

Federal Court



Cour fédérale

Date: 20210916

Docket: T-1663-17

Ottawa, Ontario, September 16, 2021

PRESENT: Mr. Justice Gascon

BETWEEN:

ARTHUR LIN

Plaintiff

and

**AIRBNB, INC., AIRBNB CANADA INC.,
AIRBNB IRELAND UNLIMITED COMPANY,
AIRBNB PAYMENTS UK LIMITED**

Defendants

ORDER

UPON MOTION made by the Plaintiff in writing pursuant to Rules 334.34 and 369 of the *Federal Courts Rules*, SOR/98-106 [Rules], for an Order approving the short-form and long-form notices of settlement approval hearing for a settlement with Airbnb Inc., Airbnb Canada Inc., Airbnb Ireland Unlimited Company, and Airbnb Payments UK Limited [collectively, the Settling Defendants], and the method of dissemination of said notices;

AND UPON considering that, by Order dated December 5, 2019, the Court had certified this action as a class proceeding;

AND UPON considering that a notice of settlement approval hearing must be given to the members of the Class before the settlement can be approved by the Court;

AND UPON having reviewed the materials filed by the Plaintiff, including the settlement agreement with the Settling Defendants dated as of August 27, 2021, attached to this Order as Schedule “A” [Settlement Agreement];

AND UPON considering that the Plaintiff will be filing a further motion for approval of the Settlement Agreement in accordance with Rule 334.29, which will be heard at the settlement approval hearing scheduled to be held on November 1, 2021;

AND UPON considering that all parties consent to this Order;

THIS COURT ORDERS that:

1. For purposes of the settlement approval hearing to be held on November 1, 2021, the parties are granted leave under Rule 82 of the *Federal Courts Rules*, SOR/98-106, to file solicitor’s affidavit(s) in support of the settlement approval.
2. For the purposes of this Order, except to the extent that they are modified in this Order, the definitions set out in the Settlement Agreement apply to and are incorporated into this Order.
3. The short-form and long-form notices of settlement approval hearing are hereby approved substantially in the forms attached respectively hereto as Schedule “B” and Schedule “C”.

4. The plan of dissemination for the short-form and long-form notices of settlement approval hearing [Plan of Dissemination] is hereby approved in the form attached hereto as Schedule “D”, and the notices of settlement approval hearing shall be disseminated in accordance with the Plan of Dissemination.

5. Paragraph 3 of the Court’s December 5, 2019 order in this action is revoked and the Class is defined as follows:

All individuals residing in Canada, other than Quebec, who, from October 31, 2015 to June 25, 2019: (a) reserved an accommodation for anywhere in the world using Airbnb; (b) whose reserved accommodation matched the parameters of a previous search made by the individual on the search results page of Airbnb; and (c) paid, for the reserved accommodation, a price (excluding applicable sales and/or accommodation taxes) that is higher than the price displayed by Airbnb on the said search results page for this accommodation. Individuals who reserved an accommodation primarily for business travel are excluded.

6. With respect to the Settling Defendants’ motion dated August 28, 2020 to exclude the Quebec Class from this action, the motion is granted on the following terms:

(a) the claims of the Quebec Class that are before this Court are dismissed with prejudice and without costs.

7. In the event that the Settlement Agreement is terminated in accordance with its terms or the settlement is not approved, this Order shall be declared null and void and of no force and effect on subsequent motion made on notice.

8. The Plaintiff shall serve and file his motion for approval of the Settlement Agreement and supporting materials by the end of the day on October 25, 2021;

9. No costs are awarded on this motion.

"Denis Gascon"

Judge

Schedule A

DocuSign Envelope ID: CA54CC73-B660-4875-AFA2-6BCD1DB96EB6

Motion Record P. 149

**AIRBNB SERVICE FEES CLASS ACTION
NATIONAL SETTLEMENT AGREEMENT**

Made as of August 27, 2021

Between

ARTHUR LIN

(the “Plaintiff”)

and

**AIRBNB INC., AIRBNB CANADA INC.,
AIRBNB IRELAND UNLIMITED COMPANY, and AIRBNB PAYMENTS UK LIMITED**

(the “Settling Defendants”)

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**AIRBNB SERVICE FEES CLASS ACTION
NATIONAL SETTLEMENT AGREEMENT**

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**AIRBNB SERVICE FEES CLASS ACTION
NATIONAL SETTLEMENT AGREEMENT**

RECITALS

A. WHEREAS the Proceeding was commenced by the Plaintiff in the Federal Court of Canada and the Plaintiff claims class-wide damages allegedly caused as a result of the conduct alleged therein;

B. WHEREAS the Proceeding alleges that some or all of the Releasees' booking platforms displayed prices to Settlement Class Members during the Class Period in a manner that was contrary to Part VI of the *Competition Act*, RSC 1985, c C-34;

C. WHEREAS the Proceeding was certified as a class action by the Court on December 5, 2019, following a contested hearing and the Plaintiff was appointed representative plaintiff of the Class, but notice of the certification and an opportunity to opt out of the Proceeding have not yet been provided;

D. WHEREAS the Releasees do not admit, through the execution of this Settlement Agreement or otherwise, any allegation of unlawful conduct alleged in the Proceeding, and otherwise deny all liability and assert that they have complete defences in respect of the merits of the Proceeding or otherwise;

E. WHEREAS the Plaintiff, Class Counsel and the Settling Defendants agree that neither this Settlement Agreement nor any statement made in the negotiation thereof shall be deemed or construed to be an admission by or evidence against the Releasees or evidence of the truth of any of the Plaintiff's allegations, which allegations are expressly denied by the Settling Defendants;

F. WHEREAS the Settling Defendants are entering into this Settlement Agreement in order to achieve a final and nation-wide resolution of all claims asserted or which could have been asserted against the Releasees by the Plaintiff and the Settlement Class in the Proceeding, and to avoid further expense, inconvenience and the distraction of burdensome and protracted litigation;

G. WHEREAS the Settling Defendants do not hereby attorn to the jurisdiction of the Court or any other court or tribunal in respect of any civil, criminal or administrative process except to the extent they have previously done so in the Proceeding or as expressly provided in this Settlement Agreement with respect to the Proceeding;

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H. WHEREAS Counsel for the Settling Defendants and Class Counsel have engaged in arm's-length settlement discussions and negotiations, resulting in this Settlement Agreement relating to Canada;

I. WHEREAS, on or around June 27, 2019, the Settling Defendants have adjusted the Airbnb Platform to display an all-inclusive price to Guests for the booking of Accommodations, at every step of the search and booking process;

J. WHEREAS as a result of these settlement discussions and negotiations, the Settling Defendants and the Plaintiff have entered into this Settlement Agreement, which embodies all of the terms and conditions of the settlement between the Settling Defendants and the Plaintiff, both individually and on behalf of the Settlement Class the Plaintiff represents, subject to approval of the Court;

K. WHEREAS the Quebec Action was commenced against certain of the Releasees by the Quebec Plaintiff, on behalf of the Quebec Class, and which action was settled in 2019 and finally approved by the Quebec Court in February 2020;

L. WHEREAS there is a pending motion before the Court where the Parties are in dispute as to the validity and/or enforceability of the settlement in the Quebec Action;

M. WHEREAS the Parties do not intend for any member of the Quebec Class to be eligible for benefits under this Settlement Agreement;

N. WHEREAS Class Counsel, on their own behalf and on behalf of the Plaintiff and the Settlement Class Members, have reviewed and fully understand the terms of this Settlement Agreement and, based on their analyses of the facts and law applicable to the Plaintiff's claims, having regard to the burdens and expense associated with prosecuting the Proceeding, including the risks and uncertainties associated with trials and appeals, and having regard to the value of the Settlement Agreement, have concluded that this Settlement Agreement is fair, reasonable and in the best interests of the Plaintiff and the Settlement Class he represents;

O. WHEREAS the Parties therefore wish to and hereby finally resolve on a national basis, without admission of liability, the Proceeding as against the Releasees, provided that members of the Quebec Class are not entitled to obtain recovery from this settlement; and

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P. WHEREAS the Parties agree to proceed to obtain approvals from the Court as provided for in this Settlement Agreement, on the express understanding that such agreement shall not derogate from the respective rights of the Parties in the event that this Settlement Agreement is not approved, is terminated or otherwise fails to take effect for any reason;

NOW THEREFORE, in consideration of the covenants, agreements and releases set forth herein and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, it is agreed by the Parties that the Proceeding be settled and dismissed with prejudice as to the Settling Defendants, all without costs as to the Plaintiff, the Settlement Class Members, and the Settling Defendants, subject to the approval of the Court, on the following terms and conditions:

SECTION 1 – DEFINITIONS

For the purposes of this Settlement Agreement, including the recitals and schedules hereto:

- (1) **Accommodation** means the offering by third parties of vacation or other properties for use on the Airbnb Platform.
- (2) **Account** means the Airbnb account of a Settlement Class Member, which is linked to such Member's email address.
- (3) **Administration Expenses** means all fees, disbursements, expenses, costs, taxes and any other amounts incurred or payable by the Plaintiff, Class Counsel, the Settling Defendants, or otherwise for the approval, implementation and operation of this Settlement Agreement, including the costs of notices, but excluding Class Counsel Fees and Class Counsel Disbursements.
- (4) **Airbnb Platform** means collectively the Site, Application, and Airbnb Services.
- (5) **Airbnb Services** means all services associated with the Site and the Application.
- (6) **Application** means, collectively, the Airbnb mobile, tablet, and other smart device applications, and application program interfaces.
- (7) **Booking** means a contract entered into directly between Hosts and Guests.

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- (8) ***Bounce Back*** means an email that is returned to the sender because it cannot be delivered for some reason.
- (9) ***Claim*** means any and all requests for a Redeemable Credit submitted by a Credit Eligible Class Member in accordance with this Settlement Agreement.
- (10) ***Claims Administrator*** means Deloitte LLP.
- (11) ***Claims Deadline*** means forty-five (45) days from the publication and dissemination of the notice of an approved settlement to Settlement Class Members described in Section 9.1.
- (12) ***Class Counsel*** means Evolink Law Group, Sébastien A. Paquette and Jérémie John Martin.
- (13) ***Class Counsel Disbursements*** include the disbursements and applicable taxes incurred by Class Counsel in the prosecution of the Proceeding.
- (14) ***Class Counsel Fees*** means the legal fees of Class Counsel, and any applicable taxes or charges thereon, including any amounts payable as a result of the Settlement Agreement by Class Counsel or the Settlement Class Members to any other body or Person.
- (15) ***Class Period*** means October 31, 2015 to June 25, 2019.
- (16) ***Counsel for the Settling Defendants*** means Torys LLP.
- (17) ***Court*** means the Federal Court of Canada.
- (18) ***Credit*** means a credit-voucher to be used to make a Booking for Accommodation on the Airbnb Platform in the form of a single, one-time-use only, non-transferable, non-refundable and non-cash convertible credit of a value in Canadian dollars to be determined in accordance with Section 7.1(6).
- (19) ***Credit Claiming Class Members*** means a Credit Eligible Class Member who claims a benefit under this Settlement Agreement in accordance with the procedure described in Section 7.1.
- (20) ***Credit Eligible Class Members*** means a Settlement Class Member who meets all of the following criteria: (a) a resident of Canada but not a member of the Quebec Class; (b) used the

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Airbnb Platform during the Class Period for the first time, for a purpose other than business travel; (c) was located in Canada (but not Quebec) at the time of the booking; and (d) has an active account at the time the credit is issued that has not been suspended or removed from the Airbnb Platform due to a violation of Airbnb's Terms of Service, policies or standards.

