  - (d) all internal communications among Boston Consulting Group employees related to AA Direct Connect or AA distribution strategy; and
  - (e) all notes, meeting minutes, or other summaries of any discussions related to AA Direct Connect or AA distribution strategy.
7. All documents and communications related to airline direct connect initiatives, including, but not limited to:
- (a) all presentations and drafts of presentations given to any airline relating to direct connect;
  - (b) all white papers, memoranda, business plans, or other written analyses provided to any airline relating to direct connect;
  - (c) all communications with any airline relating to direct connect;
  - (d) all internal communications among Boston Consulting Group employees relating to any airline's direct connect efforts; and
  - (e) all notes, meeting minutes, or other summaries of any discussions related to any airline's direct connect efforts.



8. All documents related to the adoption or potential adoption of AA Direct Connect by any travel agency or corporate customer, including, but not limited to, any advice provided by Boston Consulting Group regarding travel agencies or corporate customers that should be targeted by AA for potential adoption of AA Direct Connect or any advice regarding AA communications with travel agencies or corporate customers relating to AA Direct Connect.

9. All documents related to any complaints from travel agencies or corporate customers related to AA Direct Connect or direct connect generally.

10. All documents related to AA's decision to terminate Orbitz's ticketing authority, including, but not limited to, any communications with AA regarding the Orbitz termination and any advice provided by Boston Consulting Group to AA regarding the Orbitz termination.

11. All documents related to Expedia's decision to stop distributing AA tickets in January 2011, including, but not limited to, any communications with AA regarding Expedia and any advice provided by Boston Consulting Group to AA regarding Expedia.

12. All documents analyzing the actual or potential effects of AA content not being available through any travel agency or group of travel agencies or any GDS.

13. All documents related to any proposed joint venture, consortium, or any other effort involving multiple airlines, to create a new company to compete in the travel distribution market, including, but not limited to, any entity that would display or aggregate fares from multiple airlines or content sources or otherwise provide an alternative to the GDSs.

14. All documents relating to communications between you and any airline, or communications between or among airlines, related to competition between GDSs, competition in the travel distribution market generally, or the actual or potential creation of an alternative to GDSs, whether through a joint venture, consortium, or otherwise.

15. All documents related to AA's agreements with GDSs, including, but not limited to, any analysis that Boston Consulting Group did regarding the agreements and any advice provided by Boston Consulting Group to AA regarding renegotiating AA's agreements with GDSs.

16. All documents related to the full content provisions in AA's agreements with GDSs, including, but not limited to, any analysis that Boston Consulting Group did regarding the full content provisions and any advice provided by Boston Consulting Group to AA regarding renegotiating the full content provisions of AA's agreements with GDSs.

17. All documents related to AA potentially terminating its agreement with one or more GDSs, including, but not limited to, any communications with AA regarding terminating its agreement with one or more GDSs and any advice provided by Boston Consulting Group to AA regarding potentially terminating AA's agreement with one or more GDSs.

18. All documents related to the distribution of AA ancillary fare content, including but not limited to, any analysis that Boston Consulting Group did regarding strategy for the distribution of AA Ancillary Fare Content or any advice that Boston Consulting Group provided to AA regarding distribution of AA Ancillary Fare Content.

19. All documents related to the distribution of airline ancillary fare content, including but not limited to, any analysis that Boston Consulting Group provided to any airline or association of airlines regarding strategy for the distribution of Airline Ancillary Fare Content or any advice that Boston Consulting Group provided to any airline or association of airlines regarding distribution of Airline Ancillary Fare Content.

20. All documents relating to Open Axis or Take Travel Forward, including any communications between Boston Consulting Group and these organizations or any advice

provided by Boston Consulting Group to AA or any other airline regarding participation in these organizations.

21. All documents and communications with or relating to Farelogix or Economists Incorporated.

# **EXHIBIT 4**

UNITED STATES DISTRICT COURT

for the

Eastern District of Pennsylvania

American Airlines, Inc. )
Plaintiff )
v. ) Civil Action No. 4:11-cv-00244-Y
Travelport Limited, et al. )
Defendant ) (If the action is pending in another district, state where: Northern District of Texas )

SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS OR TO PERMIT INSPECTION OF PREMISES IN A CIVIL ACTION

To: Farelogix, Inc., through its registered agent The Corporation Trust Company, Corporation Trust Center, 1209 Orange Street, Wilmington, DE 19801

Production: YOU ARE COMMANDED to produce at the time, date, and place set forth below the following documents, electronically stored information, or objects, and permit their inspection, copying, testing, or sampling of the material: See Schedule A attached hereto.

Place: Dechert LLP, 2929 Arch St., Philadelphia, PA 19104
Date and Time: 02/17/2012 9:00 am

Inspection of Premises: YOU ARE COMMANDED to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

Place:
Date and Time:

The provisions of Fed. R. Civ. P. 45(c), relating to your protection as a person subject to a subpoena, and Rule 45 (d) and (e), relating to your duty to respond to this subpoena and the potential consequences of not doing so, are attached.

Date: 01/25/2012

CLERK OF COURT

OR

Signature of Clerk or Deputy Clerk

Attorney's signature

The name, address, e-mail, and telephone number of the attorney representing (name of party) Defendants Travelport Limited and Travelport, LP, who issues or requests this subpoena, are:

Steig D. Olson, Quinn Emanuel Urquhart & Sullivan, LLP, 51 Madison Avenue, 22nd Floor, New York, New York, 212-849-7000, steigolson@quinnemanuel.com

Civil Action No. 4:11-cv-00244-Y

**PROOF OF SERVICE**

*(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)*

This subpoena for *(name of individual and title, if any)* \_\_\_\_\_  
was received by me on *(date)* \_\_\_\_\_.

I served the subpoena by delivering a copy to the named person as follows: \_\_\_\_\_

\_\_\_\_\_ on *(date)* \_\_\_\_\_; or

I returned the subpoena unexecuted because: \_\_\_\_\_

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also  
tendered to the witness fees for one day's attendance, and the mileage allowed by law, in the amount of  
\$ \_\_\_\_\_.

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ \_\_\_\_\_ 0.00 \_\_\_\_\_.

I declare under penalty of perjury that this information is true.

Date: \_\_\_\_\_  
\_\_\_\_\_  
*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc:

### Federal Rule of Civil Procedure 45 (c), (d), and (e) (Effective 12/1/07)

#### (c) Protecting a Person Subject to a Subpoena.

**(1) Avoiding Undue Burden or Expense; Sanctions.** A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The issuing court must enforce this duty and impose an appropriate sanction — which may include lost earnings and reasonable attorney’s fees — on a party or attorney who fails to comply.

#### **(2) Command to Produce Materials or Permit Inspection.**

**(A) Appearance Not Required.** A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

**(B) Objections.** A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing or sampling any or all of the materials or to inspecting the premises — or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

**(i)** At any time, on notice to the commanded person, the serving party may move the issuing court for an order compelling production or inspection.

**(ii)** These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party’s officer from significant expense resulting from compliance.

#### **(3) Quashing or Modifying a Subpoena.**

**(A) When Required.** On timely motion, the issuing court must quash or modify a subpoena that:

**(i)** fails to allow a reasonable time to comply;

**(ii)** requires a person who is neither a party nor a party’s officer to travel more than 100 miles from where that person resides, is employed, or regularly transacts business in person — except that, subject to Rule 45(c)(3)(B)(iii), the person may be commanded to attend a trial by traveling from any such place within the state where the trial is held;

**(iii)** requires disclosure of privileged or other protected matter, if no exception or waiver applies; or

**(iv)** subjects a person to undue burden.

**(B) When Permitted.** To protect a person subject to or affected by a subpoena, the issuing court may, on motion, quash or modify the subpoena if it requires:

**(i)** disclosing a trade secret or other confidential research, development, or commercial information;

**(ii)** disclosing an unretained expert’s opinion or information that does not describe specific occurrences in dispute and results from the expert’s study that was not requested by a party; or

**(iii)** a person who is neither a party nor a party’s officer to incur substantial expense to travel more than 100 miles to attend trial.

**(C) Specifying Conditions as an Alternative.** In the circumstances described in Rule 45(c)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

**(i)** shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and

**(ii)** ensures that the subpoenaed person will be reasonably compensated.

#### (d) Duties in Responding to a Subpoena.

**(1) Producing Documents or Electronically Stored Information.** These procedures apply to producing documents or electronically stored information:

**(A) Documents.** A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

**(B) Form for Producing Electronically Stored Information Not Specified.** If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

**(C) Electronically Stored Information Produced in Only One Form.** The person responding need not produce the same electronically stored information in more than one form.

**(D) Inaccessible Electronically Stored Information.** The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

#### **(2) Claiming Privilege or Protection.**

**(A) Information Withheld.** A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

**(i)** expressly make the claim; and

**(ii)** describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

**(B) Information Produced.** If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information to the court under seal for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

**(e) Contempt.** The issuing court may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena. A nonparty’s failure to obey must be excused if the subpoena purports to require the nonparty to attend or produce at a place outside the limits of Rule 45(c)(3)(A)(ii).

**SCHEDULE A**

Pursuant to Rule 45 of the Federal Rules of Civil Procedure, defendants Travelport Limited and Travelport L.P. d/b/a Travelport, hereby request that you produce the documents described below by the date and time set forth in the Subpoena.

**DEFINITIONS**

1. The terms “AA,” “American,” and “American Airlines” mean plaintiff American Airlines, Inc. including all divisions, subsidiaries, affiliates, controlled entities, joint ventures, related companies, any predecessors, successors, or assigns, individually or in any combination, and any agents or persons acting on behalf of or under American Airlines, Inc.’s control, including present and former officers, directors, employees, agents, attorneys, accountants, and representatives of any of the entities listed above, and any other person who currently or formerly acted or purported to act on behalf of, or who are or have been subject to the direction or control of, any of the entities listed above.

2. The term “AA Direct Connect” means the technology developed by and/or on behalf of AA that distributes AA’s flight, fare, and availability information from AA’s internal reservation system directly to travel agencies (including those in-house at corporate customers), whether or not that direct distribution to travel agencies is facilitated or supported by a GDS or other third party.

3. The term “airline content” means information about the schedules, availability, and prices of an airline’s flights and ancillary services, and the ability to book such flights and ancillary services.



4. The term “ancillary services” means “optional services” as that term is used by AA in its Distribution Update Blog;<sup>1</sup> and any other services, products or related fees unbundled from the cost of a ticket, including, but not limited to, services, products, or related fees for checked baggage, onboard Internet connectivity, seat selection, ticket cancellation, changes in previously purchased tickets, seats with greater legroom, lounge access, food, drink, pillows, blankets, or priority boarding.

5. The term “API” means application programming interface.

6. The term “back-office” means the portion of a travel agency’s computer systems that handles accounting and other reporting functions.

7. The term “booking” means an airline passenger segment for transportation that is created by or reserved, purchased, or ticketed through a GDS, Direct Connect, or other distribution source.

