ATA e-BUSINESS PROGRAM

# MEMBERSHIP AGREEMENT

1. **PARTIES.** This Agreement is between the Air Transport Association of America, Inc. ("ATA"), a District of Columbia corporation, with its principal place of business at 1275 Pennsylvania Ave., NW, Suite 1300, Washington, DC 20004, and

   _____, a
   Company Name

   _____, which has its principal place of business at
   Type of company (S corp, C corp, LLC, etc.)

   _____,

   _____ ("the Participant").
2. **PURPOSE OF AGREEMENT.** This Agreement describes the terms under which the Participant will participate in the ATA E-Business Program ("the E-Business Program") to develop electronic information exchange specifications for use in the aviation industry. Any specifications that are developed through the E-Business Program are ATA's exclusive property. A primary objective of the E-Business Program is the publication of such specifications. This Agreement does not provide the Participant the right to participate in any other ATA membership, specification development, issuance or publication program.
3. **MEMBERSHIP**
   a. **Eligibility.** An entity or individual that provides aviation-related civil or military products or services is eligible for membership in the E-Business Program.
   b. **Affiliate membership.** An entity that is an Affiliate of a Participant and is otherwise eligible for membership can be a Participant.
   c. **Membership duration.** Membership shall be annual, shall be computed based upon the effective date described in section 9.a of this Agreement, and shall be annually automatically renewed unless the Participant notifies ATA before its membership anniversary date that it does not want the Agreement to be renewed. Section 3.g contains additional annual membership renewal notice and invoice payment requirements.
   d. **Non-transferability of Agreement.** This Agreement cannot be transferred or assigned without ATA's prior written or electronic approval.
   e. **Designation of Membership Contact.** The Participant shall designate a full-time employee of the Participant as its Membership Contact. The Membership Contact shall be the person through whom ATA formally communicates with the Participant about E-Business Program matters.
   f. **Annual fee payments.** The Participant shall pay the annual membership fee described in Attachment A (at the time of this Agreement entitled "ATA E-Business Program Cost Sheet"). ATA may revise the fee from time to time and revise Attachment A accordingly. However, the membership fee of a current Participant shall not change until its next annual membership renewal.
   g. **Termination of membership**
      i. ATA shall transmit to the Participant an annual membership renewal notice and invoice at least 90 days before its annual renewal date. Membership is subject to termination if the Participant fails to pay its annual membership fee within 7 days of the Participant's annual renewal date.
      ii. The Participant may voluntarily terminate membership by providing written or electronic notice to ATA. Such termination shall be effective on the date that ATA receives the notice or such later date that the Participant specifies in its notice.
      iii. ATA may terminate the Participant's membership if ATA (A) informs the Participant of its substantial failure to comply with a term or terms of this

Agreement and (B) the Participant has not cured that non-compliance within 15 days of the date of that notice.

iv. ATA may terminate the E-Business Program and this Agreement by providing all then-current Participants 60 days advance notice. In the event of such a termination by ATA, the Participant shall be entitled to receive those final publications that are published under this Agreement before the termination date of the E-Business Program.

v. Termination, irrespective of the reason, shall not entitle the Participant to a refund of any portion of the annual fee that it has paid.

4. **OPERATING GUIDELINES.** The document entitled "ATA E-Business Program Organizational Structure and Operating Guidelines" ("the Guidelines") is incorporated into and made part of this Agreement. The Guidelines may be revised from time to time. The ATA E-Business Steering Group ("the Group") shall be responsible for approving revisions to the Guidelines. ATA shall promptly communicate to the Participant any revision that the Group approves ("an approved revision"). An approved revision shall amend this Agreement 30 days after the Group approves it.

5. **VOLUNTARY NATURE OF SPECIFICATIONS.** The use of any specification that is developed in the E-Business Program is voluntary and each Participant shall individually determine whether it will use such a specification.