(21) ***Date of Execution*** means the date on the cover page as of which the Parties have executed this Settlement Agreement.

(22) ***Effective Date*** means the date when a Final Order has been received from the Court approving this Settlement Agreement.

(23) ***Final Order*** means a final order, judgment or equivalent decree entered by the Court approving this Settlement Agreement in accordance with its terms, once the time to appeal such order has expired without any appeal being taken, if an appeal lies, or if the order is appealed, once there has been affirmation of the order upon a final disposition of all appeals.

(24) ***Guests*** means third-party travelers seeking to book Accommodations.

(25) ***Hosts*** means third parties who offer Accommodations on the Airbnb Platform.

(26) ***Net Settlement Amount*** means the amount available for distribution to Credit Claiming Class Members as Credits, calculated by subtracting from the Settlement Amount the total of the amounts described in Section 3.1(2).

(27) ***Opt-Out Deadline*** means thirty (30) calendar days after the notices in Section 9.2 have been emailed to the Settlement Class Members.

(28) ***Party and Parties*** means the Settling Defendants, the Plaintiff, and, where necessary, the Settlement Class Members.

(29) ***Person*** means an individual, corporation, partnership, limited partnership, limited liability company, association, joint stock company, estate, legal representative, trust, trustee, executor, beneficiary, unincorporated association, government or any political subdivision or agency thereof, and any other business or legal entity and their heirs, predecessors, successors, representatives, or assignees.

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- (30) **Plaintiff** means Arthur Lin.
- (31) **Proceeding** means the action commenced by the Plaintiff against the Settling Defendants in the Court, bearing Court File No. T-1663-17.
- (32) **Quebec Action** means *Martin Preisler-Banoon v. AirBnb Ireland UC et al.* commenced in the Quebec Court, District of Montreal, bearing Court File No. 500-06-000884-177.
- (33) **Quebec Class** means, in respect of the Quebec Action, every person residing in Quebec, who between August 22, 2014 and June 26, 2019, while located in the province of Quebec, made a booking for anywhere in the world, for a purpose other than business travel, using Airbnb's websites and/or mobile application and who paid a price higher than the price initially advertised by Airbnb (excluding the QST or the GST).
- (34) **Quebec Court** means the Superior Court of Quebec.
- (35) **Quebec Plaintiff** means Martin Preisler-Banoon.
- (36) **Redeemable Credit** has the same meaning as Credit.
- (37) **Released Claims** means any and all manner of claims, demands, actions, suits, causes of action, whether class, individual or otherwise in nature, whether personal or subrogated, damages, known or unknown, suspected or unsuspected, actual or contingent, liquidated or unliquidated, in law, under statute or in equity, that any of the Releasers ever had or now has, relating in any way to the display of prices on the Airbnb Platform, including conduct alleged (or which could have been alleged) in the Proceeding.
- (38) **Releasees** means, jointly and severally, individually and collectively, the Settling Defendants and all of their present and former direct and indirect parents, owners, subsidiaries, divisions, affiliates, associates (as defined in the *Canada Business Corporations Act*, RSC 1985, c C-44), partners, joint ventures, franchisees, dealers, insurers, and all other Persons, partnerships or corporations with whom any of the former have been, or are now, affiliated, and all of their respective past, present and future officers, directors, employees, agents, mandataries, shareholders, attorneys, trustees, servants and representatives, members, managers and the

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predecessors, successors, purchasers, heirs, executors, administrators and assigns of each of the foregoing.

(39) **Releasors** means, jointly and severally, individually and collectively, the Plaintiff and the Settlement Class Members, on behalf of themselves and any Person or entity claiming by or through them as a parent, subsidiary, affiliate, predecessor, successor, shareholder, partner, director, owner of any kind, agent, principal, employee, contractor, attorney heir, executor, administrator, insurer, devisee, assignee, or representative of any kind, other than Persons who validly and timely opted out of the Proceeding in accordance with the orders of the Court.

(40) **Settlement Agreement** means this agreement, including the recitals and schedules.

(41) **Settlement Amount** means CAD\$6,000,000.

(42) **Settlement Class** means all individuals residing in Canada, other than Quebec, who, from October 31, 2015 to June 25, 2019: (a) reserved an accommodation for anywhere in the world using Airbnb; (b) whose reserved accommodation matched the parameters of a previous search made by the individual on the search results page of Airbnb; and (c) paid, for the reserved accommodation, a price (excluding applicable sales and/or accommodation taxes) that is higher than the price displayed by Airbnb on the said search results page for this accommodation. Individuals who reserved an accommodation primarily for business travel are excluded.

(43) **Settlement Class Member** means a member of the Settlement Class who has not opted out of the Proceeding.

(44) **Settling Defendants** means Airbnb, Inc., Airbnb Canada Inc., Airbnb Ireland Unlimited Company, and Airbnb Payments UK Limited.

(45) **Site** means the Airbnb website, including any subdomains thereof, and any other websites through which Airbnb makes its services available.

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SECTION 2 – SETTLEMENT APPROVAL

2.1 Best Efforts

(1) The Parties shall use their best efforts and act in good faith to implement this Settlement Agreement and to secure the prompt, complete and final dismissal with prejudice of the Proceeding as against the Settling Defendants.

2.2 Motions Seeking Approval of Notice and Certification

(1) The Plaintiff shall file a motion before the Court, as soon as practicable after the Date of Execution, for orders approving the notices described in Section 9.1(1).

(2) The order approving the notices described in Section 9.1(1) shall be substantially in the form attached as Schedule A.

2.3 Motions Seeking Approval of the Settlement Agreement

(1) The Plaintiff shall make best efforts to file a motion before the Court for an order approving this Settlement Agreement as soon as practicable after the expiry of the opt-out period in Section 4.1(5) and within the timelines permitted under the *Federal Courts Rules*

(2) The order approving this Settlement Agreement shall be substantially in the form attached as Schedule B.

2.4 Pre-Motion Confidentiality

(1) Until the first of the motions required by Section 2.2(1) is brought, the Parties shall keep all of the terms of the Settlement Agreement confidential and shall not disclose them without the prior consent of Counsel for the Settling Defendants and Class Counsel, as the case may be, except as required for the purposes of financial reporting, the preparation of financial records (including tax returns and financial statements), as necessary to give effect to its terms, or as otherwise required by law.

2.5 Settlement Agreement Effective

(1) This Settlement Agreement shall only become final on the Effective Date.

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SECTION 3 – SETTLEMENT BENEFITS**3.1 Redeemable Credits**

(1) The Settling Defendants shall offer to compensate Credit Eligible Class Members by offering credits of a total gross value equal to the Settlement Amount to be used on the Airbnb Platform, subject to the deductions and conditions set out in this Settlement Agreement.

(2) The following fees and costs shall be paid from the Settlement Amount and will be deducted from the gross value of the credits:

- (a) Administration Expenses;
- (b) The cost of publication of any notices to Settlement Class Members that the Court may require;
- (c) The plaintiff's honorarium as described in Section 11.4, to the extent approved by the Court; and
- (d) Class Counsel Fees and Class Counsel Disbursements, plus any applicable sales taxes, to the extent approved by the Court and as provided in Section 11.3 below.

(3) The value of each Redeemable Credit to be distributed to Credit Claiming Class Members shall be determined at the expiry of the Claims Deadline in accordance with Section 7.1(6).

(4) The Settlement Amount and other consideration to be provided in accordance with the terms of this Settlement Agreement shall be provided in full satisfaction of the Released Claims against the Releasees.

(5) For greater certainty, the Settlement Amount shall be all-inclusive of all amounts, including interest, costs, any honorarium paid to the Plaintiff, Administration Expenses, Class Counsel Fees, Class Counsel Disbursements, and taxes.

(6) The Releasees shall have no obligation to pay any amount in addition to the Settlement Amount, for any reason, pursuant to or in furtherance of this Settlement Agreement or the Proceeding. In particular, after the Settlement Agreement has been implemented and executed, there shall be no surplus amount remaining for remittance, reparation or compensation to any

Settlement Class Member, Class Counsel or Plaintiff other than the Redeemable Credits, and the payment of Class Counsel Fees.

SECTION 4 – OPTING OUT AND OBJECTIONS

4.1 Opt-Out and Objection Procedure

(1) Potential Settlement Class Members seeking to opt out of the Proceeding or object to the settlement must do so by sending a written notice, personally signed by the potential Settlement Class Member (or the potential Settlement Class Member's parent or guardian if he/she is legally incapable), by pre-paid mail, courier, fax or email to Class Counsel at an address to be identified in the notice described in Section 9.1(1).

(2) Any potential Settlement Class Member who validly opts out of the Proceedings shall not be able to participate in the Proceeding and no further right to opt out of the Proceedings will be provided.

(3) An election to opt out or notice of objection will only be valid if it is received on or before the Opt-Out Deadline to the designated address in the notice described in Section 9.1(1).

(4) The written election to opt out or notice of objection must contain the following information in order to be valid:

- (a) the potential Settlement Class Member's full name, current address, telephone number, and the e-mail address for which they received the notice in Section 9;
- (b) an acknowledgment that the Potential Settlement Class Member is a resident of Canada (except Quebec) and aware that he/she will no longer be entitled to participate in any benefits from this settlement; and
- (c) in the case of a written election to opt out:
 - (i) a statement to the effect that the Person wishes to be excluded from the Proceedings; and
 - (ii) the reasons for opting out; or
- (d) in the case of a notice of objection:

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- (i) the grounds for the objection; and
 - (ii) whether the potential Settlement Class Member intends to appear at the approval hearing himself/herself, or through his/her lawyer (at the potential Settlement Class Member's own expense);
- (5) Class Counsel may request potential Settlement Class Members that submit an election to opt out or notice of objection to provide their proof of residency and/or other proof that they are a potential Settlement Class Member.
- (6) Within thirty (30) days of the Opt-Out Deadline, Class Counsel shall provide to the Settling Defendants a list containing the names, contact information, and reason provided for opting out for each individual who has submitted an opt-out request in accordance with Section 4.1(4) above.
- (7) With respect to any potential Settlement Class Member who validly opts out from the Proceedings, the Settling Defendants reserve all of their legal rights and defences.
- (8) The Plaintiff through Class Counsel expressly waives his right to opt-out of the Proceeding.