8. The term “communication” means the transmittal of information in the form of facts, ideas, inquiries or otherwise.

9. The term “corporate customer” means a corporation or other entity that purchases travel either through a travel agency or directly from a GDS or airline.

10. The term “direct connect” means any technology developed by and/or on behalf of an airline that allows travel agencies, corporate customers, or other entities to connect directly to that airline’s internal reservation system in order to obtain information about that airline’s content, make reservations, book travel, obtain tickets, and/or perform post-ticketing service functions, whether or not that direct connect is facilitated or supported by a GDS or other third party.

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<sup>1</sup> American Airlines Distribution Update Blog, *available at* <http://www.aa.com/i18n/agency/distribution/main.jsp?anchorLocation=DirectURL&title=distribution>.

11. The term “distribution channels” means all direct and indirect channels or outlets through which airline content is displayed, reviewed, booked and/or sold, including but not limited to GDSs, non-GDS booking tools, direct connect systems, internal airline reservation systems (including airline call centers, airline ticket counters, mobile platforms, and websites), travel agencies of any type, and corporate booking tools.

12. The term “document” is defined to be synonymous in meaning and equal in scope to the usage of the term “documents or electronically stored information” in Fed. R. Civ. P. 34, including all records and other tangible forms of expression, whether stored in paper or electronic form and whether in final or draft form, and includes without limitation: writings, data, drawings, spreadsheets, graphs, charts, photographs, sound recordings, and images. A draft or non-identical copy is a separate document within the meaning of this term.

13. The term “front-office” means the portion of a travel agency’s computer systems that interacts with suppliers, customers, or the general public, and which enables travel agencies to compare fares and make travel arrangements.

14. The term “GDS” means a “Global Distribution System,” a computer reservation system that allows users to view and compare airline content from multiple airlines and/or content from other travel providers, book and issue tickets, and/or perform post-ticketing service functions. For the purposes of these Requests only the term GDS includes those systems operated under the Sabre, Galileo, Apollo, Worldspan, and Amadeus brands.

15. The term “including” means “including but not limited to.”

16. The term “interline” means passenger air travel where segments of the same ticket are flown by different airlines.

17. The term “mid-office” means the information management portion of a travel agency’s computer systems, as distinct from the booking and fare comparison systems (see “front-office) and accounting functions (see “back-office”).

18. The term “non-GDS booking tools” means software or webpages, not owned by an airline or a GDS, that enable travel agencies or corporate travelers to book air travel, and includes but is not limited to booking tools offered by BookingBuilder, Concur, Rearden, NuTravel, and Agent Ware.

19. The term “online travel agencies” means Orbitz, Hotwire.com, CheapTickets, Expedia, Priceline, Travelocity, CheapOair, BookIt.com, Vegas.com, CheapAir, OneTravel, Globester, AirGorilla, and any other company that primarily serves travelers by enabling a traveler to book travel services through a publicly available webpage.

20. The term “Open Axis Group” refers to an association of airlines and “allied” companies as reflected at <http://www.openaxisgroup.org>.

21. The term “Orbitz” means Orbitz Worldwide, LLC including any predecessors or successors, individually or in any combination, and any agents or persons acting on behalf of or under Orbitz Worldwide, LLC’s control, including representatives, agents, and employees.

22. The terms “relate to,” “refer to,” “relating to,” and “referring to” and “regarding” mean constituting, comprising, evidencing, reflecting, respecting, discussing, stating, describing, recording, noting, considering, embodying, evaluating, analyzing, mentioning, containing, concerning, indicating, pertaining to, showing, bearing upon, or studying – in any manner logically, factually, directly, or indirectly to the matters discussed in the applicable Request.

23. The term “Sabre” means Sabre, Inc., Sabre Holdings Corporation, and Sabre Travel International Ltd., including any predecessors or successors, individually or in any

combination, and any agents or persons acting on behalf or under Sabre, Inc., Sabre Holdings Corporation, or Sabre Travel International Ltd., control, including representatives, agents, and employees.

24. The term “Take Travel Forward” refers to an organization as reflected at <http://taketravelforward.com/about/>.

25. The term “traditional brick and mortar travel agency” means any travel agency other than an online travel agency or Travel Management Company.

26. The terms “travel agency” or “travel agencies” mean any company or companies that make travel arrangements for travelers, or enable travelers to make their own travel arrangements, by booking services from suppliers such as airlines, car rental companies, cruise lines, hotels, and/or railways, whether independently or in packages, and include online travel agencies, traditional brick and mortar travel agencies, and Travel Management Companies.

27. The terms “Travel Management Companies” or “TMCs” include Carlson Wagonlit Travel, Hogg Robinson Group, American Express, BCD Travel Services, Egencia, and any other company that, in addition to making travel arrangements, serves clients by negotiating and managing travel-related services and by monitoring and analyzing travel expenditures.

28. The term “Travelport” means Travelport Limited and Travelport, L.P. and any predecessors or successors, including specifically Worldspan and Galileo, individually or in any combination, and any agents or persons acting on behalf of or under Travelport Limited or Travelport, L.P.’s control, including representatives, agents, and employees.

29. The term “US Airways” means US Airways Group, Inc. including any predecessors or successors, individually or in any combination, and any agents or persons acting

on behalf of or under US Airways Group, Inc.'s control, including representatives, agents, employees, attorneys, and investigators.

30. The terms “you,” “your,” “yours,” or “your company” mean the entity to whom this subpoena is addressed, including all present and former parents, subsidiaries, affiliates, predecessors, successors, present and former officers, directors, employees, partners, agents, representatives, and other persons acting on the entity’s behalf.

## INSTRUCTIONS

1. In addition to the specific instructions set forth below, these document requests incorporate by reference the instructions set forth in Rule 45 of the Federal Rules of Civil Procedure.

2. In construing the document requests, you should give effect to the Definitions set forth above. Undefined words and terms should be given their common meaning. If you are unsure of the definition of a particular term or word, you should use the definition that you believe to be the most accurate and state that definition in your response.

3. Whenever necessary to bring within the scope of these requests documents that might otherwise be construed to be outside its scope:

- a. “and” and “or” shall be construed conjunctively or disjunctively,
- b. “each,” “every” and “all” shall be construed as “each, every and all;”
- c. “including” means “including without limitation;”
- d. the use of the singular form of any word shall include the plural and vice versa;
- e. the use of a verb in any tense shall be construed as the use of that verb in all other tenses;
- f. a request that requests “documents” shall be construed as requesting “any and all documents;” and
- g. the use of the feminine, masculine or neuter genders shall include all genders.

4. If you cannot respond fully, or if you object in any part, to any document request, you should nevertheless respond to the remaining portions.

5. If objection is made to any of the requests, the response shall state whether documents are being withheld from inspection and production on the basis of such objection, or whether inspection and production of the responsive documents will occur notwithstanding such objection.

6. All documents requested herein shall be produced in their entirety, along with any attachments, drafts, and non-identical copies, including copies that differ due to handwritten notes or other notes or markings.

7. Documents produced shall be numbered consecutively, with a prefix identifying the name of the producing entity.

8. Except as otherwise specified below, electronically stored information should be produced in standard summation, multi-page tiff format, as well as in searchable text format, with the following fields of metadata produced where available: (a) for emails –custodian, date, from, to, cc, bcc, subject, text, and attachment count; and (b) for other electronic documents – custodian, original file name, original file path, date created, date last modified, subject/title, and author. Searchable text should be the extracted text from the native file for electronic documents, or OCR scanned text for paper or any redacted electronic documents, and should be produced for each document in a separate text file. All documents with file types compatible with Microsoft Excel (e.g., .xls, .xlsx) and Microsoft PowerPoint (e.g., .ppt, .pptx) should also be produced in native format. Travelport reserves the right to request that additional particular documents or categories of documents also be produced in their native format.

9. Except where otherwise specified these requests cover the time period from January 1, 2006 to the present.

10. A Protective Order has been issued in this case and, as a subpoenaed third party, you may elect to avail itself of that Order and become a Supplying Party, as defined in the Order. A copy of that order is attached to this subpoena.



### REQUESTS TO PRODUCE DOCUMENTS

1. All documents you have received from or provided to the United States Department of Justice (“DOJ”) or the United States Department of Transportation (“DOT”), whether on a voluntary basis, in response to a Civil Investigative Demand (“CID”), or otherwise, relating to the distribution of airline flight, fare, and availability information through any distribution channel, including but not limited to a copy of any such CID, documents produced by you in response to any such CID, and any communications between you and the DOJ or DOT regarding any such CID.

2. All internal documents, or documents reflecting communications with any third-party (including AA and Economists Incorporated), that refer or relate to your communications with the DOJ or DOT about any issues relating to the distribution of airline flight, fare, and availability information through any distribution channel, including regarding any decision by you to contact the DOJ or DOT.

3. All documents you have received from or provided to AA, US Airways, Sabre, or Orbitz, whether on a voluntary basis, in response to a subpoena relating to litigation in either state or federal court, or otherwise, other than in the ordinary course of business, relating to the distribution of airline flight, fare, and availability information through any distribution channel, including but not limited to a copy of any such subpoena, documents produced by you in response to any such subpoena, and any communications between you and AA, US Airways, Sabre, or Orbitz regarding any such subpoena.

4. Documents sufficient to show the nature of your company’s business, including documents sufficient to identify and describe (i) all of your product and service offerings that facilitate or relate to the comparison of airline fares, schedule information or seat availability for

those fares, and booking travel, and (ii) the product and service offerings of other companies that compete with the product and service offerings of your company.

5. All documents that refer or relate to the relationship among, or comparisons between, your product and service offerings and GDS offerings, including all documents relating to competition between your product and service offerings and GDS offerings.

6. All documents in which your company, or any other company, is referred to as a “GDS new entrant,” a “GNE,” or a GDS “bypass.”

7. All documents that refer or relate to (i) your ability to participate in a Travelport authorized developer program, (ii) your ability to interoperate with any of Travelport’s products or services, (iii) your use of Travelport information or technology with regard to your Commando, or any other, product, or (iv) your use of Travelport information or technology with regard to Carlson Wagonlit Travel’s Symphonie Desktop or Air Canada’s API.

8. Any actual or proposed contracts or agreements between your company and Travelport, and any internal communications, or communications between you and any other person or entity, regarding such contracts or agreements and/or the negotiation of such contracts or agreements..

9. Documents sufficient to identify and describe the nature of your relationship with PASS Consulting, including with regard to your Commando product.

10. All communications between AA and your company that refer or relate to: (i) Travelport; (ii) GDSs generally; (iii) AA Direct Connect; (iv) concerns by AA about any of your product or service offerings; (v) your financial health or viability; or (vi) this lawsuit.

11. Any actual or proposed contracts or agreements between your company and AA, any communications between you and AA regarding such contracts or agreements and/or the

negotiation of such contracts or agreements, and any internal communications from your company regarding that contract or agreement, the negotiations surrounding it, or your company or AA's strategy or approach to the negotiations or agreement.