6. **INTELLECTUAL PROPERTY RIGHTS**

   a. **Contributions to E-Business Program activities**

      i. The Participant agrees that any data elements, specifications, protocol components, concepts, or other information or material that it provides, or authorizes to be provided, for the development of specifications under this Agreement, to any E-Business Program committee, working group, Participant or otherwise to ATA and which is included in a draft or final specification ("Participant Information") may be incorporated into a specification that ATA develops, maintains or publishes and shall be immediately available for ATA's use for purposes consistent with this Agreement.

      ii. The Participant grants to ATA a non-exclusive, irrevocable, royalty-free, worldwide copyright license, with the right to sublicense, to use, copy, modify, distribute (including, but not limited to, the sale thereof), disclose and otherwise exploit for purposes consistent with the E-Business Program or a comparable successor program such Participant Information that the Participant has provided to ATA.

      iii. Subject to the licenses granted in this Agreement, Participant Information shall not be used for activities or purposes to which this Agreement does not apply without the express prior permission of the Participant that provided the Participant Information.

   b. **Patent license.** For purposes consistent with the E-Business Program, the Participant grants, and shall cause its Affiliates to grant, to ATA a limited, non-exclusive, irrevocable, non-transferable, royalty-free, worldwide license under the Participant's and its Affiliates' Essential Patents to make, have made, use, import, offer to sell, and otherwise distribute and dispose of Compliant Portions, with the right to grant sublicenses with an equivalent scope on a royalty-free basis.

      i. **"Essential Patent" defined.** An "Essential Patent" is a claim of a patent or patent application, throughout the world, that is now or hereafter owned or licensable by the Participant or its Affiliates and is necessarily infringed by the implementation of a Compliant Portion provided that a claim is necessarily infringed only when it is not technically feasible to implement such Compliant Portion without infringing such claim. Notwithstanding the foregoing, Necessary Claims do not include any claims (A) other than those set forth above even if contained in the same patent or patent application as an Essential Patent claim; (B) that are directed to any enabling technology that may be necessary to implement such Compliant Portion but are not themselves specified with particularity in the relevant ATA specification (examples of such technologies

include, without limitation, semiconductor manufacturing technology, compiler technology, object-oriented technology, and basic operating system technology); (C) that are infringed only by the implementation or use of published non-ATA specifications, or portion(s) thereof, that are referenced by the ATA specification but are not expressly set forth therein; (D) that are directed at implementation examples or optional features included in such Contribution; or (E) that, if licensed, would require a payment of royalties by the licensor to unaffiliated third parties.

ii. **"Compliant Portion" defined.** A "Compliant Portion" is that portion of a product that implements and is compliant with the mandatory portions of the relevant ATA specification as applicable to such portions, excluding any additional elements of such product as may be optional under or are not required for compliance with the relevant ATA specification.

**c. Patent disclosure.** Upon providing Participant Information, the Participant's Membership Contact shall disclose any claims of patents or published patent applications owned or licensable by the Participant or its Affiliates, or any third party, of which the Participant's Membership Contact or other employee of Participant submitting such Participant Information has personal knowledge and that would be an Essential Patent if the Contribution were to be included in a final ATA specification. Promptly after receiving and reviewing a draft ATA specification that is being circulated for purposes of any approval process called for under ATA's specification development procedures, the Participant's Membership Contact shall disclose any claims of patents or published patent applications owned or licensable by the Participant or its Affiliates, or any third party, of which the Participant's Membership Contact or other employee of Participant reviewing such draft has personal knowledge and that would be an Essential Patent if the draft were to become a final ATA specification. Nothing in this Section 6c shall impose a duty (i) for a Participant's Membership Contact or employees to make any inquiry into the existence of patents or patent applications not personally known to them, or (ii) for Participant to undertake any review of its or its Affiliates' patent portfolios.

**d. Ownership.** The Participant agrees that any final specifications that are developed through the E-Business Program are ATA's exclusive property. Irrespective of ATA's ownership of the final specifications, Participant's intellectual property rights in its Participant Information and patents are unaffected by this Agreement. Accordingly, Participant may use its Participant Information and patents as it determines in its sole discretion without the knowledge or consent of ATA and without payment or other compensation to ATA.