SECTION 5 – TERMINATION OF SETTLEMENT AGREEMENT

5.1 Right of Termination

- (1) In the event that the Court:
 - (a) declines to dismiss the Proceeding as against the Settling Defendants as provided in Section 6.3(1);
 - (b) declines to approve this Settlement Agreement or any material part, or approves this Settlement Agreement in a materially modified form; or
 - (c) issues a settlement approval order that is materially inconsistent with the terms of the Settlement Agreement or not substantially in the form attached to this Settlement Agreement as Schedule B;

or in the event any order approving this Settlement Agreement does not become a Final Order, the Plaintiff and the Settling Defendants shall each have the right to terminate this Settlement

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Agreement by delivering a written notice pursuant to Section 12.15, within ten (10) days following an event described above.

(2) In addition, if the Credits are not provided to Credit Claiming Class Members in accordance with Sections 3.1(1) and 7.1, the Plaintiff shall have the right to terminate this Settlement Agreement by delivering a written notice pursuant to Section 12.15 or move before the Courts to enforce the terms of this Settlement Agreement.

(3) If more than 100 Settlement Class Members validly exercise their right to opt out in accordance with Section 4, the Settling Defendants shall have the right to terminate this Settlement Agreement by delivering a written notice pursuant to Section 12.15, within five (5) days of being provided with the opt out report described in Section 4.1(5).

(4) Except as provided for in Section 5.4, if the Settlement Agreement is not approved, is terminated, or otherwise fails to take effect for any reason, the Settlement Agreement shall be null and void and have no further force or effect, and shall not be binding on the Parties, and shall not be used as evidence or otherwise in any litigation or in any other way for any reason.

(5) Any order, ruling or determination made or rejected by the Court with respect to Class Counsel Fees shall not be deemed to be a material modification of all, or a part, of this Settlement Agreement and shall not provide any basis for the termination of this Settlement Agreement.

5.2 If Settlement Agreement is Terminated

(1) If this Settlement Agreement is not approved, is terminated in accordance with its terms, or otherwise fails to take effect for any reason:

- (a) no motion to approve this Settlement Agreement that has not been decided shall proceed;
- (b) the Parties will cooperate in seeking to have all issued order(s), in the Court or the Federal Court of Appeal, on the basis of the Settlement Agreement or approving this Settlement Agreement set aside and declared null and void and of no force or effect, and any Person shall be estopped from asserting otherwise;

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- (c) within ten (10) days of such termination having occurred, Class Counsel shall make reasonable efforts to destroy all documents or other materials provided by the Settling Defendants and/or Counsel for the Settling Defendants under this Settlement Agreement or containing or reflecting information derived from such documents or other materials received from the Settling Defendants and/or Counsel for the Settling Defendants and, to the extent Class Counsel has disclosed any documents or information provided by the Settling Defendants and/or Counsel for the Settling Defendants to any other Person, shall make reasonable efforts to recover and destroy such documents or information. Class Counsel shall provide Counsel for the Settling Defendants with a written certification by Class Counsel of such destruction. Nothing contained in this Section 5.2 shall be construed to require Class Counsel to destroy any of their work product. However, any documents or information provided by the Settling Defendants and/or Counsel for the Settling Defendants, or received from the Settling Defendants and/or Counsel for the Settling Defendants in connection with this Settlement Agreement, may not be disclosed to any Person in any manner or used, directly or indirectly, by Class Counsel or any other Person in any way for any reason, without the express prior written permission of the relevant Settling Defendants. Class Counsel shall take appropriate steps and precautions to ensure and maintain the confidentiality of such documents, information and any work product of Class Counsel derived from such documents or information; and
- (d) With respect to the Settling Defendants' motion to exclude the Quebec Class from this Action, the Plaintiff and the Quebec Class reserve all of their legal rights and defences.

5.3 Payments Following Termination

- (1) If the Settlement Agreement is not approved, is terminated or otherwise fails to take effect for any reason, the Settling Defendants shall be under no obligation to make any Credits available to Credit Eligible Class Members or make any other payments under this Settlement Agreement.

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5.4 Survival of Provisions After Termination

(1) If this Settlement Agreement is not approved, is terminated or otherwise fails to take effect for any reason, the provisions of Sections 5.1(4), 5.2, 5.3, 5.4, 8.1, and 8.2 and the definitions and Schedules applicable thereto shall survive the termination and continue in full force and effect. The definitions and Schedules shall survive only for the limited purpose of the interpretation of Sections 5.1(4), 5.2, 5.3, 5.4, 8.1, and 8.2 within the meaning of this Settlement Agreement, but for no other purposes. All other provisions of this Settlement Agreement and all other obligations pursuant to this Settlement Agreement shall cease immediately.

SECTION 6 – RELEASES AND DISMISSALS**6.1 Release of Releasees**

(1) Upon the Effective Date, subject to Section 6.2, and in consideration of making available the Redeemable Credits and for other valuable consideration set forth in the Settlement Agreement, the Releasors forever and absolutely release and forever discharge the Releasees from the Released Claims that any of them, whether directly, indirectly, derivatively, or in any other capacity, ever had, or now have.

(2) The Plaintiff and Settlement Class Members acknowledge that they may hereafter discover facts in addition to, or different from, those facts which they know or believe to be true regarding the subject matter of the Settlement Agreement, and it is their intention to release fully, finally and forever all Released Claims and, in furtherance of such intention, this release shall be and remain in effect notwithstanding the discovery or existence of additional or different facts.

6.2 No Further Claims

(1) Upon the Effective Date, each Releasor shall not now or hereafter institute, continue, maintain, intervene in or assert, either directly or indirectly, whether in Canada or elsewhere, on their own behalf or on behalf of any class or any other Person, any proceeding, cause of action, claim or demand against any Releasee, or any other Person who may claim contribution or indemnity, or other claims over relief, from any Releasee, whether pursuant to legislation or at common law or equity in respect of any Released Claim. For greater certainty and without limiting the generality of the foregoing, the Releasors shall not assert or pursue a Released Claim, against any Releasee under the laws of any foreign jurisdiction.

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6.3 Dismissal of the Proceedings and Appeal

- (1) Upon the Effective Date, the Proceeding shall be dismissed with prejudice and without costs as against any party.
- (2) Upon the Execution Date, the Parties shall inform the Federal Court of Appeal to hold the appeal A-464-19 in abeyance until the Court has heard and decided the approval of this settlement.
- (3) If the Court approves the settlement, and upon the Effective Date, the parties shall execute any necessary order(s) to dismiss the appeal in A-464-19.
- (4) If the Court does not approve the settlement, the Parties shall promptly inform the Federal Court of Appeal.

6.4 Material Term

- (1) The releases, covenants, and dismissals contemplated in this Section shall be considered a material term of the Settlement Agreement and the failure of the Court to approve the releases, covenants, and dismissals contemplated herein shall give rise to a right of termination pursuant to Section 5.1 of the Settlement Agreement.

SECTION 7- DISTRIBUTION AND CONDITIONS OF CREDITS**7.1 Distribution Process**

- (1) Credit Eligible Class Members will be able to obtain a Redeemable Credit through a claim process as further described in this Section 7.
- (2) Within ten (10) days of the Effective Date, a notice will be sent to Settlement Class Members notifying them that the settlement has been approved and containing a hyperlink for Credit Eligible Class Members to click on if they wish to claim a Redeemable Credit. The online claims process shall allow for the identification of each Credit Eligible Class Member who clicks on said hyperlink as a Credit Claiming Class Member. The Credit Eligible Class Members shall not be required to provide any further information or take any further action. Should any email sent to a Settlement Class Member or Credit Eligible Class Member result in a Bounce Back, no additional steps will be required from the Parties to communicate with the relevant class member.

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(3) All Claims by Credit Eligible Class Members must be submitted and received by the Claims Deadline. The Claims Deadline shall be clearly set forth in the notice and on the website of Class Counsel. As part of the claims process, the relevant Credit Eligible Class Member shall acknowledge that they fit the criteria for being a Credit Eligible Class Member.

(4) Credit Eligible Class Members who do not submit a Claim by the Claims Deadline shall no longer be eligible to receive benefits under this Settlement Agreement but will be bound by the remaining terms.

(5) Within ten (10) days of the Claims Deadline, the Claims Administrator shall provide a list of Credit Claiming Class Members along with the information collected through the automated process described above to Counsel for the Settling Defendants.

(6) Within sixty (60) days of the Claims Deadline, the Settling Defendants shall deliver to each Credit Claiming Class Member a Redeemable Credit to his or her Account, available to be redeemed automatically at the next check-out, of a value in Canadian Dollars equivalent to a *pro rata* share of the Net Settlement Amount. By way of illustrative example only, if there are 100,000 Credit Claiming Class Members, and the total fees, expenses, and taxes in Section 3.1(2) is CAD\$2,500,000, then the Net Settlement Amount would be CAD\$3,500,000 (i.e., \$6,000,000 minus \$2,500,000), and each Credit Claiming Class Member would receive a credit of CAD\$35.

(7) For greater certainty, in the event that a Credit Claiming Class Member has made more than one booking during the Class Period, he or she will only be entitled to one Redeemable Credit.

(8) The Redeemable Credits may be used on the Airbnb Platform, within twenty-four (24) months from the date of issuance, for making Bookings of Accommodations in any location worldwide, after which period the Redeemable Credit will expire. The Redeemable Credits are one-time use only (and any amount not used on the transaction is extinguished), non-transferable, non-cash convertible, non-refundable, and cannot be combined with any other offer, discount, credit or coupon. It is also understood that a Credit Claiming Class Member must agree to the most recent version of the Terms of Service in order to meet the criteria to make a Booking of an Accommodation offered on the Airbnb Platform.

(9) Notwithstanding anything in this Section 7.1, in no event shall any Credit Claiming Class Member be entitled to a Redeemable Credit in an amount greater than CAD\$45.

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(10) If the CAD \$45 cap described in Section 7.1(9) is triggered and as a result a portion of the Net Settlement Amount remains undistributed, the Settling Defendants shall pay in the form of cash or cheque, on a *cy pres* basis, to an organization agreed to by the Parties and approved by the Court.

(11) It is expressly agreed and understood by the Parties that unused, unredeemed or unclaimed Redeemable Credits shall not constitute, nor may they under any circumstances give rise to, a remaining balance for any purpose, including for a claim for reparation or compensation by Settlement Class Members or for the payment of a charge, levy or toll by any third party, including a charge, levy or toll contemplated by any regulation. For greater certainty and without limitation, the Settling Defendants may terminate this Settlement Agreement in the event any court recognizes the existence of a remaining balance.