12. All documents relating to any benefits conferred on your company, whether directly or indirectly, flowing from any association with AA, including documents or data sufficient to show all compensation your company has received from AA and the provision of anything of value to you by AA.

13. All documents that refer or relate to the ability of any of your company's product of service offerings to facilitate travel agents using multiple GDSs or other distribution channels to search for and/or book air travel.

14. Documents sufficient to show how your company's products work with AA Direct Connect, AA.com, or any other form of distribution owned by AA.

15. Documents sufficient to describe the FLX Platform and to show the development of that platform over time, including documents addressing (i) any obstacles to, concerns about, or problems with, the development of that platform and (ii) how that platform operates with AA Direct Connect.

16. All documents relating to the use of the FLX Platform by AA, including all communications with AA about the platform and the documents setting forth the terms of AA's use of the platform.

17. Documents sufficient to describe the FLX Distribution Manager and to show the development of that product or offering over time, including documents (i) addressing obstacles to, concerns about, or problems with, the development of that product or offering and (ii) how that product or offering operates with AA Direct Connect.

18. All documents relating to the use of the FLX Distribution Manager by AA, including all communications with AA about that product or offering and the documents setting forth the terms of AA's use of that product or offering.

19. Documents sufficient to describe the FLX Direct Connect Server and to show the development of that server over time, including documents addressing (i) obstacles to, concerns about, or problems with, the development of that server and (ii) how that server operates with AA Direct Connect.

20. All documents relating to the use of the FLX Direct Connect Server by AA, including all communications with AA about that server and the documents setting forth the terms of AA's use of that server.

21. Documents sufficient to describe the FLX HTH Gateway and to show the development of that product or offering over time, including documents addressing (i) obstacles to, concerns about, or problems with, the development of that product or offering and (ii) how that product or offering operates with AA Direct Connect.

22. All documents relating to the use of the FLX HTH Gateway by AA, including all communications with AA about that product or offering and the documents setting forth the terms of AA's use of that product or offering.

23. Documents sufficient to describe the FLX SPRK and to show the development of that of that product or offering over time, including documents addressing (i) obstacles to, concerns about, or problems with, the development of that of that product or offering and (ii) how that of that product or offering operates with AA Direct Connect.

24. All documents relating to the use of the FLX SPRK by AA, including all communications with AA about that product or offering and the documents setting forth the terms of AA's use of that product or offering.

25. All documents relating to your customers' satisfaction, or dissatisfaction, with any of your products or services that can be used with AA's Direct Connect, including complaints or concerns about the performance, capabilities, costs, or limitations of any of your company's products or services that can be used with AA's Direct Connect.

26. Documents sufficient to identify the travel agencies that use your company's products with AA Direct Connect, AA.com, any other form of distribution owned by AA, or any other airline's direct connect product.

27. All documents relating to efforts to convince travel agents to use AA Direct Connect or any of your product or service offerings that are, or could potentially be, used with AA Direct Connect, including your SPRK offering.

28. Documents that refer or relate to AA Direct Connect and, in particular:
- a. technological limitations of AA Direct Connect or any of your company's products, including limitations on the ability of AA Direct Connect or any of your company's products to: compare fares across airlines; process interline bookings; integrate with travel agencies' front-office, mid-office, and back-office tools; or perform any other function provided by a GDS;
  - b. the need or desirability for AA Direct Connect or any of your company's products to interface with a GDS in order to be useful to a travel agency;
  - c. comparisons between AA Direct Connect and any GDS offering or GDSs offerings generally;

- d. the costs to travel agencies of adopting AA Direct Connect or any of your company's products that are, or could potentially be, used with AA Direct Connect, including fees and charges, integration costs, equipment costs, bandwidth costs, out-of-pocket expenses, labor costs, equipment costs, and sacrificed efficiency; and
- e. complaints or concerns about the performance, capabilities, or costs of AA Direct Connect.

29. Documents sufficient to show any restrictions you place on third parties accessing your proprietary technology.

30. All documents relating to your company's past and present financial health, including all financial reports, balance sheets, tax filings, and any other documents or communications regarding your company's past or future profitability or financial performance, including any documents reflecting any concern about your future financial health or viability..

31. All documents that refer or relate to Open Axis or Take Travel Forward.

# **EXHIBIT 5**

UNITED STATES DISTRICT COURT

for the

Eastern District of Pennsylvania

American Airlines, Inc. )
Plaintiff )
v. ) Civil Action No. 4:11-cv-00244-Y
Travelport Limited, et al. )
Defendant ) (If the action is pending in another district, state where: Northern District of Texas )

SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS OR TO PERMIT INSPECTION OF PREMISES IN A CIVIL ACTION

To: Kayak Software Corp., by and through its registered agent, Corporation Service Company, 2711 Centerville Rd., Suite 400, Wilmington, DE 19808

Production: YOU ARE COMMANDED to produce at the time, date, and place set forth below the following documents, electronically stored information, or objects, and permit their inspection, copying, testing, or sampling of the material: See Schedule A attached hereto.

Place: Dechert LLP, 2929 Arch St., Philadelphia, PA 19104
Date and Time: 02/17/2012 9:00 am

Inspection of Premises: YOU ARE COMMANDED to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

Place:
Date and Time:

The provisions of Fed. R. Civ. P. 45(c), relating to your protection as a person subject to a subpoena, and Rule 45 (d) and (e), relating to your duty to respond to this subpoena and the potential consequences of not doing so, are attached.

Date: 01/25/2012

CLERK OF COURT

OR

Signature of Clerk or Deputy Clerk

Attorney's signature

The name, address, e-mail, and telephone number of the attorney representing (name of party) Defendants Travelport Limited and Travelport, LP, who issues or requests this subpoena, are: Steig D. Olson, Quinn, Emanuel, Urquhart & Sullivan, LLP, 51 Madison Avenue, 22nd Floor, New York, New York, (212) 849-7000, steigolson@quinnemanuel.com



Civil Action No. 4:11-cv-00244-Y

**PROOF OF SERVICE**

*(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)*

This subpoena for *(name of individual and title, if any)* \_\_\_\_\_  
was received by me on *(date)* \_\_\_\_\_.

I served the subpoena by delivering a copy to the named person as follows: \_\_\_\_\_

\_\_\_\_\_ on *(date)* \_\_\_\_\_; or

I returned the subpoena unexecuted because: \_\_\_\_\_

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also  
tendered to the witness fees for one day's attendance, and the mileage allowed by law, in the amount of  
\$ \_\_\_\_\_.

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ \_\_\_\_\_ 0.00 \_\_\_\_\_.

I declare under penalty of perjury that this information is true.

Date: \_\_\_\_\_  
\_\_\_\_\_  
*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc:

### Federal Rule of Civil Procedure 45 (c), (d), and (e) (Effective 12/1/07)

#### (c) Protecting a Person Subject to a Subpoena.

**(1) Avoiding Undue Burden or Expense; Sanctions.** A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The issuing court must enforce this duty and impose an appropriate sanction — which may include lost earnings and reasonable attorney’s fees — on a party or attorney who fails to comply.

#### **(2) Command to Produce Materials or Permit Inspection.**

**(A) Appearance Not Required.** A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

**(B) Objections.** A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing or sampling any or all of the materials or to inspecting the premises — or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

**(i)** At any time, on notice to the commanded person, the serving party may move the issuing court for an order compelling production or inspection.

**(ii)** These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party’s officer from significant expense resulting from compliance.

#### **(3) Quashing or Modifying a Subpoena.**

**(A) When Required.** On timely motion, the issuing court must quash or modify a subpoena that:

**(i)** fails to allow a reasonable time to comply;

**(ii)** requires a person who is neither a party nor a party’s officer to travel more than 100 miles from where that person resides, is employed, or regularly transacts business in person — except that, subject to Rule 45(c)(3)(B)(iii), the person may be commanded to attend a trial by traveling from any such place within the state where the trial is held;

**(iii)** requires disclosure of privileged or other protected matter, if no exception or waiver applies; or

**(iv)** subjects a person to undue burden.

**(B) When Permitted.** To protect a person subject to or affected by a subpoena, the issuing court may, on motion, quash or modify the subpoena if it requires:

**(i)** disclosing a trade secret or other confidential research, development, or commercial information;

**(ii)** disclosing an unretained expert’s opinion or information that does not describe specific occurrences in dispute and results from the expert’s study that was not requested by a party; or

**(iii)** a person who is neither a party nor a party’s officer to incur substantial expense to travel more than 100 miles to attend trial.

**(C) Specifying Conditions as an Alternative.** In the circumstances described in Rule 45(c)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

**(i)** shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and

**(ii)** ensures that the subpoenaed person will be reasonably compensated.

#### (d) Duties in Responding to a Subpoena.

**(1) Producing Documents or Electronically Stored Information.** These procedures apply to producing documents or electronically stored information:

**(A) Documents.** A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

**(B) Form for Producing Electronically Stored Information Not Specified.** If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

**(C) Electronically Stored Information Produced in Only One Form.** The person responding need not produce the same electronically stored information in more than one form.

**(D) Inaccessible Electronically Stored Information.** The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

#### **(2) Claiming Privilege or Protection.**

**(A) Information Withheld.** A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

**(i)** expressly make the claim; and

**(ii)** describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

**(B) Information Produced.** If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information to the court under seal for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

**(e) Contempt.** The issuing court may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena. A nonparty’s failure to obey must be excused if the subpoena purports to require the nonparty to attend or produce at a place outside the limits of Rule 45(c)(3)(A)(ii).

**SCHEDULE A**

Pursuant to Rule 45 of the Federal Rules of Civil Procedure, defendants Travelport Limited and Travelport L.P. d/b/a Travelport, hereby request that you produce the documents described below by the date and time set forth in the Subpoena.

**DEFINITIONS**

1. The terms “AA,” “American” and “American Airlines” mean plaintiff American Airlines, Inc. including all divisions, subsidiaries, affiliates, controlled entities, joint ventures, related companies, any predecessors, successors, or assigns, individually or in any combination, and any agents or persons acting on behalf of or under American Airlines, Inc.’s control, including present and former officers, directors, employees, agents, attorneys, accountants, and representatives of any of the entities listed above, and any other person who currently or formerly acted or purported to act on behalf of, or who are or have been subject to the direction or control of, any of the entities listed above.

2. The term “AA Content” means information about the schedules, availability, and prices of AA flights and AA ancillary products or services, and the ability to book such flights and ancillary services.

3. The term “AA ancillary fare content” means information about the availability and prices of AA ancillary services, and the ability to book such ancillary services.

4. The term “AA Direct Connect” means the technology developed by and/or on behalf of AA that distributes AA’s flight, fare, and availability information from AA’s internal reservation system directly to travel agencies (including those in-house at corporate customers),

whether or not that direct distribution to travel agencies is facilitated or supported by a GDS or other third party.

5. The term “airline content” means information about the schedules, availability, and prices of an airline’s flights and ancillary services, and the ability to book such flights and ancillary services.

