MEMORANDUM OF UNDERSTANDING

BETWEEN THE COUNTY OF NIAGARA, CITY OF LOCKPORT AND THE CITY OF NIAGARA FALLS

This Agreement, made this	day of	, <u> </u>	, by and between the
County of Niagara, a municipal corp	oration of the St	ate of New York, h	aving its principal place
of business at 175 Hawley Street,	Lockport, New	York 14094 ("Co	unty"), and the City of
Lockport, having its principal place of	of business at Loc	kport Municipal Bu	ilding, One Locks Plaza,
Lockport, New York, 14094, and the	e City of Niagara	Falls, having its pri	incipal place of business
at 745 Main Street, Niagara Falls, No	ew York 14301,	(collectively "Cities	s").

WITNESSETH

WHEREAS, Airbnb represents that it provides an Internet-based platform (the "Platform") through which third parties offering accommodations and/or activities ("Hosts") and third parties booking such accommodations and/or activities ("Guests") may communicate, negotiate and consummate a direct booking transaction for accommodations and/or activities to which Airbnb is not a party ("Booking Transactions"), and

WHEREAS, Niagara County and Airbnb are entering into an Agreement voluntarily in order to facilitate the reporting, collection and remittance of the aforesaid applicable hotel room occupancy taxes ("Taxes") imposed under the aforesaid application New York State Tax law Article 29, §1202-t, §1202-o and §1202-l of the New York State Tax law (the applicable "Code"), on behalf of certain Hosts for Booking Transactions completed by such Hosts and Guests on the Platform for accommodations transactions located in Niagara County, New York (the "Taxable Booking Transactions").

WHEREAS, pursuant to Article 29, Section 1202-t of the New York State Tax Law, the County of Niagara is authorized to adopt local laws imposing a tax upon persons occupying hotel, motel, bed and breakfast, inns and tourist homes, and

WHEREAS, said Article 29, Section 1202-t uses and defines the Term "Operators" and "Occupants" – that would be synonymous to "Hosts" and "Guests" respectfully as they are defined and used in Airbnb's Platform, and

WHEREAS, when said terms "Operators" and "Occupants" or "Hosts" and "Guests" are used respectively in the agreement with Airbnb they may be considered interchangeable, and

WHEREAS, Article 29, Section 1202 and 1202-t specifically contains a Territorial Limitation excepting from said Law any city within the County of Niagara that imposed a similar tax pursuant to New York State Tax Law upon persons occupying hotel, motel, bed and breakfast, inns and tourist homes, and

WHEREAS, the City of Lockport is authorized and collects a tax upon persons occupying hotel, motel, bed and breakfast, inns and tourist homes pursuant to Section 1202-o of the New York State Tax Law, and

WHEREAS, the City of Niagara Falls is authorized and collects a tax upon persons occupying hotel, motel, bed and breakfast, inns and tourist homes pursuant to section 1202-l of the New York State Tax Law, and

WHEREAS, the County of Niagara, City of Lockport, and the City of Niagara Falls desire to enter into a Memorandum of Understanding authorizing the County of Niagara to collect their occupancy taxes, solely as to "Taxable Booking Transactions" with Airbnb, on their behalf as set forth in the respective sections of the New York State Tax Law, and

WHEREAS, on February 19, 2019, the Niagara County Legislature passed Resolution IL-010-19 authorizing the County Treasurer to enter into a voluntary collection agreement with Airbnb for the collection of Hotel Motel Tax pursuant to provisions of Article 29, Section 1202-t, and

WHEREAS, on	, the City of Lockport passed Resolution
authorizing the Niagara Co	unty Treasurer to collect their Hotel/Motel Tax pursuant
to Article 29, Section 1202-o, solely as t	o "taxes" collected by Airbnb.
WHEREAS, on	, the City of Niagara Falls passed Resolution
authorizing the Niagara Co	unty Treasurer to collect their Hotel/Motel Tax pursuant
to Article 29, Section 1202-1, solely as to	"taxes" collected by Airbnb.

WHEREAS, the Cities agree that under the respective sections of the Tax law ("Taxes") the County will collect from Airbnb Five Percent (5%) of the Taxes, and

NOW, THEREFORE, IN CONSIDERATION OF THE MUTUAL COVENANTS, PROMISES AND AGREEMENTS CONTAINED HEREIN, THE PARTIES AGREE AS FOLLOWS:

- A) Solely pursuant to Terms and Conditions of the County Agreement with Airbnb and solely for taxable booking transactions completed on Airbnb Host Platform, the County Treasurer will collect from Airbnb the Taxes Airbnb collects, reports and pays over from its hosts/guests; 5% on amount of each "Taxable Booking Transaction" on Airbnb hosts within Niagara County.
- B) The amounts collected by the County Treasurer shall be subject to a 5% administrative fee to be kept by the County to cover its administrative expenses.
- C) That the balance of Taxes after the 5% administrative costs shall be distributed quarterly 80% to NTCC and 20% to Discover Shuttle Niagara; so long as the latter is provided for in the respective state Tax law.
- D) County Treasurer shall report quarterly to the Cities and County legislature as to the distribution without breakdown as to Municipality. In the event that Airbnb provides a detailed accounting of the tax revenue collected by Municipality, the same shall be shared with the Cities and County legislature.