**e. Further assurances.** The Participant agrees, promptly upon ATA's reasonable request, to execute such specific licenses or instruments and take any action necessary to enable ATA to secure and perfect the rights licensed in this Agreement.

**f. Survival of licenses.** The licenses that this section grants shall survive termination of this Agreement but shall not extend to any draft ATA specification that has not been finalized before termination.

**7. PARTICIPANT'S REPRESENTATIONS, WARRANTIES AND COVENANTS**

**A. CONTRIBUTIONS TO E-BUSINESS PROGRAM ACTIVITIES.** THE PARTICIPANT AGREES THAT IT WILL NOT KNOWINGLY, DIRECTLY OR THROUGH ITS DESIGNATED REPRESENTATIVE, PROVIDE TO ATA ANY PARTICIPANT INFORMATION THAT THE PARTICIPANT DOES NOT HAVE THE RIGHT TO LICENSE TO ATA UNDER SECTION 6.a.ii.

**B. WARRANTY EXCLUSION.**

I. THE PARTICIPANT ACKNOWLEDGES THAT ANY ATA SPECIFICATION AND ALL DATA ELEMENTS, SPECIFICATIONS, CONCEPTS, PROTOCOL COMPONENTS, AND OTHER INFORMATION AND OTHER MATERIAL PROVIDED IN, AS PART OF, OR IN CONNECTION WITH THE PROMULGATION OF AN ATA SPECIFICATION AND ALL LICENSES HEREUNDER ARE PROVIDED "AS IS" WITHOUT ANY WARRANTIES,

WHETHER EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE REGARDING ANY SUBJECT MATTER OF THE SPECIFICATION.

II. THE PARTICIPANT EXPRESSLY DISCLAIMS ANY IMPLIED WARRANTIES OF NON-INFRINGEMENT, MERCHANTABILITY, FITNESS FOR A PARTICULAR USE OR PURPOSE, AND THOSE ARISING FROM A COURSE OF DEALING OR USAGE OF TRADE.

III. WITHOUT LIMITING THE FOREGOING, NO PARTICIPANT OR ATA WARRANTS THAT ANY ATA SPECIFICATION OR ANY DATA ELEMENTS, SPECIFICATIONS, CONCEPTS, PROTOCOL COMPONENTS, OR OTHER INFORMATION OR MATERIAL PROVIDED IN CONNECTION WITH THE PROMULGATION OF AN ATA SPECIFICATION SHALL BE FREE FROM ERRORS OR THAT USE OR APPLICATION OF THE SPECIFICATION SHALL BE UNINTERRUPTED.

**C. LIABILITY LIMITATIONS.** TO THE MAXIMUM EXTENT ALLOWED UNDER APPLICABLE LAW, OTHER THAN WITH RESPECT TO ANY INDEMNIFICATION OBLIGATION ARISING UNDER SECTION 7.D, NO PARTICIPANT SHALL BE RESPONSIBLE OR LIABLE TO ATA OR OTHER PARTICIPANTS OR THEIR AFFILIATES WITH RESPECT TO ANY SUBJECT MATTER OF THIS AGREEMENT UNDER ANY CONTRACT, NEGLIGENCE, STRICT LIABILITY, OR OTHER THEORY: (I) FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, EXEMPLARY, OR PUNITIVE DAMAGES INCLUDING, BUT NOT LIMITED TO, LOSS OF PROFITS OR BUSINESS INTERRUPTION, EVEN IF A PARTY HAS BEEN NOTIFIED OF THE POSSIBILITY OF SUCH DAMAGES; OR (II) ANY AMOUNT OF DAMAGES UNDER ANY CAUSE OF ACTION IN EXCESS OF THE ANNUAL MEMBERSHIP FEES PAID UNDER THIS AGREEMENT BY THE PARTICIPANT FOR THE 12 MONTH PERIOD BEFORE THE DATE ON WHICH THE EVENT GIVING RISE TO SUCH CAUSE OF ACTION OCCURRED. PARTICIPANT HEREBY EXPRESSLY ACCEPTS THE LIMITATION OF LIABILITY TO IT OF OTHER PARTICIPANTS AND THEIR AFFILIATES TO THE EXTENT THAT OTHER PARTICIPANTS NOW OR IN THE FUTURE SIGN VERSIONS OF THE ATA E-BUSINESS PROGRAM PARTICIPATION AGREEMENT IN SUBSTANTIALLY THE FORM OF THIS AGREEMENT AND INCLUDING LANGUAGE LIMITING LIABILITY BETWEEN PARTICIPANTS THAT IS IDENTICAL TO THE LANGUAGE OF THIS SECTION 7.C. THE FOREGOING LIMITATIONS, EXCLUSIONS, AND DISCLAIMERS SHALL APPLY TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, EVEN IF ANY REMEDY FAILS ITS ESSENTIAL PURPOSE.