6. The term “ancillary services” means “optional services” as that term is used by AA in its Distribution Update Blog;<sup>1</sup> and any other services, products or related fees unbundled from the cost of a ticket, including, but not limited to, services, products, or related fees for checked baggage, onboard Internet connectivity, seat selection, ticket cancellation, changes in previously purchased tickets, seats with greater legroom, lounge access, food, drink, pillows, blankets, or priority boarding.

7. The term “booking” means an airline passenger segment for transportation that is created by or reserved, purchased, or ticketed through a GDS, Direct Connect, or other distribution source.

8. The term “booking source premium” means any charge an airline imposes or threatens to impose on travel agencies for booking through a particular channel.

9. The term “bulk fare” means any fare available only when buying groups of seats or any fare privately negotiated with airlines by consolidators or tour operators.

10. The term “communication” means the transmittal of information in the form of facts, ideas, inquiries or otherwise.

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<sup>1</sup> American Airlines Distribution Update Blog, *available at* <http://www.aa.com/i18n/agency/distribution/main.jsp?anchorLocation=DirectURL&title=distribution>.

11. The term “corporate customer” means a corporation or other entity that purchases travel either through a travel agency or directly from a GDS or airline.

12. The term “direct connect” means any technology developed by and/or on behalf of an airline that allows travel agencies, corporate customers, or other entities to connect directly to that airline’s internal reservation system in order to obtain information about that airline’s content, make reservations, book travel, obtain tickets, and/or perform post-ticketing service functions, whether or not that direct connect is facilitated or supported by a GDS or other third party.

13. The term “document” is defined to be synonymous in meaning and equal in scope to the usage of the term “documents or electronically stored information” in Fed. R. Civ. P. 34, including all records and other tangible forms of expression, whether stored in paper or electronic form and whether in final or draft form, and includes without limitation: writings, data, drawings, spreadsheets, graphs, charts, photographs, sound recordings, and images. A draft or non-identical copy is a separate document within the meaning of this term.

14. The term “Farelogix” means Farelogix, Inc. including any predecessors or successors, individually or in any combination, and any agents or persons acting on behalf of or under Farelogix, Inc.’s control, including representatives, agents and employees. “Farelogix” includes its affiliates, controlled entities, joint ventures, related companies, predecessors, successors and assigns; and present and former officers, directors, employees, agents, attorneys, accountants, and representatives of any of the entities listed above; and any other person who currently or formerly acted or purported to act on behalf, or who are or have been subject to the direction or control of, any of the entities listed above.

15. The term “full content” means all of a particular airline’s airline content.

16. The term “GDS” means a “Global Distribution System,” a computer reservation system that allows users to view and compare airline content from multiple airlines and/or content from other travel providers, book and issue tickets and/or perform post-ticketing service functions. For the purposes of these Requests only the term GDS includes those systems operated under the Sabre, Galileo, Apollo, Worldspan and Amadeus brands.

17. The term “including” means “including but not limited to.”

18. The term “online travel agencies” means Orbitz; Hotwire.com; CheapTickets; Expedia; Priceline; Travelocity; CheapOair; BookIt.com; Vegas.com; CheapAir; OneTravel; Globester; AirGorilla; and any other company that primarily serves travelers by enabling a traveler to book travel services through a publicly available webpage.

19. The term “opaque fare” means a fare, together with associated inventory, offered for sale by or on behalf of an airline in such a way that there is no disclosure of the airline’s identity until after there has been an irrevocable commitment to purchase.

20. The term “Orbitz” means Orbitz Worldwide, LLC including any predecessors or successors, individually or in any combination, and any agents or persons acting on behalf of or under Orbitz Worldwide, LLC’s control, including representatives, agents, and employees.

21. The terms “relate to,” “refer to,” “relating to,” and “referring to” and “regarding” mean constituting, comprising, evidencing, reflecting, respecting, discussing, stating, describing, recording, noting, considering, embodying, evaluating, analyzing, mentioning, containing, concerning, indicating, pertaining to, showing, bearing upon, or studying – in any manner logically, factually, directly or indirectly to the matters discussed in the applicable Request.

22. The term “Sabre” means Sabre, Inc., Sabre Holdings Corporation, and Sabre Travel International Ltd., including any predecessors or successors, individually or in any combination, and any agents or persons acting on behalf or under Sabre, Inc., Sabre Holdings Corporation, or Sabre Travel International Ltd., control, including representatives, agents and employees.

23. The term “Source Premium Policy” refers to AA’s policy regarding different rules and/or fees that apply to Travel Agencies depending on the distribution source they use, as reflected at [http://www.aa.com/i18n/agency/Agency/SP\\_Master/SP.jsp](http://www.aa.com/i18n/agency/Agency/SP_Master/SP.jsp).

24. The term “traditional brick and mortar travel agency” means any travel agency other than an online travel agency or Travel Management Company.

25. The terms “travel agency” or “travel agencies” mean any company or companies that make travel arrangements for travelers, or enable travelers to make their own travel arrangements, by booking services from suppliers such as airlines, car rental companies, cruise lines, hotels, and/or railways, whether independently or in packages, and include online travel agencies, traditional brick and mortar travel agencies, and Travel Management Companies.

26. The term “Travel Management Companies” includes Carlson Wagonlit Travel, Hogg Robinson Group, American Express, BCD Travel Services, Egencia, and any other company that, in addition to making travel arrangements, serves clients by negotiating and managing travel-related services and by monitoring and analyzing travel expenditures.

27. The term “Travelport” means Travelport Limited and Travelport, L.P. and any predecessors or successors, including specifically Worldspan and Galileo, individually or in any

combination, and any agents or persons acting on behalf of or under Travelport Limited or Travelport, L.P.'s control, including representatives, agents and employees.

28. The term "US Airways" means US Airways Group, Inc. including any predecessors or successors, individually or in any combination, and any agents or persons acting on behalf of or under US Airways Group, Inc.'s control, including representatives, agents, employees, attorneys and investigators.

29. The term "wholesale fare" means a discounted fare for air travel that is typically offered to tour operators and consolidators.

30. The terms "you," "your," "yours," or "your company" mean the entity to whom this subpoena is addressed, including all present and former parents, subsidiaries, affiliates, predecessors, successors, present and former officers, directors, employees, partners, agents, representatives, and other persons acting on the entity's behalf.



## INSTRUCTIONS

1. In addition to the specific instructions set forth below, these document requests incorporate by reference the instructions set forth in Rule 45 of the Federal Rules of Civil Procedure.
2. In construing the document requests, you should give effect to the Definitions set forth above. Undefined words and terms should be given their common meaning. If you are unsure of the definition of a particular term or word, you should use the definition that you believe to be the most accurate and state that definition in your response.
3. Whenever necessary to bring within the scope of these requests documents that might otherwise be construed to be outside its scope:
  - a. “and” and “or” shall be construed conjunctively or disjunctively,
  - b. “each,” “every” and “all” shall be construed as “each, every and all;”
  - c. “including” means “including without limitation;”
  - d. the use of the singular form of any word shall include the plural and vice versa;
  - e. the use of a verb in any tense shall be construed as the use of that verb in all other tenses;
  - f. a request that requests “documents” shall be construed as requesting “any and all documents;” and
  - g. the use of the feminine, masculine or neuter genders shall include all genders.
4. If you cannot respond fully, or if you object in any part, to any document request, you should nevertheless respond to the remaining portions.

5. If objection is made to any of the requests, the response shall state whether documents are being withheld from inspection and production on the basis of such objection, or whether inspection and production of the responsive documents will occur notwithstanding such objection.

6. All documents requested herein shall be produced in their entirety, along with any attachments, drafts, and non-identical copies, including copies that differ due to handwritten notes or other notes or markings.

7. Documents produced shall be numbered consecutively, with a prefix identifying the name of the producing entity.

8. Except as otherwise specified below, electronically stored information should be produced in standard summation, multi-page tiff format, as well as in searchable text format, with the following fields of metadata produced where available: (i) for emails –custodian, date, from, to, cc, bcc, subject, text, and attachment count; and (ii) for other electronic documents – custodian, original file name, original file path, date created, date last modified, subject/title, and author. Searchable text should be the extracted text from the native file for electronic documents, or OCR scanned text for paper or any redacted electronic documents, and should be produced for each document in a separate text file. All documents with file types compatible with Microsoft Excel (e.g., .xls, .xlsx) and Microsoft PowerPoint (e.g., .ppt, .pptx) should also be produced in native format. Travelport reserves the right to request that additional particular documents or categories of documents also be produced in their native format.

9. Except where otherwise specified these requests cover the time period from April 12, 2007 to the present.

10. A Protective Order has been issued in this case and, as a subpoenaed third party, you may elect to avail yourself of that Order and become a Supplying Party, as defined in the Order. A copy of that order is attached to this subpoena.

## REQUESTS TO PRODUCE DOCUMENTS

1. All documents you have received from or provided to the United States Department of Justice (“DOJ”) or the United States Department of Transportation (“DOT”), whether on a voluntary basis, in response to a Civil Investigative Demand (“CID”), or otherwise, relating to the distribution of airline flight, fare, and availability information through any distribution channel, including but not limited to a copy of any such CID, documents produced by you in response to any such CID, and any communications between you and the DOJ or DOT regarding any such CID.

2. All documents you have received from or provided to AA, US Airways, Sabre, or Orbitz, whether on a voluntary basis, in response to a subpoena, in the course of any federal or state litigation, or otherwise, other than in the ordinary course of business, relating to the distribution of airline flight, fare, and availability information through any distribution channel, including but not limited to a copy of any such subpoena, documents produced by you in response to any such subpoena, and any communications between you and AA, US Airways, Sabre, or Orbitz regarding any such subpoena.

3. All documents that refer or relate to AA Direct Connect or AA’s Booking Source Premium Policy or Program.

4. All communications with AA that refer or relate to Travelport or Farelogix.

5. All documents that refer or relate to competition among entities that distribute airline flight, fare, and availability information in the United States, including:

a. documents that refer or relate to competition for share of airline bookings;

- b. documents that refer or relate to your efforts to obtain business from other entities involved in the distribution of airline flight, fare, and availability information in the United States;
  - c. business plans or strategic documents discussing your company's efforts or plans to compete with Travelport, Sabre, or any other entity that provides airline booking products and services;
  - d. documents comparing the capabilities of your company's products to the capabilities of any GDS or GDSs generally;
  - e. documents that refer or relate to any influence or effect your fees, products, and services have had on the fees, products, and services provided by GDS companies; and
  - f. documents that refer or relate to any airlines' threats to discontinue using you, Sabre, or Travelport.
6. All documents that refer or relate to your competitive position in the distribution of airline flight, fare, and availability information in the United States, including how your meta-search service utilizes, relates to, or competes with GDSs.
7. Any actual or proposed contracts or agreements between you and AA, and any communications between you and AA relating to such contracts or agreements and/or the negotiation of such contracts or agreements.
8. Any actual or proposed contracts or agreements between you and Farelogix, and any communications between you and Farelogix relating to such contracts or agreements and/or the negotiation of such contracts or agreements.