7.2 Responsibility for Administration or Fees

(1) Except as otherwise provided for in this Settlement Agreement, the Settling Defendants shall not have any responsibility, financial obligations or liability whatsoever with respect to the administration of the Settlement Agreement including, but not limited to, Administration Expenses.

SECTION 8 – EFFECT OF SETTLEMENT

8.1 No Admission of Liability

(1) The Plaintiff and the Releasees expressly reserve all of their rights if the Settlement Agreement is not approved, is terminated, or otherwise fails to take effect for any reason. Further, whether or not the Settlement Agreement is finally approved, is terminated, or otherwise fails to take effect for any reason, this Settlement Agreement and anything contained herein, any and all negotiations, documents, discussions and proceedings associated with this Settlement Agreement, and any action taken to carry out this Settlement Agreement, shall not be deemed, construed, or interpreted to be an admission of any violation of any statute or law, or of any wrongdoing or liability by the Releasees, or of the truth of any of the claims or allegations contained in the Proceedings, any Other Actions, or any other pleading filed by the Plaintiffs.

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8.2 Agreement Not Evidence

(1) The Parties agree that, whether or not it is finally approved, is terminated, or otherwise fails to take effect for any reason, this Settlement Agreement and anything contained herein, and any and all negotiations, documents, discussions and proceedings associated with this Settlement Agreement, and any action taken to carry out this Settlement Agreement, shall not be referred to, offered as evidence or received in evidence in any pending or future civil, criminal or administrative action or proceeding, except in a proceeding to approve and/or enforce this Settlement Agreement, to defend against the assertion of Released Claims, as necessary in any insurance-related proceeding, or as otherwise required by law.

8.3 Confidentiality of Settlement Negotiations

(1) Class Counsel or anyone currently or hereafter employed by or a partner with Class Counsel may not divulge to anyone for any purpose any information obtained in the course of the Proceeding on a confidential basis or the negotiation and preparation of this Settlement Agreement, except to the extent such information was, is or becomes otherwise publicly available or unless ordered to do so by a court.

SECTION 9 – NOTICE TO SETTLEMENT CLASS**9.1 Notices Required**

(1) The Settlement Class Members shall be given notice of: (i) the hearing at which the Court will be asked to approve the Settlement Agreement and/or Class Counsel Fees, including the procedure for opting out or commenting on the proposed settlement; (ii) the Court's approval of the settlement; and (iii) if the proposed settlement is not approved or otherwise fails to take effect, notice that the proposed settlement was not approved and the litigation shall continue.

9.2 Form and Distribution of Notices

(1) The notices shall be in a form agreed upon by the Parties and approved by the Court or, if the Parties cannot agree on the form of the notices, the notices shall be in a form ordered by the Court.

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(2) The notices shall be disseminated by a method agreed upon by the Parties and approved by the Courts or, if the Parties cannot agree on a method for disseminating the notices, the notices shall be disseminated by a method ordered by the Courts.

SECTION 10 – ADMINISTRATION AND IMPLEMENTATION

10.1 Mechanics of Administration

(1) Except to the extent provided for in this Settlement Agreement, the mechanics of the implementation and administration of this Settlement Agreement shall be determined by the Court on motions brought by Class Counsel.

(2) The Parties agree that any information provided by the Settling Defendants in accordance with this Section shall be kept confidential, shall be used only for purposes of administering the Settlement Agreement, and shall not be used for marketing or any other purposes.

(3) The Claims Administrator will be required to (i) go through Airbnb's security review process for third-party vendors (including completing a vendor intake form) and be approved by Airbnb, and (ii) sign Airbnb's standard Controller/Processor Data Privacy Addendum. Should these conditions not be met, the Parties agree to replace the Claims Administrator with another that meets these requirements.

(4) The Claims Administrator shall administer the terms of this Settlement Agreement in a cost-effective and timely manner.

(5) The Claims Administrator shall maintain records of all Claims submitted for two years after the Claims Deadline, and such records will be made available upon request to Counsel for the Parties. The Claims Administrator shall also provide such reports and such other information to the Court as it or the Parties may require.

(6) The Administration Expenses will be paid out of the Settlement Amount, as directed by the Court. Should the Settlement Agreement not be approved by the Court or otherwise becomes null and void, no Administration Expenses shall be owed.

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(7) The Parties anticipate that no sales taxes will be payable in respect of Administration Expenses. To the extent any such taxes are payable, they will be paid from the Settlement Amount in accordance with Section 3.1.

10.2 Information and Assistance

(1) The Settling Defendants will provide to the Claims Administrator a list of the names and email addresses of Persons located in Canada, other than Quebec, who had Airbnb accounts during the Class Period.

(2) It is acknowledged that the Settling Defendants cannot precisely identify Settlement Class Members, any account lists provided under this Section 10.2 for the purpose of providing notice are overinclusive, and the fact a Person is included on such a list does not indicate he or she is a Settlement Class Member or Credit Eligible Class Member.

(3) The name and address information required by Section 10.2 shall be delivered to the Claims Administrator no later than ten (10) days after the orders required by Section 2.2(1) have been obtained, or at a time mutually agreed upon by the Parties.

(4) The Claims Administrator shall be bound by the same confidentiality obligations set out in Section 10.1(2). If this Settlement Agreement is not approved, is terminated, or otherwise fails to take effect for any reason, all information provided by the Settling Defendants pursuant to Section 10.2(1) shall be dealt with in accordance with Section 5.2(1)(c) and no record of the information so provided shall be retained by Class Counsel, any Court-appointed notice-provider and/or the Claims Administrator in any form whatsoever.

(5) The Settling Defendants will make themselves reasonably available to respond to questions respecting the information provided pursuant to Section 10.2(1) from the Claims Administrator. The Settling Defendants' obligations to make themselves reasonably available to respond to questions as particularized in this Section shall not be affected by the release provisions contained in Section 6 of this Settlement Agreement. Unless this Settlement Agreement is not approved, is terminated or otherwise fails to take effect for any reason, the Settling Defendants' obligations to cooperate pursuant to this Section 10.2 shall cease when all settlement funds or court awards have been distributed.

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(6) The Settling Defendants shall bear no liability with respect to the completeness or accuracy of the information provided pursuant to this Section 10.2.

SECTION 11 – CLASS COUNSEL FEES AND PLAINTIFF’S HONORARIUM

11.1 Responsibility for Fees and Taxes and Plaintiff’s Honorarium

(1) The Settling Defendants, jointly and severally, agree to pay from the Settlement Amount the Class Counsel Fees, Class Counsel Disbursements, the Plaintiff’s Honorarium, and applicable taxes, that are approved by the Court.

11.2 Responsibility for Costs of Notices

(1) The Settling Defendants shall be responsible for distribution of notices, which is part of the Administration Expenses and payable from the Settlement Amount. The Releasees shall not have any responsibility for the costs of the notices.

11.3 Court Approval for Class Counsel Fees and Disbursements

(1) Class Counsel Fees represent any and all claimable fees by Class Counsel that are to be approved by the Court. It is understood by the Parties that Class Counsel will seek approval of the Court for the Settling Defendants’ payment of Class Counsel Fees in the amount of CAD\$2 million, plus applicable taxes.

(2) The Settling Defendants will represent to the Court that they do not oppose approval of the Class Counsel Fees described in Section 11.3(1).

(3) Class Counsel will not seek approval for any additional payments (including any Class Counsel Disbursements).

(4) Class Counsel may seek the Court’s approval to pay Class Counsel Fees contemporaneous with seeking approval of this Settlement Agreement. The Settling Defendants shall pay the Class Counsel Fees out of the Settlement Amount within ten (10) days of the Effective Date, by way of cheque and/or wire transfer, at Class Counsel’s option.

11.4 Court Approval for Plaintiff’s Honorarium

(1) Class Counsel may seek Court approval of an honorarium for the Plaintiff not exceeding five-thousand (\$5,000) dollars CAD.

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(2) The Settling Defendants will represent to the Court that they do not oppose approval of the honorarium described in Section 11.4(1).

(3) The Settling Defendants shall pay Plaintiff's Court-approved honorarium out of the Settlement Amount within ten (10) days of the Effective Date, by way of cheque payable to the Plaintiff, and delivered to Class Counsel's office.

SECTION 12 – MISCELLANEOUS

12.1 Motions for Directions

(1) Class Counsel or the Settling Defendants may apply to the Court as may be required for directions in respect of the interpretation, implementation and administration of this Settlement Agreement.

(2) All motions contemplated by this Settlement Agreement shall be on notice to the Parties, except for those applications concerned solely with the implementation and administration of the Distribution Protocol.

12.2 Headings, etc.

(1) In this Settlement Agreement:

- (a) the division of the Settlement Agreement into sections and the insertion of headings are for convenience of reference only and shall not affect the construction or interpretation of this Settlement Agreement; and
- (b) the terms "this Settlement Agreement," "hereof," "hereunder," "herein," and similar expressions refer to this Settlement Agreement and not to any particular section or other portion of this Settlement Agreement.

12.3 Computation of Time

(1) In the computation of time in this Settlement Agreement, except where a contrary intention appears,

- (a) where there is a reference to a number of days between two events, the number of days shall be counted by excluding the day on which the first event happens and

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including the day on which the second event happens, including all calendar days;
and

- (b) only in the case where the time for doing an act expires on a holiday as “holiday” is defined in the *Interpretation Act*, RSC 1985, c. I-21, the act may be done on the next day that is not a holiday.

12.4 Governing Law

- (1) This Settlement Agreement shall be governed by and construed and interpreted in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein.

12.5 Entire Agreement

- (1) This Settlement Agreement constitutes the entire agreement among the Parties, and supersedes all prior and contemporaneous understandings, undertakings, negotiations, representations, promises, agreements, agreements in principle and memoranda of understanding in connection herewith. None of the Parties will be bound by any prior obligations, conditions or representations with respect to the subject matter of this Settlement Agreement, unless expressly incorporated herein.

12.6 Amendments

- (1) This Settlement Agreement may not be modified or amended except in writing and on consent of all Parties hereto, and any such modification or amendment must be approved by the Court.

12.7 Binding Effect

- (1) This Settlement Agreement shall be binding upon, and enure to the benefit of, the Plaintiff, the Settlement Class Members, the Settling Defendants, the Releasors, the Releasees and all of their successors and assigns. Without limiting the generality of the foregoing, each and every covenant and agreement made herein by the Plaintiff shall be binding upon all Releasors and each and every covenant and agreement made herein by the Settling Defendants shall be binding upon all of the Releasees.

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12.8 Counterparts

(1) This Settlement Agreement may be executed in counterparts, all of which taken together will be deemed to constitute one and the same agreement, and a facsimile or electronic signature shall be deemed an original signature for purposes of executing this Settlement Agreement.

