

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

This Agreement, made this ____ day of _____, _____, by and between the County of Niagara, a municipal corporation of the State of New York, having its principal place of business at 175 Hawley Street, Lockport, New York 14094 (“County”), and the City of Lockport, having its principal place of business at Lockport Municipal Building, One Locks Plaza, Lockport, New York, 14094, and the City of Niagara Falls, having its principal place of business at 745 Main Street, Niagara Falls, New York 14301, (collectively “Cities”).

W I T N E S S E T H

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 1202-1 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 County Treasurer to collect their Hotel/Motel Tax pursuant to Article 29, Section 1202-o, solely as to “taxes” collected by Airbnb.

WHEREAS, on _____, the City of Niagara Falls passed Resolution _____ authorizing the Niagara County Treasurer to collect their Hotel/Motel Tax pursuant to Article 29, Section 1202-l, 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

By:

REBECCA J. WYDYSH, CHAIRMAN
NIAGARA COUNTY LEGISLATURE

Approved as to form
Niagara County Attorney

By:

NIAGARA COUNTY TREASURER'S OFFICE

By:

KYLE R. ANDREWS, TREASURER

CITY OF LOCKPORT

By:

MICHELLE ROMAN, MAYOR

Approved as to form
Corporation Counsel for
City of Lockport

By: _____

CITY OF LOCKPORT TREASURER'S OFFICE

By:

SUE A. MAWHINEY, TREASURER