9. All documents discussing or analyzing the importance to you of having full content from any airline, including any documents discussing or analyzing the actual, contemplated, or expected impact of losing access to full content on your company's revenue, costs, or competitiveness, and any documents discussing concessions your company has offered to airlines in exchange for full content.

10. All documents discussing or analyzing the importance to your company of having access to AA content (including AA ancillary fare content and wholesale, bulk, or opaque AA fares), including any documents (i) discussing or analyzing the actual, contemplated, or expected impact of losing access to AA content on your company's revenue, costs, or competitiveness or (ii) that refer or relate to communications with your customers about the importance of AA content.

11. All documents discussing or analyzing AA's market power in the United States, in any city within the United States, or in regard to any air travel between two cities within the United States; AA's ability to force travel agencies to subscribe to or adopt AA Direct Connect; or any actual or potential threat or step by AA to deny your company, any other travel agency, or any group of travel agencies access to any AA content.

12. All documents and communications relating to any airline's request that your company not direct travelers to any particular travel agency or any group of travel agencies, including but not limited to any requests from AA that your company not direct travelers to certain online travel agencies.

# **EXHIBIT 6**

UNITED STATES DISTRICT COURT

for the

Eastern District of Pennsylvania

American Airlines, Inc.
Plaintiff
v.
Travelport Limited, et al.
Defendant
Civil Action No. 4:11-cv-00244-Y
(If the action is pending in another district, state where: Northern District of Texas)

SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS OR TO PERMIT INSPECTION OF PREMISES IN A CIVIL ACTION

To: Open Axis Group, Inc., by and through its registered agent, Corporation Service Company, 2711 Centerville Road, Suite 400, Wilmington, DE 19808

Production: YOU ARE COMMANDED to produce at the time, date, and place set forth below the following documents, electronically stored information, or objects, and permit their inspection, copying, testing, or sampling of the material: See Schedule A attached hereto.

Table with 2 columns: Place (Dechert LLP, 2929 Arch St., Philadelphia, PA 19104) and Date and Time (02/17/2012 9:00 am)

Inspection of Premises: YOU ARE COMMANDED to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

Table with 2 columns: Place and Date and Time (empty)

The provisions of Fed. R. Civ. P. 45(c), relating to your protection as a person subject to a subpoena, and Rule 45 (d) and (e), relating to your duty to respond to this subpoena and the potential consequences of not doing so, are attached.

Date: 01/25/2012

CLERK OF COURT

OR

Signature of Clerk or Deputy Clerk

Handwritten signature of attorney

Attorney's signature

The name, address, e-mail, and telephone number of the attorney representing (name of party) Defendants Travelport Limited and Travelport, LP, who issues or requests this subpoena, are: Craig G. Falls, Dechert LLP, 1775 I Street, NW, Washington, D.C. 20006, (202) 261-3300, craig.falls@dechert.com



Civil Action No. 4:11-cv-00244-Y

**PROOF OF SERVICE**

*(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)*

This subpoena for *(name of individual and title, if any)* \_\_\_\_\_  
was received by me on *(date)* \_\_\_\_\_.

I served the subpoena by delivering a copy to the named person as follows: \_\_\_\_\_

\_\_\_\_\_ on *(date)* \_\_\_\_\_ ; or

I returned the subpoena unexecuted because: \_\_\_\_\_

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also  
tendered to the witness fees for one day's attendance, and the mileage allowed by law, in the amount of  
\$ \_\_\_\_\_.

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ \_\_\_\_\_ 0.00 \_\_\_\_\_.

I declare under penalty of perjury that this information is true.

Date: \_\_\_\_\_  
\_\_\_\_\_  
*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc:

### Federal Rule of Civil Procedure 45 (c), (d), and (e) (Effective 12/1/07)

#### (c) Protecting a Person Subject to a Subpoena.

**(1) Avoiding Undue Burden or Expense; Sanctions.** A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The issuing court must enforce this duty and impose an appropriate sanction — which may include lost earnings and reasonable attorney’s fees — on a party or attorney who fails to comply.

#### **(2) Command to Produce Materials or Permit Inspection.**

**(A) Appearance Not Required.** A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

**(B) Objections.** A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing or sampling any or all of the materials or to inspecting the premises — or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

**(i)** At any time, on notice to the commanded person, the serving party may move the issuing court for an order compelling production or inspection.

**(ii)** These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party’s officer from significant expense resulting from compliance.

#### **(3) Quashing or Modifying a Subpoena.**

**(A) When Required.** On timely motion, the issuing court must quash or modify a subpoena that:

**(i)** fails to allow a reasonable time to comply;

**(ii)** requires a person who is neither a party nor a party’s officer to travel more than 100 miles from where that person resides, is employed, or regularly transacts business in person — except that, subject to Rule 45(c)(3)(B)(iii), the person may be commanded to attend a trial by traveling from any such place within the state where the trial is held;

**(iii)** requires disclosure of privileged or other protected matter, if no exception or waiver applies; or

**(iv)** subjects a person to undue burden.

**(B) When Permitted.** To protect a person subject to or affected by a subpoena, the issuing court may, on motion, quash or modify the subpoena if it requires:

**(i)** disclosing a trade secret or other confidential research, development, or commercial information;

**(ii)** disclosing an unretained expert’s opinion or information that does not describe specific occurrences in dispute and results from the expert’s study that was not requested by a party; or

**(iii)** a person who is neither a party nor a party’s officer to incur substantial expense to travel more than 100 miles to attend trial.

**(C) Specifying Conditions as an Alternative.** In the circumstances described in Rule 45(c)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

**(i)** shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and

**(ii)** ensures that the subpoenaed person will be reasonably compensated.

#### (d) Duties in Responding to a Subpoena.

**(1) Producing Documents or Electronically Stored Information.** These procedures apply to producing documents or electronically stored information:

**(A) Documents.** A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

**(B) Form for Producing Electronically Stored Information Not Specified.** If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

**(C) Electronically Stored Information Produced in Only One Form.** The person responding need not produce the same electronically stored information in more than one form.

**(D) Inaccessible Electronically Stored Information.** The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

#### **(2) Claiming Privilege or Protection.**

**(A) Information Withheld.** A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

**(i)** expressly make the claim; and

**(ii)** describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

**(B) Information Produced.** If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information to the court under seal for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

**(e) Contempt.** The issuing court may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena. A nonparty’s failure to obey must be excused if the subpoena purports to require the nonparty to attend or produce at a place outside the limits of Rule 45(c)(3)(A)(ii).

**SCHEDULE A**

Pursuant to Rule 45 of the Federal Rules of Civil Procedure, Travelport Limited and Travelport L.P., hereby request that you produce the documents described below by the date and time set forth in the Subpoena.

**DEFINITIONS**

1. The terms “AA,” “American,” and “American Airlines” mean plaintiff American Airlines, Inc. including all divisions, subsidiaries, affiliates, controlled entities, joint ventures, related companies, any predecessors, successors, or assigns, individually or in any combination, and any agents or persons acting on behalf of or under American Airlines, Inc.’s control, including present and former officers, directors, employees, agents, attorneys, accountants, and representatives of any of the entities listed above, and any other person who currently or formerly acted or purported to act on behalf of, or who are or have been subject to the direction or control of, any of the entities listed above.

2. The term “AA Content” means information about the schedules, availability, and prices of AA flights and AA ancillary products or services, and the ability to book such flights and ancillary services.

3. The term “ancillary fare content” means information about the availability and prices of an airline’s ancillary services, and the ability to book such ancillary services.

4. The term “AA Direct Connect” means the technology developed by and/or on behalf of AA that distributes AA’s flight, fare, and availability information from AA’s internal reservation system directly to travel agencies (including those in-house at corporate customers),

whether or not that direct distribution to travel agencies is facilitated or supported by a GDS or other third party.

5. The term “airline content” means information about the schedules, availability, and prices of an airline’s flights and ancillary services, and the ability to book such flights and ancillary services.

6. The term “ancillary services” means “optional services” as that term is used by AA in its Distribution Update Blog;<sup>1</sup> and any other services, products or related fees unbundled from the cost of a ticket, including, but not limited to, services, products, or related fees for checked baggage, onboard Internet connectivity, seat selection, ticket cancellation, changes in previously purchased tickets, seats with greater legroom, lounge access, food, drink, pillows, blankets, or priority boarding.

7. The term “back-office” means the portion of a travel agency’s computer systems that handles accounting and other reporting functions.

8. The term “booking” means an airline passenger segment for transportation that is created by or reserved, purchased, or ticketed through a GDS, Direct Connect, or other distribution source.

9. The term “booking source premium” means any charge an airline imposes or threatens to impose on travel agencies for booking through a particular distribution channel.

10. The term “Boston Consulting Group” means the Boston Consulting Group, Inc. including any predecessors or successors, individually or in any combination, and any agents or

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<sup>1</sup> American Airlines Distribution Update Blog, *available at* <http://www.aa.com/i18n/agency/distribution/main.jsp?anchorLocation=DirectURL&title=distribution>.

persons acting on behalf of or under Boston Consulting Group, Inc.'s control, including representatives, agents and employees.

11. The term "bulk fare" means any fare available only when buying groups of seats or any fare privately negotiated with airlines by consolidators or tour operators.

12. The term "communication" means the transmittal of information in the form of facts, ideas, inquiries or otherwise.

13. The term "corporate customer" means a corporation or other entity that purchases travel either through a travel agency or directly from a GDS or airline.

14. The term "direct connect" means any technology developed by and/or on behalf of an airline that allows travel agencies, corporate customers, or other entities to connect directly to that airline's internal reservation system in order to obtain information about that airline's content, make reservations, book travel, obtain tickets, and/or perform post-ticketing service functions, whether or not that direct connect is facilitated or supported by a GDS or other third party.

15. The term "distribution channels" means all direct and indirect channels or outlets through which airline content is displayed, reviewed, booked and/or sold, including but not limited to GDSs, non-GDS booking tools, direct connect systems, internal airline reservation systems (including airline call centers, airline ticket counters, mobile platforms, and websites), travel agencies of any type, and corporate booking tools.

16. The term "document" is defined to be synonymous in meaning and equal in scope to the usage of the term "documents or electronically stored information" in Fed. R. Civ. P. 34, including all records and other tangible forms of expression, whether stored in paper or

electronic form and whether in final or draft form, and includes without limitation: writings, data, drawings, spreadsheets, graphs, charts, photographs, sound recordings, and images. A draft or non-identical copy is a separate document within the meaning of this term.

17. The term “Farelogix” means Farelogix, Inc. including any predecessors or successors, individually or in any combination, and any agents or persons acting on behalf of or under Farelogix, Inc.’s control, including representatives, agents and employees. “Farelogix” includes its affiliates, controlled entities, joint ventures, related companies, predecessors, successors and assigns; and present and former officers, directors, employees, agents, attorneys, accountants, and representatives of any of the entities listed above; and any other person who currently acts or formerly acted or purported to act on behalf, or who are or have been subject to the direction or control of, any of the entities listed above.