12.9 Negotiated Agreement

(1) This Settlement Agreement has been the subject of negotiations and discussions among the undersigned, each of which has been represented and advised by competent counsel, so that any statute, case law, or rule of interpretation or construction that would or might cause any provision to be construed against the drafter of this Settlement Agreement shall have no force and effect. The Parties further agree that the language contained in or not contained in previous drafts of this Settlement Agreement, or any agreement in principle, shall have no bearing upon the proper interpretation of this Settlement Agreement.

12.10 Language

(1) The Parties acknowledge that they have required and consented that this Settlement Agreement and all related documents be prepared in English; les parties reconnaissent avoir exigé que la présente convention et tous les documents connexes soient rédigés en anglais.

12.11 Recitals

(1) The recitals to this Settlement Agreement are true and form part of the Settlement Agreement.

12.12 Schedules

(1) The schedules annexed hereto form part of this Settlement Agreement.

12.13 Acknowledgements

- (1) Each of the Parties hereby affirms and acknowledges that:
- (a) he, she or a representative of the Party with the authority to bind the Party with respect to the matters set forth herein has read and understood the Settlement Agreement;

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- (b) the terms of this Settlement Agreement and the effects thereof have been fully explained to him, her or the Party's representative by his, her or its counsel;
- (c) he, she or the Party's representative fully understands each term of the Settlement Agreement and its effect; and
- (d) no Party has relied upon any statement, representation or inducement (whether material, false, negligently made or otherwise) of any other Party, beyond the terms of the Settlement Agreement, with respect to the first Party's decision to execute this Settlement Agreement.

12.14 Authorized Signatures

- (1) Each of the undersigned represents that he or she is fully authorized to enter into the terms and conditions of, and to execute, this Settlement Agreement on behalf of the Parties identified above their respective signatures and their law firms.

12.15 Notice

- (1) Where this Settlement Agreement requires a Party to provide notice or any other communication or document to another Party, such notice, communication or document shall be provided by email, facsimile or letter by overnight delivery to the representatives for the Party to whom notice is being provided, as identified below:

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For the Plaintiff and for Class Counsel in the Proceedings:

Simon Lin
 Evolink Law Group
 4388 Still Creek Drive, Suite 237
 Burnaby, BC V5C 6C6
 Tel: 604.620.2666
 Email: simonlin@evolinklaw.com

Jérémie John Martin and Sébastien A. Paquette
 Champlain Avocats
 1434 Sainte-Catherine Street West, Suite 200
 Montreal, Quebec H3G 1R4
 Tel: 514.944.7344
 Email: jmartin@champlainavocats.com
spaquette@champlainavocats.com

For the Settling Defendants:

Sylvie Rodrigue and James Gotowiec
 Torys LLP
 79 Wellington St. West, 30th Floor
 Toronto, ON M5K 1N2
 Tel: 416.865.0040
 Email: srodrigue@torys.com
jgotowiec@torys.com

12.16 Date of Execution

- (1) The Parties have executed this Settlement Agreement as of the date on the cover page.

ARTHUR LIN on his own behalf and on behalf of the Settlement Class that he represents:

AIRBNB INC.

Name of Authorized Signatory:

David Bernstein
 Chief Accounting Officer

Signature of Authorized Signatory:

DocuSigned by:

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AIRBNB CANADA INC.

Name of Authorized Signatory:

David Bernstein
 President

Signature of Authorized Signatory:

DocuSigned by:

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DocuSign Envelope ID: CA54CC73-B660-4875-AFA2-6BCD1DB96EB6

Motion Record P. 178

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AIRBNB IRELAND UNLIMITED COMPANY

Name of Authorized Signatory: Killian Pattwell
Director, EMEA Tax
DocuSigned by:
Signature of Authorized Signatory: *Killian Pattwell*
A1F8CFB1F4F047C...

AIRBNB PAYMENTS UK LIMITED

Name of Authorized Signatory: David Bernstein
Director
DocuSigned by:
Signature of Authorized Signatory: *David Bernstein*
07B936CBE9084D7...

SIMON LIN LAW CORPORATION

Per: _____

Name: Simon Lin
I have authority to bind the Corporation

JÉRÉMIE JOHN MARTIN

Per: _____

Name: Jérémie John Martin

SÉBASTIEN A. PAQUETTE

Per: _____

Name: Sébastien A. Paquette

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For the Plaintiff and for Class Counsel in the Proceedings:

Simon Lin
 Evolink Law Group
 4388 Still Creek Drive, Suite 237
 Burnaby, BC V5C 6C6
 Tel: 604.620.2666
 Email: simonlin@evolinklaw.com

Jérémie John Martin and Sébastien A. Paquette
 Champlain Avocats
 1434 Sainte-Catherine Street West, Suite 200
 Montreal, Quebec H3G 1R4
 Tel: 514.944.7344
 Email: jmartin@champlainavocats.com
spaquette@champlainavocats.com

For the Settling Defendants:

Sylvie Rodrigue and James Gotowiec
 Torys LLP
 79 Wellington St. West, 30th Floor
 Toronto, ON M5K 1N2
 Tel: 416.865.0040
 Email: srodrigue@torys.com
jgotowiec@torys.com

12.16 Date of Execution

- (1) The Parties have executed this Settlement Agreement as of the date on the cover page.

ARTHUR LIN on his own behalf and on behalf of the Settlement Class that he represents:


AIRBNB INC.

Name of Authorized Signatory:

David Bernstein
 Chief Accounting Officer

Signature of Authorized Signatory:

AIRBNB CANADA INC.

Name of Authorized Signatory:

David Bernstein
 President

Signature of Authorized Signatory:



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AIRBNB IRELAND UNLIMITED COMPANY

Name of Authorized Signatory: Killian Pattwell
Director, EMEA Tax

Signature of Authorized Signatory: _____

AIRBNB PAYMENTS UK LIMITED

Name of Authorized Signatory: David Bernstein
Director

Signature of Authorized Signatory: _____

SIMON LIN LAW CORPORATION

Per: *Simon Lin*

Name: Simon Lin
I have authority to bind the Corporation

JÉRÉMIE JOHN MARTIN

Per: *Jérémie J. Martin*

Name: Jérémie John Martin

SÉBASTIEN A. PAQUETTE

Per: *AS*

Name: Sébastien A. Paquette

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DocuSign Envelope ID: CA54CC73-B660-4875-AFA2-6BCD1DB96EB6

Motion Record P. 181

SCHEDULE "A"

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Doc ID: 4909aa986de6bc22fd3470d382f706b897ab144c

Federal Court



Cour fédérale

Date: 2021XXXX

Docket: T-1663-17

Vancouver, British Columbia, XXXXXX, 2021

PRESENT: The Honourable Mr. Justice Gascon

BETWEEN:

ARTHUR LIN

Plaintiff

AND:

AIRBNB, INC.
AIRBNB CANADA INC.
AIRBNB IRELAND UNLIMITED COMPANY
AIRBNB PAYMENTS UK LIMITED

Defendants

ORDER

UPON MOTION made by the Plaintiff for an Order approving the short-form and long-form notices of settlement approval hearing for a settlement with Airbnb Inc., Airbnb Canada Inc., Airbnb Ireland Unlimited Company, and Airbnb Payments UK Limited (collectively, the **"Settling Defendants"**), the method of dissemination of said notices, and fixing an approval hearing date;

AND ON READING the materials filed, including the settlement agreement with the Settling Defendants dated as of ■, 2021 attached to this Order as **Schedule "A"** (the

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“Settlement Agreement”), and on hearing the submissions of counsel for the Plaintiff and Counsel for the Settling Defendants;

AND ON BEING ADVISED that all parties consent to this Order;

THIS COURT ORDERS that:

1. The settlement approval hearing shall be at 10:30 AM PST on ■, 2021 by videoconference.
2. For purposes of the settlement approval hearing, the parties are granted leave under Rule 82 to file solicitor's affidavit(s) in support of the settlement approval.
3. For the purposes of this Order, except to the extent that they are modified in this Order, the definitions set out in the Settlement Agreement apply to and are incorporated into this Order.
4. The short-form and long-form notices of settlement approval hearing are hereby approved substantially in the forms attached respectively hereto as **Schedule “B”** and **Schedule “C”**.
5. The plan of dissemination for the short-form and long-form notices of settlement approval hearing (the **“Plan of Dissemination”**) is hereby approved in the form attached hereto as **Schedule “D”**, and the notices of settlement approval hearing shall be disseminated in accordance with the Plan of Dissemination.
6. Paragraph 3 of the Court's December 5, 2019 order in this action is revoked and the Class is defined as follows:

All individuals residing in Canada, other than Quebec, who, from October 31, 2015 to June 25, 2019: (a) reserved an accommodation for anywhere in the world using Airbnb; (b) whose reserved accommodation matched the parameters of a previous search made by the individual on the search results page of Airbnb; and (c) paid, for the reserved accommodation, a price (excluding applicable sales and/or accommodation taxes) that is higher than the price displayed by Airbnb on the said search results page for this accommodation. Individuals who reserved an accommodation primarily for business travel are excluded.
7. With respect to the Settling Defendants' motion dated August 28, 2020 to exclude the Quebec Class from this action, the motion is granted on the following terms:

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- (a) the claims of the Quebec Class that are before this Court are dismissed with prejudice and without costs.
8. In the event that the Settlement Agreement is terminated in accordance with its terms or the settlement is not approved, this Order shall be declared null and void and of no force and effect on subsequent motion made on notice.

Judge

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Motion Record P. 185

SCHEDULE "B"

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Doc ID: 4909aa986de6bc22fd3470d382f706b897ab144c

Federal Court



Cour fédérale

Date: 2021XXXX

Docket: T-1663-17

Vancouver, British Columbia, XXXXXX, 2021

PRESENT: The Honourable Mr. Justice Gascon

BETWEEN:

ARTHUR LIN

Plaintiff

AND:

AIRBNB, INC.
AIRBNB CANADA INC.
AIRBNB IRELAND UNLIMITED COMPANY
AIRBNB PAYMENTS UK LIMITED

Defendants

ORDER

THIS MOTION made by the Plaintiff for an Order approving the settlement of this action with Airbnb Inc., Airbnb Canada Inc., Airbnb Ireland Unlimited Company, and Airbnb Payments UK Limited (collectively, the **"Settling Defendants"**) and dismissing this action as against the Settling Defendants, was heard this day.