**D. INDEMNIFICATION.** THE PARTICIPANT AGREES TO INDEMNIFY ATA AND PAY THE AMOUNT OF ANY FINAL JUDGMENT AGAINST ATA (INCLUDING WITHOUT LIMITATION ANY AWARD OF COSTS OR ATTORNEYS' FEES) ATTRIBUTABLE TO ANY BREACH OF SECTION 7.A OF THIS AGREEMENT BY THE PARTICIPANT OR ANY OF ITS AFFILIATES.

**8. DEFINITIONS**

For purposes of this Agreement, the following terms shall have the following meanings:

**a.** Solely for purposes of determining Participant status and for the payment of membership fees, the term "Affiliate" shall mean, with respect to any entity, any other entity which, directly or indirectly, is in control of, is controlled by, or is under common control with, such entity. Any dispute concerning the existence of an Affiliate relationship between a Participant and any other entity shall be determined by ATA and such determination shall be conclusive and binding on all parties.

**b.** The term "control" (including, with correlative meanings, "controlled by" and "under common control with") shall mean, with respect to any entity, possession, directly or indirectly, of power to direct or cause the direction of management or policies of such entity, whether through ownership of more than 50 percent of the voting securities, voting partnership interests in such entity, by contract, or otherwise.

**9. MISCELLANEOUS**

**a. Effective date of agreement.** As to ATA and each Participant executing this Agreement on or before June 1, 2006, this Agreement is effective as of June 1, 2006. As to any

other Participant, this Agreement shall be effective as of the date that ATA accepts the Participant's execution of this Agreement.

**b. List of Participants.** ATA shall post a current list of Participants on a Web site that all Participants can access.

**c. Electronic execution of Agreement.** This Agreement and any amendment to it may be electronically executed.

**d. Notices.**

i. **Written.** Except as otherwise provided in Section 9.d.ii, all notices, demands, requests or other communications which may be or are required to be given or made by any party to any other party pursuant to this Agreement shall be in writing (whether or not otherwise expressly required to be in writing) and shall be transmitted by first-class mail or transmitted by facsimile, or hand delivered, or sent by overnight or express delivery service, addressed as follows:

- ***TO ATA*:**
  Senior Managing Director, E-Business
  Air Transport Association of America, Inc.
  1275 Pennsylvania Ave., NW, Suite 1300
  Washington, DC 20004
- ***TO THE MEMBERSHIP CONTACT*:**

  _____
  Name

  _____
  Title

  _____
  e-Mail

  _____
  Phone

ii. **Electronic.** Insofar as applicable law (as in effect at the time any such communication is made) recognizes and gives effect to email as a means for giving and receiving formal notices, demands, requests and other communications between parties such communications may be made by email and may, where applicable, direct the recipient's attention to material available to the recipient and posted at an Internet Web site maintained by ATA. Any communication made in such manner shall be deemed effective when accessed by the recipient, with a printed email receipt constituting conclusive (but not exclusive) evidence of its receipt and effectiveness.