18. The term “front-office” means the portion of a travel agency’s computer systems that interacts with suppliers, customers, or the general public, and which enables travel agencies to compare fares and make travel arrangements.

19. The term “full content” means all of a particular airline’s airline content.

20. The term “full content agreement” means an agreement entitling an entity to access all and book any of a particular airline’s airline content.

21. The term “GDS” means a “Global Distribution System,” a computer reservation system that allows users to view and compare airline content from multiple airlines and/or content from other travel providers, book and issue tickets, and/or perform post-ticketing service functions. For the purposes of these Requests only the term GDS includes those systems operated under the Sabre, Galileo, Apollo, Worldspan, and Amadeus brands.

22. The term “including” means “including but not limited to.”
23. The term “interline” means passenger air travel where segments of the same ticket are flown by different airlines.
24. The term “mid-office” means the information management portion of a travel agency’s computer systems, as distinct from the booking and fare comparison systems (see “front-office) and accounting functions (see “back-office”).
25. The term “non-GDS booking tools” means software or webpages, not owned by an airline or a GDS, that enable travel agencies or corporate travelers to book air travel, and includes but is not limited to booking tools offered by BookingBuilder, Concur, Rearden, NuTravel, and Agent Ware.
26. The term “online travel agencies” means Orbitz, Hotwire.com, CheapTickets, Expedia, Priceline, Travelocity, CheapOair, BookIt.com, Vegas.com, CheapAir, OneTravel, Globester, AirGorilla, and any other company that primarily serves travelers by enabling a traveler to book travel services through a publicly available webpage.
27. The term “opaque fare” means a fare, together with associated inventory, offered for sale by or on behalf of an airline in such a way that there is no disclosure of the airline’s identity until after there has been an irrevocable commitment to purchase.
28. The term “Open Axis Group” refers to an association of airlines and “allied” companies as reflected at <http://www.openaxisgroup.org>.
29. The term “Orbitz” means Orbitz Worldwide, LLC including any predecessors or successors, individually or in any combination, and any agents or persons acting on behalf of or under Orbitz Worldwide, LLC’s control, including representatives, agents, and employees.

30. The term “private fare” means a fare for passenger air travel where the airline does not offer the fare to the general public, but offers the fare only to certain travel agencies and/or corporations.

31. The term “privately negotiated discount” means a discount off the fare for passenger air travel where the airline does not offer the discount to the general public, but offers the discount only to certain travel agencies and/or corporations.

32. The terms “relate to,” “refer to,” “relating to,” and “referring to” and “regarding” mean constituting, comprising, evidencing, reflecting, respecting, discussing, stating, describing, recording, noting, considering, embodying, evaluating, analyzing, mentioning, containing, concerning, indicating, pertaining to, showing, bearing upon, or studying – in any manner logically, factually, directly, or indirectly to the matters discussed in the applicable Request.

33. The term “Sabre” means Sabre, Inc., Sabre Holdings Corporation, and Sabre Travel International Ltd., including any predecessors or successors, individually or in any combination, and any agents or persons acting on behalf or under Sabre, Inc., Sabre Holdings Corporation, or Sabre Travel International Ltd., control, including representatives, agents, and employees.

34. The term “Take Travel Forward” refers to an organization as reflected at <http://taketravelforward.com/about/>.

35. The term “traditional brick and mortar travel agency” means any travel agency other than an online travel agency or Travel Management Company.

36. The terms “travel agency” or “travel agencies” mean any company or companies that make travel arrangements for travelers, or enable travelers to make their own travel



arrangements, by booking services from suppliers such as airlines, car rental companies, cruise lines, hotels, and/or railways, whether independently or in packages, and include online travel agencies, traditional brick and mortar travel agencies, and Travel Management Companies.

37. The terms “Travel Management Companies” or “TMCs” include Carlson Wagonlit Travel, Hogg Robinson Group, American Express, BCD Travel Services, Egencia, and any other company that, in addition to making travel arrangements, serves clients by negotiating and managing travel-related services and by monitoring and analyzing travel expenditures.

38. The term “Travelport” means Travelport Limited and Travelport, L.P. and any predecessors or successors, including specifically Worldspan and Galileo, individually or in any combination, and any agents or persons acting on behalf of or under Travelport Limited or Travelport, L.P.’s control, including representatives, agents, and employees.

39. The term “US Airways” means US Airways Group, Inc. including any predecessors or successors, individually or in any combination, and any agents or persons acting on behalf of or under US Airways Group, Inc.’s control, including representatives, agents, employees, attorneys, and investigators.

40. The terms “wholesale fare” means a discounted fare for air travel that is typically offered to tour operators and consolidators.

41. The terms “you,” “your,” “yours,” or “your company” mean the entity to whom this subpoena is addressed, including all present and former parents, subsidiaries, affiliates, predecessors, successors, present and former officers, directors, employees, partners, agents, representatives, and other persons acting on the entity’s behalf.

## INSTRUCTIONS

1. In addition to the specific instructions set forth below, these document requests incorporate by reference the instructions set forth in Rule 45 of the Federal Rules of Civil Procedure.
2. In construing the document requests, you should give effect to the Definitions set forth above. Undefined words and terms should be given their common meaning. If you are unsure of the definition of a particular term or word, you should use the definition that you believe to be the most accurate and state that definition in your response.
3. Whenever necessary to bring within the scope of these requests documents that might otherwise be construed to be outside its scope:
  - a. “and” and “or” shall be construed conjunctively or disjunctively,
  - b. “each,” “every” and “all” shall be construed as “each, every and all;”
  - c. “including” means “including without limitation;”
  - d. the use of the singular form of any word shall include the plural and vice versa;
  - e. the use of a verb in any tense shall be construed as the use of that verb in all other tenses;
  - f. A request that requests “documents” shall be construed as requesting “any and all documents;” and
  - g. the use of the feminine, masculine or neuter genders shall include all genders. The use of the singular form includes the plural and vice versa, any use of gender includes both genders, and a verb tense includes all other verb tenses;
4. If you cannot respond fully, or if you object in any part, to any document request, you should nevertheless respond to the remaining portions.

5. If objection is made to any of the requests, the response shall state whether documents are being withheld from inspection and production on the basis of such objection, or whether inspection and production of the responsive documents will occur notwithstanding such objection.

6. All documents requested herein shall be produced in their entirety, along with any attachments, drafts, and non-identical copies, including copies that differ due to handwritten notes or other notes or markings.

7. Documents produced shall be numbered consecutively, with a prefix identifying the name of the producing entity.

8. Except as otherwise specified below, electronically stored information should be produced in standard summation, multi-page tiff format, as well as in searchable text format, with the following fields of metadata produced where available: (a) for emails –custodian, date, from, to, cc, bcc, subject, text, and attachment count; and (b) for other electronic documents – custodian, original file name, original file path, date created, date last modified, subject/title, and author. Searchable text should be the extracted text from the native file for electronic documents, or OCR scanned text for paper or any redacted electronic documents, and should be produced for each document in a separate text file. All documents with file types compatible with Microsoft Excel (e.g., .xls, .xlsx) and Microsoft PowerPoint (e.g., .ppt, .pptx) should also be produced in native format. Travelport reserves the right to request that additional particular documents or categories of documents also be produced in their native format.

9. Except where otherwise specified these requests cover the time period from April 12, 2007 to the present.

10. A Protective Order has been issued in this case and, as a subpoenaed third party, you may elect to avail itself of that Order and become a Supplying Party, as defined in the Order. A copy of that order is attached to this subpoena.

## **REQUESTS TO PRODUCE DOCUMENTS**

1. All documents you have received from or provided to the United States Department of Justice (“DOJ”) or the United States Department of Transportation (“DOT”), whether on a voluntary basis, in response to a Civil Investigative Demand (“CID”), or otherwise, relating to the distribution of airline content through any distribution channel, including but not limited to a copy of any such CID, documents produced by you in response to any such CID, and any communications between you and the DOJ or DOT regarding any such CID.

2. All documents you have received from or provided to AA, US Airways, Sabre, or Orbitz, whether on a voluntary basis, in response to a subpoena, or otherwise, other than in the ordinary course of business, relating to the distribution of airline content through any distribution channel, including but not limited to a copy of any such subpoena, documents produced by you in response to any such subpoena, and any communications between you and AA, US Airways, Sabre, or Orbitz regarding any such subpoena.

3. All by-laws, charters, articles of incorporation, and other foundational documents for your organization.

4. Documents sufficient to show the identity of your organization’s officers, directors, and members.

5. All contracts or other agreements between your organization and AA, Farelogix, Take Travel Forward, any airline, or any association of airlines.

6. Documents sufficient to show the relationship between your organization and each of AA, Farelogix, and Take Travel Forward.

7. Documents sufficient to show all donations, dues, membership or affiliate fees, compensation, or any other payments received by your organization from each of AA, Farelogix, and Take Travel Forward.

8. All documents and communications related to AA Direct Connect or AA distribution strategy, including, but not limited to:

- (a) all presentations and drafts of presentations discussing AA Direct Connect or AA distribution strategy;
- (b) all white papers, memoranda, business plans, or other analyses of AA Direct Connect or AA distribution strategy;
- (c) all communications with government entities discussing AA Direct Connect or AA distribution strategy;
- (d) all communications between your organization and AA related to AA Direct Connect or AA distribution strategy;
- (e) all internal communications among your employees related to AA Direct Connect or AA distribution strategy; and
- (f) all notes, meeting minutes, or other summaries of any discussions related to AA Direct Connect or AA distribution strategy.

9. All documents and communications related to airline direct connect initiatives or distribution strategy, including, but not limited to:

- (a) all presentations and drafts of presentations discussing any airline's direct connect or distribution strategy;
- (b) all white papers, memoranda, business plans, or other written analyses regarding any airline's direct connect or distribution strategy;

- (c) all communications with government entities discussing any airline's direct connect or distribution strategy.
- (d) all communications with any airline relating to direct connect or distribution strategy;
- (e) all internal communications among your employees relating to any airline's direct connect efforts or distribution strategy; and
- (f) all notes, meeting minutes, or other summaries of any discussions related to any airline's direct connect efforts or distribution strategy.

10. All documents and communications about any airline's agreements or negotiations with GDSs.

11. All documents and communications about GDS booking fees or any other term of airline agreements with GDSs.

12. All documents related to AA potentially terminating its agreement with one or more GDSs, including, but not limited to, any communications with AA regarding terminating its agreement with one or more GDSs and any advice provided by your organization to AA regarding potentially terminating AA's agreement with one or more GDSs.

13. All documents related to AA's decision to terminate Orbitz's ticketing authority, including, but not limited to, any communications with AA regarding the Orbitz termination and any advice provided by your organization to AA regarding the Orbitz termination.

14. All documents related to Expedia's decision to stop distributing AA tickets in January 2011, including, but not limited to, any communications with AA regarding Expedia and any advice provided by your organization to AA regarding Expedia.