ON READING the materials filed, including the settlement agreement with the Settling Defendants dated as of ■, 2021, attached to this Order as **Schedule "A"** (the **"Settlement Agreement"**), and on hearing the submissions of counsel for the Plaintiff and Counsel for the Settling Defendants;

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AND ON BEING ADVISED that the deadline for objecting to the Settlement Agreement has passed and there have been ■ written objections to the Settlement Agreement;

AND ON BEING ADVISED that the deadline for opting out of the action has passed, ■ individuals validly exercised the right to opt out, and ■ individuals submitted comments regarding the settlement that have been duly considered by the Court;

AND ON BEING ADVISED that all parties consent to this Order;

THIS COURT ORDERS that:

1. In addition to the definitions used elsewhere in this Order, for the purposes of this Order, the definitions set out in the Settlement Agreement apply to and are incorporated into this Order.
2. In the event of a conflict between the terms of this Order and the Settlement Agreement, the terms of this Order shall prevail.
3. All provisions of the Settlement Agreement (including its Recitals and Definitions) are incorporated by reference into and form part of this Order, and this Order, including the Settlement Agreement, is binding upon each member of the Settlement Class, including those Persons who are minors or mentally incapable, and the requirements of Rule 115 of the *Federal Courts Rules* are dispensed with.
4. The Settlement Agreement is fair, reasonable, and in the best interests of the Settlement Class.
5. The Settlement Agreement is hereby approved pursuant to Rule 334.29 of the *Federal Courts Rules* and shall be implemented and enforced in accordance with its terms.
6. Upon the Effective Date, each Releasor has released and shall be conclusively deemed to have forever and absolutely released the Releasees from the Released Claims.
7. Upon the Effective Date, each Releasor shall not now or hereafter institute, continue, maintain, intervene in, or assert, either directly or indirectly, whether in

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Canada or elsewhere, on their own behalf or on behalf of any class or any other Person, any proceeding, cause of action, claim, or demand against any Releasee, or any other Person who may claim contribution or indemnity, or other claims over relief, from any Releasee, whether pursuant to legislation or at common law or equity in respect of any Released Claim.

8. For purposes of administration and enforcement of the Settlement Agreement and this Order, this Court will retain an ongoing supervisory role and the Settling Defendants attorn to the jurisdiction of this Court solely for the purpose of implementing, administering, and enforcing the Settlement Agreement and this Order, and subject to the terms and conditions set out in the Settlement Agreement and this Order.
9. No Releasee shall have any responsibility or liability whatsoever relating to the administration of the Settlement Agreement.
10. In the event that the Settlement Agreement is terminated in accordance with its terms, this Order shall be declared null and void and of no force and effect on subsequent motion made on notice.
11. Upon the Effective Date, the Proceeding be dismissed against the Settling Defendants, with prejudice and without costs to the Settling Defendants, Plaintiff, or Releasees, and that such dismissal shall be a defence to any subsequent action in respect of the subject matter hereof.

Judge

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Schedule B

NOTICE OF HEARING TO APPROVE AIRBNB CLASS ACTION SETTLEMENT

IF YOU RESIDE IN CANADA (EXCEPT QUEBEC) AND BOOKED AN ACCOMMODATION VIA AIRBNB FOR NON-BUSINESS TRAVEL BETWEEN OCTOBER 31, 2015 and JUNE 25, 2019, YOU MAY BE AFFECTED BY A CLASS ACTION SETTLEMENT

NOTICE OF SETTLEMENT

This notice advises you of a settlement of a class action brought in the Federal Court of Canada relating to the display of prices on Airbnb's websites and/or mobile applications. The Court file is *Lin v. Airbnb, Inc. et al.*, Federal Court, docket T-1663-17.

WHAT IS THE CLASS ACTION ABOUT?

The plaintiff alleges that Airbnb contravened the federal *Competition Act* by charging, for the booking of an accommodation offered by a third-party host on the Airbnb Platform, a price above that displayed at the first stage of browsing on Airbnb's websites and/or mobile applications (excluding applicable sales and/or accommodation taxes). These allegations have not been proven in Court and are contested by Airbnb, whose position is that they have complied at all times with all applicable legislation.

AM I PART OF THE CLASS?

All individuals in Canada (except Québec) who reserved an accommodation for non-business travel through Airbnb between October 31, 2015 and June 25, 2019 and paid a higher price than the price initially displayed to that individual on the Airbnb search results page are part of the class.

HAS THE SETTLEMENT TAKEN EFFECT?

No. The settlement must first be approved by the Federal Court, through an approval hearing.

WHEN IS THE APPROVAL HEARING?

The approval hearing will be held virtually on November 1, 2021 at 1:00 p.m. EST via Zoom.

WHAT CAN I RECEIVE FROM THE SETTLEMENT?

If the settlement is approved, a hyperlink will be sent to class members to make a claim. Airbnb will issue a one-time-use only, non-transferable, non-refundable, non-cash-convertible credit of up to CAD \$45 in value to each eligible class member who submits a claim. The credit's value will depend on the total number of approved claims and the amount the Court approves for Class Counsel fees and disbursements, honorarium for the representative Plaintiff, claims administration expenses, and applicable sales taxes, which will be deducted from the settlement fund. The credit cannot be combined with any other offer,

discount, or coupon, and must be redeemed within 24 months after issuance, on your next Airbnb accommodation booking.

WHAT ARE MY OPTIONS?

1. If you **want to participate in the settlement** and receive the benefits, no action is required. You will then be bound by the class action and the settlement, and will give up the right to take legal action against Airbnb relating in any way to the display of prices on Airbnb's websites and/or mobile applications.
2. If you **do not want to participate in the settlement**, you can opt out by submitting the written election as detailed in the long-form notice.
3. If you wish to **object to the settlement**, you can write to Class Counsel by <<objection date>> in accordance with the steps in the long-form notice. Any objections will be used by the Court to consider whether to approve the settlement. The Court cannot change the settlement terms.

WHO REPRESENTS THE CLASS MEMBERS?

The Plaintiff and Class Members are represented by:

Sébastien Paquette and Jérémie Martin

Champlain Avocats

1434 Sainte-Catherine Street West, Suite 200
Montréal, Québec H3G 1R4

Simon Lin

Evolink Law Group

4388 Still Creek Drive, Suite 237
Burnaby, British Columbia V5C 6C6

WILL I BE CHARGED FOR LEGAL FEES?

No, you will not be charged for legal fees. The settlement includes Class Counsel's legal fees and disbursements, the representative plaintiff's honorarium, claims administration expenses, and any applicable taxes, subject to Court approval.

THIS NOTICE IS JUST A SUMMARY. If there is any discrepancy between this notice and the settlement agreement, the settlement agreement shall prevail. Please go to <http://www.evolinklaw.com/airbnb-service-fees-national-class-action> for further information and to review the settlement agreement.

**AVIS AUX MEMBRES DU GROUPE D'UNE PROPOSITION DE RÈGLEMENT
SI VOUS RÉSIDEZ AU CANADA (SAUF AU QUÉBEC) ET AVEZ RÉSERVÉ UN HÉBERGEMENT
VIA AIRBNB POUR UN VOYAGE SAUF D'AFFAIRES ENTRE LE 31 OCTOBRE 2015 ET LE 25
JUN 2019, VOUS POURRIEZ ÊTRE AFFECTÉ PAR UN RÈGLEMENT DE RECOURS COLLECTIF**

AVIS DE RÈGLEMENT

Cet avis vous avise du règlement d'un recours collectif intenté devant la Cour fédérale du Canada concernant l'affichage des prix sur les sites Web et/ou les applications mobiles d'Airbnb. Le dossier de la Cour est *Lin v. Airbnb, Inc. et al.*, Cour fédérale, dossier T-1663-17.

QUE CONCERNE CE RECOURS COLLECTIF?

Le représentant allègue qu'Airbnb a contrevenu à la Loi fédérale sur la concurrence en facturant, pour la réservation d'un hébergement proposé par un hôte tiers sur la Plateforme Airbnb, un prix supérieur à celui affiché lors de la première étape de navigation sur les sites Internet et/ou les applications mobiles d'Airbnb (hors taxes de vente et/ou d'hébergement applicables). Ces allégations n'ont pas été prouvées devant les tribunaux et sont contestées par Airbnb, dont la position est qu'ils se sont conformés à tout moment à toutes les lois applicables.

QUI EST VISÉ PAR LE RECOURS?

Toutes les personnes au Canada (sauf au Québec) qui ont réservé un hébergement pour un voyage sauf d'affaires via Airbnb entre le 31 octobre 2015 et le 25 juin 2019 et ont payé un prix plus élevé que le prix initialement affiché à cette personne sur la page des résultats de recherche Airbnb font partie du recours.

LE RÈGLEMENT EST-IL DÉJÀ EN VIGUEUR?

Non. Le règlement doit d'abord être approuvé par la Cour fédérale, dans le cadre d'une audience d'approbation.

QUAND AURA LIEU CETTE AUDIENCE?

L'audience d'approbation se tiendra virtuellement le 1er novembre 2021 à 13 h HNE via Zoom.

QUE PUIS-JE RECEVOIR DU RÈGLEMENT ?

Si le règlement est approuvé, un hyperlien sera envoyé aux membres du groupe pour faire une réclamation. Airbnb émettra un crédit à usage unique, non transférable, non remboursable, non convertible en espèces d'une valeur maximale de 45 \$ CA à chaque membre du groupe admissible qui soumet une réclamation. La valeur du crédit dépendra du nombre total de réclamations approuvées et du montant que la Cour approuve pour les honoraires et débours des avocats du groupe, l'*honorarium* du représentant, les frais d'administration des réclamations et les taxes de

vente applicables, qui seront déduits du fonds de règlement. Le crédit ne peut être combiné à aucune autre offre, remise ou coupon, et doit être utilisé dans les 24 mois suivant son émission, sur votre prochaine réservation d'hébergement Airbnb.

QUELLES SONT MES OPTIONS?

1. **Si vous souhaitez participer au règlement** et recevoir les avantages, aucune action n'est requise. Vous serez alors lié par le recours collectif et le règlement, et renoncerez au droit d'intenter une action en justice contre Airbnb portant de quelque manière que ce soit sur l'affichage des prix sur les sites Internet et/ou les applications mobiles d'Airbnb.
2. **Si vous ne souhaitez pas participer au règlement**, vous pouvez vous retirer en soumettant le choix écrit tel que décrit dans l'avis détaillé.
3. **Si vous souhaitez vous opposer au règlement**, vous pouvez écrire aux Avocats du Groupe avant la <<date d'opposition>> conformément aux étapes de l'avis détaillé. Toute objection sera utilisée par la Cour pour déterminer s'il convient d'approuver le règlement. La Cour ne peut pas modifier les conditions du règlement.

QUI REPRÉSENTE LES MEMBRES DU GROUPE?

Le représentant et les membres du groupe sont représentés par:

Sébastien Paquette et Jérémie Martin, Champlain Avocats
200-1434 Sainte-Catherine O, Montréal QC H3G 1R4

Simon Lin, Evolink Law Group, 4388 Still Creek Drive, Suite 237, Burnaby, British Columbia V5C 6C6

VAIS-JE ÊTRE FACTURÉ DES FRAIS D'AVOCATS?

Non, les frais d'avocats ne vous seront pas facturés. Le règlement comprend les frais d'avocats et les débours des avocats du groupe, l'*honorarium* du représentant, les frais d'administration des réclamations et toutes les taxes applicables, sous réserve de l'approbation du tribunal.