- E) This agreement is subject to a formal Agreement with Airbnb and will be attached as an exhibit to the same.
- F) Any party of this agreement may terminate the Agreement on 60 days' notice with the knowledge of all parties that termination by one party would render the Airbnb Agreement inoperable and the same will have to be terminated by the County with Airbnb.
- G) This agreement shall terminate automatically, without prior notice, upon the cancellation or termination of the formal Agreement with Airbnb.

IN WITNESS WHEREOF, the parties have executed this Agreement effective on the date set forth in the introductory clause.

COUNTY OF NIAGARA	Approved as to form Niagara County Attorney
By:	By:
REBECCA J. WYDYSH, CHAIRMAN NIAGARA COUNTY LEGISLATURE	
NIAGARA COUNTY TREASURER'S OFFICE	
By:	
KYLE R. ANDREWS, TREASURER	
CITY OF LOCKPORT	Approved as to form Corporation Counsel for
Ву:	City of Lockport
MICHELLE ROMAN, MAYOR	Ву:
CITY OF LOCKPORT TREASURER'S OFFICE	
Ву:	
SUE A. MAWHINEY, TREASURER	

MUNICIPAL CORPORATION ACKNOWLEDGEMENT

STATE OF NEW YORK	
COUNTY OF NIAGARA) ss.:)
corporation of the State of No City of Lockport and caused	being by me duly sworn, did depose and say that she resides in, that she is the Mayor of the City of Lockport, a municipal w York; and that she executed the above instrument as Mayor of the seal of the City of Lockport to be thereunto affixed, in accordance common Council of the City of Lockport.
	Notary Public
MUNICIE	AL CORPORATION ACKNOWLEDGEMENT
STATE OF NEW YORK)) ss.:
COUNTY OF NIAGARA	
in municipal corporation of the Treasurer of the City of Loc	he had being by me duly sworn, did depose and say that she resides that she is the Treasurer of the City of Lockport, a State of New York; and that she executed the above instrument as aport and caused the seal of the City of Lockport to be thereunto authorization of the Common Council of the City of Lockport.
	Notary Public

CITY OF NIAGARA FALLS	Approved as to form Corporation Counsel for
By:	City of Niagara Falls By:
ROBERT M. RESTAINO, MAYOR	By
CITY OF NIAGARA FALLS CONTROLLER'S	OFFICE
Ву:	
DANIEL MORELLO, CONTROLLER	
MUNICIPAL CORPORATION	N ACKNOWLEDGEMENT
STATE OF NEW YORK)) ss.:	
COUNTY OF NIAGARA)	
WYDYSH , to me known, who being by me duly	of the Niagara County Legislature of the County of New York; and that she executed the above are, and caused the seal of the County of Niagara
	Notary Public
MUNICIPAL CORPORATIO	N ACKNOWLEDGEMENT
STATE OF NEW YORK)) ss.: COUNTY OF NIAGARA)	
COUNTY OF MAGARA	
ANDREWS , to me known, who being by me du	It he is the Niagara County Treasurer of the ne State of New York; and that he executed the d caused the seal of the County of Niagara to be
	Notary Public

MUNICIPAL CORPORATION ACKNOWLEDGEMENT

STATE OF NEW YORK)
) ss.:
COUNTY OF NIAGARA)
	,, before me personally came ROBERT M. who being by me duly sworn, did depose and say that he resides in, that he is the Mayor of the City of Niagara Falls, a
Mayor of the City of Niagara	State of New York; and that he executed the above instrument as Falls and caused the seal of the City of Niagara Falls to be thereunto he authorization of the Common Council of the City of Niagara Falls.
	Notary Public
MUNICIE	PAL CORPORATION ACKNOWLEDGEMENT
STATE OF NEW YORK)) ss.:
COUNTY OF NIAGARA)
On this day of day of day of day of to me known,	of,, before me personally came <u>DANIEL</u> who being by me duly sworn, did depose and say that he resides in, that he is the City Controller of the City of Niagara
as City Controller of the City	of the State of New York; and that he executed the above instrument of Niagara Falls and caused the seal of the City of Niagara Falls to rdance with the authorization of the Common Council of the City of
	Notary Public