15. All documents analyzing the actual or potential effects of any AA content not being available through any travel agency or group of travel agencies or any GDS, including but not limited to the effect on AA bookings or revenue, the effect on travel agency bookings or revenue, the effect on any GDSs bookings or revenue, and the effect on competition among airlines.

16. All documents related to any complaints from travel agencies or corporate customers related to AA Direct Connect, Farelogix, or direct connect generally.

17. Documents comparing any airline's direct connect to any GDS or GDSs in general or analyzing the advantages and/or disadvantages of any airline's direct connect, including strategy documents and internal or external communications relating to:

- (a) The technological limitations of the direct connect, including limitations on the ability of the direct connect to: compare fares across airlines; process interline bookings; integrate with a travel agency's front-office, mid-office, and back-office tools; or perform any other function that a travel agency can obtain from a GDS.
- (b) The actual, contemplated, or expected costs to travel agencies of using the direct connect, including: costs of installing and/or integrating the direct connect with the travel agency's current systems; reduced efficiency caused by using the direct connect's single-carrier platform; reduced ability to find the best fares for the travel agency's customers; reduced financial assistance payments or other compensation for the travel agency's services; loss of guaranteed access to the airline's full content; and reduced competitiveness



against the airline's website and other competitors that have access to the airline's full content or superior access to the airline's content.

- (c) The actual, contemplated, or expected costs an airline will impose on travel agencies who refuse to subscribe to its direct connect, including: termination of the travel agency's ticketing authority; loss of access to ancillary fare content; loss of access to wholesale, bulk, or opaque fares; costs of booking source premiums or other surcharges; reduced ability of the travel agency to find the best fare for its customers, and reduced competitiveness against the airline's website and other competitors that have access to the airline's full content or superior access to the airline's content.

18. All documents related to any proposed joint venture, consortium, or any other effort involving multiple airlines, to create a new company to compete in the travel distribution market, including, but not limited to, any entity that would display or aggregate fares from multiple airlines or content sources or otherwise provide an alternative to the GDSs.

19. All communications with Boston Consulting Group or Economists Incorporated.

# **EXHIBIT 7**

UNITED STATES DISTRICT COURT

for the

Southern District of Florida

American Airlines, Inc. )
Plaintiff )
v. ) Civil Action No. 4:11-cv-00244-Y
Travelport Limited, et al. )
Defendant ) (If the action is pending in another district, state where:
Northern District of Texas )

SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS OR TO PERMIT INSPECTION OF PREMISES IN A CIVIL ACTION

To: PASS Consulting Corporation, by and through its registered agent Ronald P. Glantz, Esq., 7951 SW 6th Street, Suite 200, Plantation, FL 33324

Production: YOU ARE COMMANDED to produce at the time, date, and place set forth below the following documents, electronically stored information, or objects, and permit their inspection, copying, testing, or sampling of the material: See Schedule A attached hereto.

Place: Duane Morris LLP Suite 3400, 200 South Biscayne Boulevard Miami, FL 33131 Date and Time: 02/17/2012 9:00 am

Inspection of Premises: YOU ARE COMMANDED to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

Place: Date and Time:

The provisions of Fed. R. Civ. P. 45(c), relating to your protection as a person subject to a subpoena, and Rule 45 (d) and (e), relating to your duty to respond to this subpoena and the potential consequences of not doing so, are attached.

Date: 01/25/2012

CLERK OF COURT

OR

Signature of Clerk or Deputy Clerk

Attorney's signature

The name, address, e-mail, and telephone number of the attorney representing (name of party) Defendants Travelport Limited and Travelport, LP, who issues or requests this subpoena, are: Steig D. Olson, Quinn Emanuel Urquhart & Sullivan, LLP, 51 Madison Avenue, 22nd Floor, New York, New York, 10010, (212) 849-7000, steigolson@quinnemanuel.com

Civil Action No. 4:11-cv-00244-Y

**PROOF OF SERVICE**

*(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)*

This subpoena for *(name of individual and title, if any)* \_\_\_\_\_  
was received by me on *(date)* \_\_\_\_\_.

I served the subpoena by delivering a copy to the named person as follows: \_\_\_\_\_

\_\_\_\_\_ on *(date)* \_\_\_\_\_; or

I returned the subpoena unexecuted because: \_\_\_\_\_

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also  
tendered to the witness fees for one day's attendance, and the mileage allowed by law, in the amount of  
\$ \_\_\_\_\_.

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ \_\_\_\_\_ 0.00 \_\_\_\_\_.

I declare under penalty of perjury that this information is true.

Date: \_\_\_\_\_  
\_\_\_\_\_  
*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc:

### Federal Rule of Civil Procedure 45 (c), (d), and (e) (Effective 12/1/07)

#### (c) Protecting a Person Subject to a Subpoena.

**(1) Avoiding Undue Burden or Expense; Sanctions.** A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The issuing court must enforce this duty and impose an appropriate sanction — which may include lost earnings and reasonable attorney’s fees — on a party or attorney who fails to comply.

#### **(2) Command to Produce Materials or Permit Inspection.**

**(A) Appearance Not Required.** A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

**(B) Objections.** A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing or sampling any or all of the materials or to inspecting the premises — or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

**(i)** At any time, on notice to the commanded person, the serving party may move the issuing court for an order compelling production or inspection.

**(ii)** These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party’s officer from significant expense resulting from compliance.

#### **(3) Quashing or Modifying a Subpoena.**

**(A) When Required.** On timely motion, the issuing court must quash or modify a subpoena that:

**(i)** fails to allow a reasonable time to comply;

**(ii)** requires a person who is neither a party nor a party’s officer to travel more than 100 miles from where that person resides, is employed, or regularly transacts business in person — except that, subject to Rule 45(c)(3)(B)(iii), the person may be commanded to attend a trial by traveling from any such place within the state where the trial is held;

**(iii)** requires disclosure of privileged or other protected matter, if no exception or waiver applies; or

**(iv)** subjects a person to undue burden.

**(B) When Permitted.** To protect a person subject to or affected by a subpoena, the issuing court may, on motion, quash or modify the subpoena if it requires:

**(i)** disclosing a trade secret or other confidential research, development, or commercial information;

**(ii)** disclosing an unretained expert’s opinion or information that does not describe specific occurrences in dispute and results from the expert’s study that was not requested by a party; or

**(iii)** a person who is neither a party nor a party’s officer to incur substantial expense to travel more than 100 miles to attend trial.

**(C) Specifying Conditions as an Alternative.** In the circumstances described in Rule 45(c)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

**(i)** shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and

**(ii)** ensures that the subpoenaed person will be reasonably compensated.

#### (d) Duties in Responding to a Subpoena.

**(1) Producing Documents or Electronically Stored Information.** These procedures apply to producing documents or electronically stored information:

**(A) Documents.** A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

**(B) Form for Producing Electronically Stored Information Not Specified.** If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

**(C) Electronically Stored Information Produced in Only One Form.** The person responding need not produce the same electronically stored information in more than one form.

**(D) Inaccessible Electronically Stored Information.** The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

#### **(2) Claiming Privilege or Protection.**

**(A) Information Withheld.** A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

**(i)** expressly make the claim; and

**(ii)** describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

**(B) Information Produced.** If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information to the court under seal for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

**(e) Contempt.** The issuing court may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena. A nonparty’s failure to obey must be excused if the subpoena purports to require the nonparty to attend or produce at a place outside the limits of Rule 45(c)(3)(A)(ii).

**SCHEDULE A**

Pursuant to Rule 45 of the Federal Rules of Civil Procedure, defendants Travelport Limited and Travelport L.P. d/b/a Travelport, hereby request that you produce the documents described below by the date and time set forth in the Subpoena.

**DEFINITIONS**

1. The terms “AA,” “American,” and “American Airlines” mean plaintiff American Airlines, Inc. including all divisions, subsidiaries, affiliates, controlled entities, joint ventures, related companies, any predecessors, successors, or assigns, individually or in any combination, and any agents or persons acting on behalf of or under American Airlines, Inc.’s control, including present and former officers, directors, employees, agents, attorneys, accountants, and representatives of any of the entities listed above, and any other person who currently or formerly acted or purported to act on behalf of, or who are or have been subject to the direction or control of, any of the entities listed above.

2. The term “AA Content” means information about the schedules, availability, and prices of AA flights and AA ancillary products or services, and the ability to book such flights and ancillary services.

3. The term “AA Direct Connect” means the technology developed by and/or on behalf of AA that distributes AA’s flight, fare, and availability information from AA’s internal reservation system directly to travel agencies (including those in-house at corporate customers), whether or not that direct distribution to travel agencies is facilitated or supported by a GDS or other third party.

4. The term “airline content” means information about the schedules, availability, and prices of an airline’s flights and ancillary services, and the ability to book such flights and ancillary services.

5. The term “ancillary services” means “optional services” as that term is used by AA in its Distribution Update Blog;<sup>1</sup> and any other services, products or related fees unbundled from the cost of a ticket, including, but not limited to, services, products, or related fees for checked baggage, onboard Internet connectivity, seat selection, ticket cancellation, changes in previously purchased tickets, seats with greater legroom, lounge access, food, drink, pillows, blankets, or priority boarding.

6. The term “API” means application programming interface.

7. The term “back-office” means the portion of a travel agency’s computer systems that handles accounting and other reporting functions.

8. The term “booking” means an airline passenger segment for transportation that is created by or reserved, purchased, or ticketed through a GDS, Direct Connect, or other distribution source.

9. The term “communication” means the transmittal of information in the form of facts, ideas, inquiries or otherwise.

10. The term “corporate customer” means a corporation or other entity that purchases travel either through a travel agency or directly from a GDS or airline.

11. The term “direct connect” means any technology developed by and/or on behalf of an airline that allows travel agencies, corporate customers, or other entities to connect directly to that airline’s internal reservation system in order to obtain information about that airline’s

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<sup>1</sup> American Airlines Distribution Update Blog, *available at* <http://www.aa.com/i18n/agency/distribution/main.jsp?anchorLocation=DirectURL&title=distribution>.

content, make reservations, book travel, obtain tickets, and/or perform post-ticketing service functions, whether or not that direct connect is facilitated or supported by a GDS or other third party.

12. The term “distribution channels” means all direct and indirect channels or outlets through which airline content is displayed, reviewed, booked and/or sold, including but not limited to GDSs, non-GDS booking tools, direct connect systems, internal airline reservation systems (including airline call centers, airline ticket counters, mobile platforms, and websites), travel agencies of any type, and corporate booking tools.

13. The term “document” is defined to be synonymous in meaning and equal in scope to the usage of the term “documents or electronically stored information” in Fed. R. Civ. P. 34, including all records and other tangible forms of expression, whether stored in paper or electronic form and whether in final or draft form, and includes without limitation: writings, data, drawings, spreadsheets, graphs, charts, photographs, sound recordings, and images. A draft or non-identical copy is a separate document within the meaning of this term.