**e. Waiver.** No delay or failure on the part of any party to this Agreement in exercising any right, power or privilege under this Agreement or under any other instrument or document given in connection with or pursuant to this Agreement shall impair any such right, power or privilege or be construed as a waiver of any default or any acquiescence therein. No single or partial exercise of any such right, power or privilege shall preclude the further exercise of such right, power or privilege. No waiver shall be valid against any party hereto unless made in writing and signed by the party against whom enforcement or such waiver is sought and then only to the extent expressly specified.

**f. Benefit of Agreement.** This Agreement shall be binding upon and shall inure to the benefit of ATA, the Participant, and their respective successors. No other person or entity is or shall be entitled to bring any action to enforce any provision of this Agreement against any of the parties hereto, and the agreements set forth herein shall be solely for the benefit of, and shall be enforceable only by, the parties hereto and their respective successors, except that other Participants and their Affiliates shall be entitled to enforce Participant's acceptance of their limitation of liability pursuant to the next to last sentence of Section 7.c of this Agreement.

g. **Governing law** This Agreement, the rights and obligations of the parties to the Agreement, and any claims or disputes relating thereto, shall be governed by and construed in accordance with the laws of the District of Columbia, excluding its choice-of-law rules.

h. **Governing rules.** ATA may adopt such procedural and administrative rules that it deems necessary or desirable for the orderly and consistent functioning of activities conducted under this Agreement, provided that such rules shall not materially amend any provision of this Agreement or expand any intellectual property, licensing, or disclosure obligations set forth in this Agreement. Any such rules shall (i) become effective on not less than 30 days prior notice to Participants and (ii) have prospective effect only.

i. **Incorporation by reference.** The Attachments and Exhibits to this Agreement are incorporated into and made part of the Agreement.

10. **ENTIRE AGREEMENT.** This Agreement, including the Attachments and Exhibits hereto and other instruments and documents referred to herein or delivered pursuant hereto, contains the entire agreement among the parties with the respect to the subject matter hereof and supersedes all prior oral or written agreements, commitments or understandings with respect to such matters.

11. **SEVERABILITY.** If any part of any provision of this Agreement or any other agreement, document or writing given pursuant to or in connection with this Agreement shall be invalid or unenforceable under applicable law, such part shall be ineffective to the extent of such invalidity or unenforceability only, without in any way affecting the remaining parts of such provision or the remaining provisions of said agreement, document or writing.

12. **ARBITRATION.**

a. **General.** Any claim or controversy arising out of or relating to this Agreement because of a party's substantial failure to comply with a term or terms of the Agreement shall be settled exclusively by final and binding arbitration in accordance with, at your option, (i) the Commercial Arbitration Rules of the American Arbitration Association or (ii) the Rules of Conciliation and Arbitration of the International Chamber of Commerce, in either case subject to the provisions of Subsections b., c. and d. below. If ATA has terminated this Agreement and you wish to dispute such termination in arbitration, you shall notify ATA in writing within 30 days of the termination date. Arbitration shall take place in the city in the United States where your principal offices are located or any other city upon which you and ATA may mutually agree.

b. **Selection of Panel.** Arbitration proceedings conducted under this section shall be before a three-member arbitration panel. Within seven days after a party's receipt of notice to arbitrate, you shall appoint one member of the panel, and ATA shall appoint another panel member. The two panel members so appointed shall appoint the third member. The panel shall conduct the proceeding as expeditiously as practicable.

c. **Scope of Arbitration.** The panel shall determine from all probative evidence submitted to it whether the party substantially failed to comply with a term or terms of the Agreement.

d. **Decision.** The panel shall render its decision as expeditiously as practicable. Such decision shall be final, binding and enforceable in any court of competent jurisdiction.

e. **Expenses.** The unsuccessful party shall pay the expenses of the arbitration proceeding.