CET AVIS N'EST QU'UN RÉSUMÉ. En cas de divergence entre le présent avis et l'entente de règlement, l'entente de règlement prévaudra. Veuillez vous rendre sur <http://www.evolinklaw.com/airbnb-service-fees-national-class-action> pour plus d'informations et pour consulter l'Entente de règlement.

Schedule C

NOTICE OF HEARING TO APPROVE CLASS ACTION SETTLEMENT

Class Action Settlement Notice Regarding the Booking of Accommodations on the Airbnb Platform by Residents of Canada Other than Québec

Lin v. Airbnb, Inc. et al., Federal Court of Canada, Docket T-1663-17

We are contacting you in connection with a Federal Court of Canada judgment dated December 5, 2019 (docket T-1663-17) certifying a class action against Airbnb, Inc., Airbnb Canada Inc., Airbnb Ireland Unlimited Company, and Airbnb Payments UK Limited (collectively, "**Airbnb**").

A settlement has been reached, subject to approval of the Federal Court of Canada (the "**Settlement**"), between Arthur Lin (the "**Plaintiff**") and Airbnb in the context of a class action lawsuit commenced by the Plaintiff against Airbnb (the "**Class Action**").

This Settlement may affect your rights, whether you act or not. Please read this notice carefully.

WHY HAVE I RECEIVED THIS EMAIL?

You are receiving this email because you are a resident of Canada, other than Québec, and during the class period (between October 31, 2015 and June 25, 2019), you booked an accommodation offered by a third-party host on Airbnb's online platform through its websites and/or mobile applications (the "**Airbnb Platform**"), for purposes other than business travel. Therefore, you could be eligible to receive benefits under the Settlement.

The purpose of this notice is to inform you that the Plaintiff and Airbnb have reached a Settlement, subject to Court approval, putting an end to the Class Action. All concerned parties believe that the Settlement is the best solution to dispose fairly and equitably of the dispute; they will ask the Federal Court of Canada to approve it.

The Federal Court of Canada will hold a hearing to determine whether it will approve the Settlement (the "**Approval Hearing**"). You may attend the hearing, which will take place virtually on November 1, 2021 at 1:00 p.m. (Eastern Time) via Zoom. If you wish to attend the virtual hearing and receive the Zoom link, you must provide the Court with advance notice of at least two (2) business days by sending an email to hearings-audiences@fct-cf.ca. The Court's schedule of upcoming hearings is available here: <https://www.fct-cf.gc.ca/en/court-files-and-decisions/hearing-lists>.

WHAT WAS THE PURPOSE OF THE CLASS ACTION?

According to the Plaintiff, Airbnb allegedly contravened the federal *Competition Act* by charging, for the booking of an accommodation offered by a third-party host on the Airbnb Platform, a price above that displayed at the first stage of browsing on the Airbnb Platform (excluding applicable sales and/or accommodation taxes).

These allegations have not been proven in Court and are contested by Airbnb, whose position is that they have complied at all times with all applicable legislation.

As of June 2019, Airbnb displays an all-inclusive price for all accommodation bookings, excluding applicable taxes.

AM I PART OF THIS CLASS ACTION?

You are part of this Class Action if you are an individual residing in Canada, other than Québec, who, between October 31, 2015 and June 25, 2019: (a) reserved an accommodation for anywhere in the world using Airbnb; (b) whose reserved accommodation matched the parameters of a previous search made by the individual on the search results page of Airbnb; and (c) paid, for the reserved accommodation, a price (excluding applicable sales and/or accommodation taxes) that is higher than the price displayed by Airbnb on the said search results page for this accommodation. Individuals who reserved an accommodation primarily for business travel are excluded (the "**Class**" or "**Class Member(s)**").

WHAT DOES THE SETTLEMENT PROVIDE?

Without any admission of liability, for the purpose of avoiding a trial and the additional costs and expenses related thereto, Airbnb agrees to remit to each eligible Class Member a single redeemable credit of a value of up to CAD \$45 each (a "**Redeemable Credit**"). The value of the Redeemable Credit will depend on the total number of approved claims and the amount the Court approves for Class Counsel's fees and disbursements, any honorarium for the representative Plaintiff,

claims administration expenses, and applicable sales taxes, which will be deducted from the Settlement fund. The Redeemable Credit will be the same amount for each Class Member.

Redeemable Credits may be used to book an accommodation offered by a third-party host on the Airbnb Platform in any location worldwide. Redeemable Credits are one-time-use only, non-transferable, non-refundable, non-cash-convertible, and cannot be combined with any other offer, discount, or coupon. In order to be able to redeem a Redeemable Credit, an eligible Class Member must accept the most recent version of Airbnb's Terms of Service and not be prohibited from using the Airbnb Platform (in accordance with the Terms of Service). Once issued, a Redeemable Credit expires after twenty-four (24) months.

In exchange, Class Members (i) acknowledge that the foregoing is in full and complete settlement of the claims of the Class Members, and (ii) agree to give up any and all claims they may have against Airbnb relating in any way to the display of prices on the Airbnb Platform, including in respect of conduct alleged (or which could have been alleged) in the Class Action. Sections 1(37) and 6 of the Settlement Agreement specifically describe the released claims. Please read the descriptions carefully. If you have any questions, you may speak with Class Counsel (whose contact details are at the end of this notice), or you can consult your own lawyer at your own expense.

The Settlement Agreement and other court documents are available at <https://evolinklaw.com/airbnb-service-fees-national-class-action/>.

AM I ELIGIBLE TO RECEIVE A REDEEMABLE CREDIT?

You are eligible to receive a Redeemable Credit from Airbnb if you meet all of the following eligibility criteria:

1. You are Class Member, as defined above;
2. You are a resident of Canada, but not Québec;
3. You used the Airbnb Platform for the first time between October 31, 2015 and June 25, 2019, for a purpose other than business travel;
4. You were located in Canada, but not Québec, at the time of the booking; and
5. You have an active Airbnb account at the time the Redeemable Credit is issued that has not been suspended or removed from the Airbnb Platform due to a violation of Airbnb's Terms of Service, policies, or standards.

Following the approval of the Settlement by the Federal Court of Canada, as the case may be, you will receive a notice which will invite you to click on a hyperlink in order to submit a claim for a Redeemable Credit. You will have to click on the hyperlink so that the Redeemable Credit will automatically be issued to your Airbnb account. After the Claims Administrator processes all of the claims, the Redeemable Credit will automatically be applied to a future accommodation booking you make on the Airbnb Platform within twenty-four (24) months of issuance.

WHAT HAPPENS IF I EXCLUDE MYSELF (OPT OUT)?

If you do not wish to be bound by this Settlement for any reason whatsoever, you must take steps to exclude yourself from (opt out of) the Class, which will result in your exclusion from the Settlement.

If you exclude yourself:

1. You will not receive any benefits under the Settlement;
2. You will not be bound by the Class Action or the Settlement; and
3. You will not be able to object to the Settlement.

Further details about opting out of the Class or objecting to the Settlement are set out below.

WHAT HAPPENS IF I DO NOT EXCLUDE MYSELF?

If you do not exclude yourself:

1. You will be eligible to submit claim a for a Redeemable Credit under this Settlement;

2. You will be bound by the Class Action and the Settlement, if approved by the Court;
3. You will give up the right to take your own legal action against Airbnb; and
4. You will be able to object to the Settlement.

If you do not exclude yourself and the Settlement is approved, you give up the right to take legal action against Airbnb relating in any way to the display of prices on the Airbnb Platform, including in respect of conduct alleged (or which could have been alleged) in the Class Action.

HOW CAN I EXCLUDE MYSELF?

To exclude yourself from the Class and the Settlement, you must send a written election to the law firms Champlain Avocats and Evolink Law Group ("**Class Counsel**") in accordance with section 4.1 of the Settlement Agreement.

In order to be valid, your written election must be delivered to Class Counsel, at the contact information at the end of this notice, by no later than <<**opt-out deadline**>>, and must include all of the following information:

1. The name and Court docket number of this proceeding (*Lin v. Airbnb, Inc. et al.*, Federal Court of Canada, docket T-1663-17);
2. Your full name, current address, telephone number, and the email address at which you received the notice about this Class Action;
3. An acknowledgment that you are a resident of Canada (but not Québec) and are aware that you will no longer be entitled to participate in any benefits from the Settlement;
4. A clear statement that you wish to be excluded from this Class Action;
5. Your reasons for opting out; and
6. Your signature (or, if you are legally incapable, the signature of your parent or legal guardian).

The written election to opt out must be sent by pre-paid mail, courier, fax, or email to Class Counsel, at the contact information at the end of this notice.

WHAT IF I DISAGREE WITH THE SETTLEMENT?

If you disagree with the Settlement, you can object to it by sending a written objection in accordance with the procedure in section 4.1 of the Settlement Agreement.

In order to be valid, your written objection must be delivered to Class Counsel, at the contact information at the end of this notice, by no later than <<**objection deadline**>>, and must include all of the following information:

1. The name and Court docket number of this proceeding (*Lin v. Airbnb, Inc. et al.*, Federal Court of Canada, docket T-1663-17);
2. Your full name, current address, telephone number, and the email address at which you received the notice about this Class Action;
3. An acknowledgment that you are a resident of Canada (but not Québec);
4. The grounds for your objection;
5. Whether you intend to appear at the Approval Hearing yourself, or through your lawyer (at your own expense); and
6. Your signature (or, if you are legally incapable, the signature of your parent or legal guardian).

You can object to the Settlement without a lawyer. If you wish to be represented by a lawyer, you may hire one at your own expense. If, despite your objection, the Settlement is still approved, you can still receive a Redeemable Credit if you are eligible.

Class Counsel will file copies of all objections with the Court. You cannot make an objection to the Settlement if you have excluded yourself (opted out) from the Class.

HOW CAN I OBTAIN MORE INFORMATION?

For more information and to access the Settlement Agreement and other court documents, please go to <https://evolinklaw.com/airbnb-service-fees-national-class-action/> or contact Class Counsel at the information below.

WHO REPRESENTS ME?

The Plaintiff and Class Members are represented by Class Counsel:

Sébastien Paquette and Jérémie Martin
Champlain Avocats
1434 Sainte-Catherine Street West, Suite 200
Montréal, Québec H3G 1R4
Fax: 514-800-0677
Email: jmartin@champlainavocats.com
Email: spaquette@champlainavocats.com

Simon Lin
Evolink Law Group
4388 Still Creek Drive, Suite 237
Burnaby, British Columbia V5C 6C6
Fax: 888-509-8168
Email: simonlin@evolinklaw.com

If the Settlement is approved by the Court, another notice will be emailed to you which will invite you to click on a hyperlink in order to submit a claim for a Redeemable Credit.

In case of any discrepancy between the terms of this notice and the Settlement Agreement, the terms of the Settlement Agreement shall prevail. Any term not defined in this notice shall have the meaning ascribed in the Settlement Agreement.