14. The term “Farelogix” means Farelogix, Inc. including any predecessors or successors, individually or in any combination, and any agents or persons acting on behalf of or under Farelogix, Inc.’s control, including representatives, agents and employees. “Farelogix” includes its affiliates, controlled entities, joint ventures, related companies, predecessors, successors and assigns; and present and former officers, directors, employees, agents, attorneys, accountants, and representatives of any of the entities listed above; and any other person who currently acts or formerly acted or purported to act on behalf, or who are or have been subject to the direction or control of, any of the entities listed above.



15. The term “front-office” means the portion of a travel agency’s computer systems that interacts with suppliers, customers, or the general public, and which enables travel agencies to compare fares and make travel arrangements.

16. The term “GDS” means a “Global Distribution System,” a computer reservation system that allows users to view and compare airline content from multiple airlines and/or content from other travel providers, book and issue tickets, and/or perform post-ticketing service functions. For the purposes of these Requests only the term GDS includes those systems operated under the Sabre, Galileo, Apollo, Worldspan, and Amadeus brands.

17. The term “including” means “including but not limited to.”

18. The term “interline” means passenger air travel where segments of the same ticket are flown by different airlines.

19. The term “mid-office” means the information management portion of a travel agency’s computer systems, as distinct from the booking and fare comparison systems (see “front-office) and accounting functions (see “back-office”).

20. The term “non-GDS booking tools” means software or webpages, not owned by an airline or a GDS, that enable travel agencies or corporate travelers to book air travel, and includes but is not limited to booking tools offered by BookingBuilder, Concur, Rearden, NuTravel, and Agent Ware.

21. The term “online travel agencies” means Orbitz; Hotwire.com; CheapTickets, Expedia; Priceline; Travelocity; CheapOair; BookIt.com; Vegas.com; CheapAir; OneTravel; Globester; AirGorilla; and any other company that primarily serves travelers by enabling a traveler to book travel services through a publicly available webpage.

22. The term “Open Axis Group” refers to an association of airlines and “allied” companies as reflected at <http://www.openaxisgroup.org>.

23. The term “Orbitz” means Orbitz Worldwide, LLC including any predecessors or successors, individually or in any combination, and any agents or persons acting on behalf of or under Orbitz Worldwide, LLC’s control, including representatives, agents, and employees.

24. The terms “relate to,” “refer to,” “relating to,” and “referring to” and “regarding” mean constituting, comprising, evidencing, reflecting, respecting, discussing, stating, describing, recording, noting, considering, embodying, evaluating, analyzing, mentioning, containing, concerning, indicating, pertaining to, showing, bearing upon, or studying – in any manner logically, factually, directly, or indirectly to the matters discussed in the applicable Request.

25. The term “Sabre” means Sabre, Inc., Sabre Holdings Corporation, and Sabre Travel International Ltd., including any predecessors or successors, individually or in any combination, and any agents or persons acting on behalf or under Sabre, Inc., Sabre Holdings Corporation, or Sabre Travel International Ltd., control, including representatives, agents, and employees.

26. The term “Take Travel Forward” refers to an organization as reflected at <http://taketravelforward.com/about/>.

27. The term “traditional brick and mortar travel agency” means any travel agency other than an online travel agency or Travel Management Company.

28. The terms “travel agency” or “travel agencies” mean any company or companies that make travel arrangements for travelers, or enable travelers to make their own travel arrangements, by booking services from suppliers such as airlines, car rental companies, cruise

lines, hotels, and/or railways, whether independently or in packages, and include online travel agencies, traditional brick and mortar travel agencies, and Travel Management Companies.

29. The term “Travel Management Companies” or “TMCs” includes Carlson Wagonlit Travel, Hogg Robinson Group, American Express, BCD Travel Services, Egencia, and any other company that, in addition to making travel arrangements, serves clients by negotiating and managing travel-related services and by monitoring and analyzing travel expenditures.

30. The term “Travelport” means Travelport Limited and Travelport, L.P. and any predecessors or successors, including specifically Worldspan and Galileo, individually or in any combination, and any agents or persons acting on behalf of or under Travelport Limited or Travelport, L.P.’s control, including representatives, agents and employees.

31. The term “uAPI” means Travelport’s Universal API as reflected on Travelport’s website.<sup>2</sup>

32. The term “US Airways” means US Airways Group, Inc. including any predecessors or successors, individually or in any combination, and any agents or persons acting on behalf of or under US Airways Group, Inc.’s control, including representatives, agents, employees, attorneys, and investigators.

33. The terms “you,” “your,” “yours,” or “your company” mean the entity to whom this subpoena is addressed, including all present and former parents, subsidiaries, affiliates, predecessors, successors, present and former officers, directors, employees, partners, agents, representatives, and other persons acting on the entity’s behalf.

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<http://www.travelport.com/Global%20Repository/Products%20and%20Services/Travelport%20Universal%20API.aspx>

## INSTRUCTIONS

1. In addition to the specific instructions set forth below, these document requests incorporate by reference the instructions set forth in Rule 45 of the Federal Rules of Civil Procedure.

2. In construing the document requests, you should give effect to the Definitions set forth above. Undefined words and terms should be given their common meaning. If you are unsure of the definition of a particular term or word, you should use the definition that you believe to be the most accurate and state that definition in your response.

3. Whenever necessary to bring within the scope of these requests documents that might otherwise be construed to be outside its scope:

- a. “and” and “or” shall be construed conjunctively or disjunctively,
- b. “each,” “every” and “all” shall be construed as “each, every and all;”
- c. “including” means “including without limitation;”
- d. the use of the singular form of any word shall include the plural and vice versa;
- e. the use of a verb in any tense shall be construed as the use of that verb in all other tenses;
- f. a request that requests “documents” shall be construed as requesting “any and all documents;” and
- g. the use of the feminine, masculine or neuter genders shall include all genders.

4. If you cannot respond fully, or if you object in any part, to any document request, you should nevertheless respond to the remaining portions.

5. If objection is made to any of the requests, the response shall state whether documents are being withheld from inspection and production on the basis of such objection, or whether inspection and production of the responsive documents will occur notwithstanding such objection.

6. All documents requested herein shall be produced in their entirety, along with any attachments, drafts, and non-identical copies, including copies that differ due to handwritten notes or other notes or markings.

7. Documents produced shall be numbered consecutively, with a prefix identifying the name of the producing entity.

8. Except as otherwise specified below, electronically stored information should be produced in standard summation, multi-page tiff format, as well as in searchable text format, with the following fields of metadata produced where available: (a) for emails –custodian, date, from, to, cc, bcc, subject, text, and attachment count; and (b) for other electronic documents – custodian, original file name, original file path, date created, date last modified, subject/title, and author. Searchable text should be the extracted text from the native file for electronic documents, or OCR scanned text for paper or any redacted electronic documents, and should be produced for each document in a separate text file. All documents with file types compatible with Microsoft Excel (e.g., .xls, .xlsx) and Microsoft PowerPoint (e.g., .ppt, .pptx) should also be produced in native format. Travelport reserves the right to request that additional particular documents or categories of documents also be produced in their native format.

9. Except where otherwise specified these requests cover the time period from April 12, 2007 to the present.

10. A Protective Order has been issued in this case and, as a subpoenaed third party, you may elect to avail itself of that Order and become a Supplying Party, as defined in the Order. A copy of that order is attached to this subpoena.

### **REQUESTS TO PRODUCE DOCUMENTS**

1. All documents you have received from or provided to the United States Department of Justice (“DOJ”) or the United States Department of Transportation (“DOT”), whether on a voluntary basis, in response to a Civil Investigative Demand (“CID”), or otherwise, relating to the distribution of airline flight, fare, and availability information through any distribution channel, including a copy of any such CID, documents produced by you in response to any such CID, and any communications between you and the DOJ or DOT regarding any such CID.

2. All documents you have received from or provided to AA, US Airways, Sabre, or Orbitz, whether on a voluntary basis, in response to a subpoena relating to litigation in either state or federal court, or otherwise, other than in the ordinary course of business, relating to the distribution of airline flight, fare, and availability information through any distribution channel, including but not limited to a copy of any such subpoena, documents produced by you in response to any such subpoena, and any communications between you and AA, US Airways, Sabre, or Orbitz regarding any such subpoena.

3. Documents sufficient to show the nature of your business, including to identify and describe your product and service offerings that facilitate or relate to the comparison of airline fares, schedule information or seat availability, and booking travel.

4. All business planning or strategic documents that identify and analyze product and service offerings of other companies that compete with your product and service offerings.

5. All documents relating to the relationship among, or comparisons between, your product and service offerings and GDS offerings, including all documents relating to competition between your product and service offerings and GDS offerings.

6. All documents in which your company, or any other company, is referred to as a “GDS new entrant,” a “GNE,” or a GDS “bypass.”

7. All documents that refer or relate to your ability to participate in a Travelport authorized developer program or to interoperate with any of Travelport’s products or services, including Travelport uAPI.

8. All communications with AA that refer or relate to Travelport or Farelogix.

9. All actual or proposed contracts or agreements between your company and AA, communications between your company and AA regarding such contracts or agreements and/or the negotiation of such contracts or agreements, and internal communications from your company regarding that contract or agreement or the negotiations surrounding it.

10. All actual or proposed contracts or agreements between your company and Farelogix, and communications between your company and Farelogix that refer or relate to AA.

11. Documents sufficient to show whether, and if so how, your company’s product or service offerings work, or are used by travel agencies, with AA Direct Connect, AA.com, any other form of distribution owned by AA, or any Farelogix product—including documents sufficient to show the fees charged to travel agents for such use of your product or service offerings.

12. Documents sufficient to show whether and how any of your company’s products or service offerings facilitate travel agents using multiple GDSs or other distribution channels to search for and/or book air travel.

13. All documents that refer or relate to AA Direct Connect and Farelogix product or service offerings, and in particular:



- a. technological limitations of AA Direct Connect or any Farelogix product, including limitations on their ability to: compare fares across airlines; process interline bookings; integrate with travel agencies' front-office, mid-office, and back-office tools; or perform any other function provided by a GDS;
- b. the need or desirability for AA Direct Connect or any Farelogix product to interface with a GDS in order to be useful to a travel agency;
- c. comparisons between AA Direct Connect or any Farelogix product to any GDS;
- d. costs to travel agencies of adopting AA Direct Connect or any Farelogix product, including but not limited to fees and charges, integration costs, equipment costs, bandwidth costs, out-of-pocket expenses, labor costs, equipment costs, and sacrificed efficiency;
- e. complaints concerning AA Direct Connect or any Farelogix product; and
- f. concerns about the financial health or viability of Farelogix.

14. Documents that refer or relate to the importance to your company of having access to AA content, including the actual or contemplated impact of losing such access.

15. Documents or data to show any compensation your company has received from AA or Farelogix.

16. Documents or data sufficient to identify the travel agents that use your product or service offerings.

17. All documents that refer or relate to third parties, other than travel agencies, accessing Travelport's API, information, products, or services through your company's product or service offerings.

18. Documents sufficient to show the identity of third parties, other than travel agencies, that access Travelport's API, information, products, or services through your company's product or service offerings.

19. All documents that refer or relate to Open Axis or Take Travel Forward.