**BY SIGNING BELOW YOU ACKNOWLEDGE THAT (1) YOU HAVE THE AUTHORITY TO SIGN THIS AGREEMENT ON BEHALF OF YOUR COMPANY AND (2) YOUR COMPANY HAS READ AND UNDERSTANDS THIS AGREEMENT, AND THAT IT AGREES TO BE BOUND BY THE AGREEMENT'S TERMS AND CONDITIONS.**

**PARTICIPANT APPLICANT:**

_____
Signature

_____
Name

_____
Title

_____
Company Name - As you would like it displayed on the public membership list.

_____
Company Address

_____

_____
Telephone Number

_____
e-Mail Address

@_____
Company e-Mail Domain - Employee access is controlled by company e-mail domain address. One domain per membership.

_____
Date

**ATA ACCEPTANCE:**

_____
Signature

_____
Name

_____
Title

_____
Date

Attachment A

# ATA e-Business Program Cost Sheet

## Costs

Annual Membership Fee (per Entity/e-Mail Domain)…..……..……..……$6,000 USD

## Member Benefits

1. Gain access to all ATA e-Business publications currently valued at over $20,000. Registered employees can download **single-user** versions only.

    - Common Support Data Dictionary (CSDD)
    - iSpec 2200 - Information Standards for Aviation Maintenance
    - iSpec 2200 Extract - ATA Standard Numbering System
    - S1000D, International Specification for Technical Publications
    - Spec 1000BR - Civil Aviation S1000D Business Rules (all issues)
    - Spec 2000 - Provisioning (ch. 1)
    - Spec 2000 - Procurement Planning (ch. 2)
    - Spec 2000 - Materiel Management (ch. 3 – 4, 6)
    - Spec 2000 - Gen 2 Procurement
    - Spec 2000 - Repair Order Administration (ch. 7)
    - Spec 2000 - Automated Identification and Data Capture (ch. 9)
    - Spec 2000 - Reliability Data Collection and Exchange (ch. 11)
    - Spec 2000 - Airline Inventory Redistribution System - AIRS (ch. 12)
    - Spec 2000 - Industry Metrics (ch. 13)
    - Spec 2000 - Warranty Claims (ch. 14)
    - Spec 2000 - Aircraft Transfer Parts List (ch. 15)
    - Spec 2000 - Authorized Release Certificate (ch. 16)
    - Spec 2000 - Electronic Logbook (ch. 17)
    - Spec 2000 - Electronic Work Package (ch. 18)
    - Spec 2300 - Data Exchange Standard for Flight Operations
    - Spec 2400 - Allowable Configuration Data Exchange Standard
    - Spec 2500 - Aircraft Transfer Records
    - Spec 42 - Aviation Industry Standards for Digital Information Security
    - World Airlines and Suppliers Guide (WASG)
    - Spec 100 - Manufacturers Technical Data
    - Spec 101 - Ground Equipment Technical Data

2. Participate in a global collaborative environment that helps shape our industry and defines best commercial practices for information exchange.

    - An unlimited number of company employees may participate
    - Employee access is controlled by company e-mail domain address (all characters following the @ symbol)
    - One domain name is allowed per membership fee
    - Employees are granted access to a suite of state-of-the-art Web-based collaboration tools, to enhance their participation in the program
    - Employees may choose their level of time and commitment on any particular project or discussion, by participating online, through phone conferences or attending face-to-face meetings

3. Influence the development of industry specifications, to enable your business requirements and processes to be adequately considered.

    - Includes participation in all open committee activities, in accordance with the ATA e-Business Program Organizational Structure and Operating Guidelines
    - Includes employee access to the members-only section of the program's Web site at http://www.ataebiz.org

4. Increase the visibility of your company as an industry pioneer and key contributor to the vision and mission of the ATA e-Business Program.

5. Work side-by-side with the industry's most influential experts in diverse subject areas related to aviation technical operations. For the current scope of the program, go to: https://ataebiz.org/functional-scope/.

6. Keep abreast of industry trends, technological advancements, e-business issues, and new products and services.

7. Contribute to a broad-based, consensus process, to develop standards that are reflective of a diverse industry.

8. Attend member-only events.