**THE PUBLICATION AND DISSEMINATION OF THIS NOTICE HAS BEEN APPROVED BY THE
FEDERAL COURT OF CANADA.**

AVIS AUX MEMBRES DU GROUPE D'UNE PROPOSITION DE RÈGLEMENT

Avis de règlement d'un recours collectif concernant la réservation d'hébergement sur la plateforme Airbnb par les résidents du Canada autre que du Québec

Lin c. Airbnb, Inc. et al., Cour fédérale, #T-1663-17

Nous vous contactons dans le cadre d'un jugement de la Cour fédérale du Canada daté du 5 décembre 2019 (dossier T-1663-17) autorisant un recours collectif contre Airbnb, Inc., Airbnb Canada Inc., Airbnb Ireland Unlimited Company et Airbnb Payments UK Limited (collectivement, « **Airbnb** »).

Un règlement a été conclu, sous réserve de l'approbation de la Cour fédérale du Canada (le « **Règlement** »), entre Arthur Lin (le « **demandeur** ») et Airbnb dans le cadre d'un recours collectif intenté par le demandeur contre Airbnb (le « **Recours collectif** »).

Ce Règlement peut affecter vos droits, que vous agissiez ou non. Veuillez lire attentivement cet avis.

POURQUOI EST-CE QUE JE REÇOIS CE COURRIEL?

Vous recevez ce courriel parce que vous êtes un résident du Canada, autre que du Québec, et pendant la période du recours (entre le 31 octobre 2015 et le 25 juin 2019), vous avez réservé un hébergement offert par un hôte tiers sur la plateforme en ligne d'Airbnb via ses sites Web et/ou applications mobiles (la « **Plateforme Airbnb** »), à des fins autres qu'un voyage d'affaires. Par conséquent, vous pourriez être admissible à recevoir un bénéfice en vertu du Règlement.

Le présent avis a pour but de vous informer que le demandeur et Airbnb sont parvenus à un règlement, sous réserve de l'approbation du tribunal, mettant fin au recours collectif. Toutes les parties concernées croient que le Règlement est la meilleure solution pour régler le différend de façon juste et équitable et ils demanderont à la Cour fédérale du Canada de l'approuver.

La Cour fédérale du Canada tiendra une audience pour déterminer si elle approuvera le Règlement (l'« **Audience d'approbation** »). Vous pouvez assister à cette audience qui aura lieu virtuellement le 1er novembre 2021 à 13h00. (heure de l'Est) via Zoom. Si vous souhaitez assister à l'audience virtuelle et recevoir le lien Zoom, vous devez fournir à la Cour un préavis d'au moins deux (2) jours ouvrables en envoyant un courriel à audiences-audiences@fct-cf.ca. Le calendrier des prochaines audiences de la Cour est disponible ici : <https://www.fct-cf.gc.ca/fr/court-files-and-decisions/hearing-lists>.

QUEL ÉTAIT L'OBJET DU RECOURS COLLECTIF?

Selon le Demandeur, Airbnb aurait contrevenu à la *Loi sur la concurrence* fédérale en facturant, pour la réservation d'un hébergement proposé par un hébergeur tiers sur la Plateforme Airbnb, un prix supérieur à celui affiché lors de la première étape de navigation sur la Plateforme Airbnb (hors taxes de vente et/ou d'hébergement applicables).

Ces allégations n'ont pas été prouvées devant les tribunaux et sont contestées par Airbnb, dont la position est qu'ils se sont conformés à tout moment à toutes les lois applicables.

Depuis juin 2019, Airbnb affiche un prix tout compris pour toutes les réservations d'hébergement, hors taxes applicables.

EST-CE QUE JE FAIS PARTIE DE CE RECOURS COLLECTIF?

Vous faites partie de ce recours collectif si vous êtes une personne physique résidant au Canada, autre qu'au Québec, qui, entre le 31 octobre 2015 et le 25 juin 2019 : (a) a réservé un hébergement pour n'importe où dans le monde en utilisant Airbnb ; (b) dont l'hébergement réservé correspondait aux paramètres d'une recherche précédente qu'il avait effectuée sur la page de résultats de recherche d'Airbnb ; et (c) payé, pour le logement réservé, un prix (hors taxes de vente et/ou d'hébergement applicables) supérieur au prix affiché par Airbnb sur ladite page de résultats de recherche pour ce logement. Les personnes qui ont réservé un hébergement principalement pour un voyage d'affaires sont exclues (le « **Groupe** » ou le(s) « **Membre(s) du groupe** »).

EN QUOI CONSISTE LE RÈGLEMENT?

Sans aucune admission de responsabilité, dans le but d'éviter un procès et les coûts et dépenses supplémentaires qui y sont liés, Airbnb s'engage à remettre à chaque Membre du groupe admissible un seul crédit échangeable d'une valeur maximale de 45 \$ CAD chacun (un « **Crédit échangeable** »). La valeur du Crédit échangeable dépendra du nombre total de réclamations approuvées et du montant que la Cour approuve pour les honoraires et débours des Avocats du Groupe, l'*honorarium* du demandeur, les frais d'administration des réclamations et les taxes de vente applicables, qui seront déduits du Fonds de règlement. Le Crédit échangeable sera du même montant pour chaque Membre du Groupe.

Les Crédits échangeables peuvent être utilisés pour réserver un hébergement proposé par un hôte tiers sur la Plateforme Airbnb dans n'importe quel endroit dans le monde. Les Crédits échangeables sont à usage unique, non transférables, non remboursables, non convertibles en espèces et ne peuvent être combinés à aucune autre offre, remise ou coupon. Afin de pouvoir faire usage du Crédit échangeable, un Membre du groupe éligible doit accepter la version la plus récente des conditions d'utilisation d'Airbnb et ne pas se voir interdire d'utiliser la plate-forme Airbnb (conformément aux conditions d'utilisation). Une fois émis, un Crédit échangeable expire après vingt-quatre (24) mois.

En échange, les Membres du groupe (i) reconnaissent que ce qui précède constitue un règlement complet et final des réclamations des Membres du groupe, et (ii) conviennent de renoncer à toute réclamation qu'ils pourraient avoir contre Airbnb concernant de quelque manière que ce soit l'affichage des prix sur la Plateforme Airbnb, y compris en ce qui concerne la conduite alléguée (ou qui aurait pu être alléguée) dans le Recours collectif. Les articles 1(37) et 6 de l'Entente de règlement décrivent spécifiquement les réclamations libérées. Veuillez lire attentivement les descriptions. Si vous avez des questions, vous pouvez parler avec l'Avocat du Groupe (dont les coordonnées figurent à la fin de cet avis), ou vous pouvez consulter votre propre avocat à vos frais.

L'entente de règlement et d'autres documents judiciaires sont disponibles à l'adresse <https://evolinklaw.com/airbnb-service-fees-national-class-action/>

SUIS-JE ÉLIGIBLE À RECEVOIR UN CRÉDIT ÉCHANGEABLE?

Vous êtes éligible pour recevoir un crédit échangeable d'Airbnb si vous remplissez tous les critères d'éligibilité suivants :

1. Vous êtes Membre du Groupe, tel que défini ci-dessus ;
2. Vous êtes un résident du Canada, mais pas du Québec;
3. Vous avez utilisé la Plateforme Airbnb pour la première fois entre le 31 octobre 2015 et le 25 juin 2019, à des fins autres qu'un voyage d'affaires ;
4. Vous étiez situé au Canada, mais pas au Québec, au moment de la réservation; et
5. Vous disposez d'un compte Airbnb actif au moment de l'émission du crédit échangeable qui n'a pas été suspendu ou supprimé de la plate-forme Airbnb en raison d'une violation des conditions d'utilisation, des politiques ou des normes d'Airbnb.

Suite à l'approbation du Règlement par la Cour fédérale du Canada, le cas échéant, vous recevrez un avis qui vous invitera à cliquer sur un hyperlien afin de soumettre une demande de Crédit échangeable. Vous devrez cliquer sur le lien hypertexte pour que le Crédit échangeable soit automatiquement émis sur votre compte Airbnb. Une fois que l'Administrateur des réclamations aura traité toutes les réclamations, le Crédit échangeable sera automatiquement appliqué à une future réservation d'hébergement que vous effectuerez sur la Plateforme Airbnb dans les vingt-quatre (24) mois suivant son émission.

QUE SE PASSE-T-IL SI JE M'EXCLUE DU RÈGLEMENT (OPT OUT)?

Si vous ne souhaitez pas être lié par ce Règlement pour quelque raison que ce soit, vous devez prendre des mesures pour vous exclure (vous retirer) du Groupe, ce qui entraînera votre exclusion du Règlement.

Si vous vous excluez :

1. Vous ne recevrez aucun avantage en vertu du Règlement ;
2. Vous ne serez pas lié par le Recours collectif ou le Règlement ; et
3. Vous ne pourrez pas vous opposer au Règlement.

De plus amples détails sur l'exclusion du Groupe ou l'opposition au Règlement sont indiqués ci-dessous.

QUE SE PASSE-T-IL SI JE NE M'EXCLUE PAS?

Si vous ne vous excluez pas :

1. Vous serez admissible à soumettre une demande de Crédit échangeable en vertu du présent règlement ;
2. Vous serez lié par le Recours collectif et le Règlement, s'ils sont approuvés par la Cour ;
3. Vous renoncerez au droit d'intenter votre propre action en justice contre Airbnb ; et
4. Vous pourrez vous opposer au Règlement.

Si vous ne vous excluez pas et que le Règlement est approuvé, vous renoncez au droit d'intenter une action en justice contre Airbnb concernant de quelque manière que ce soit l'affichage des prix sur la Plateforme Airbnb, y compris en ce qui concerne la conduite alléguée (ou qui aurait pu être alléguée) dans le recours collectif.

COMMENT PUIS-JE M'EXCLURE?

Pour vous exclure du Groupe et du Règlement, vous devez envoyer un choix écrit aux cabinets d'avocats Champlain Avocats et Evolink Law Group (« **Avocats du Groupe** ») conformément à l'article 4.1 de l'Entente de règlement.

Pour être valide, votre choix écrit doit être remis aux Avocats du Groupe, aux coordonnées figurant à la fin du présent avis, au plus tard le << **délai de désinscription**>>, et doit inclure toutes les informations suivantes :

1. Le nom et le numéro de dossier de la Cour (Lin c. Airbnb, Inc. et al., Cour fédérale du Canada, dossier T-1663-17);
2. Votre nom complet, votre adresse actuelle, votre numéro de téléphone et l'adresse e-mail à laquelle vous avez reçu l'avis concernant ce recours collectif ;
3. Une affirmation à l'effet que vous êtes un résident du Canada (mais pas du Québec) et que vous savez que vous n'aurez plus le droit de participer aux avantages du Règlement ;
4. Une déclaration claire que vous souhaitez être exclu de ce recours collectif ;
5. Vos raisons de vous exclure ; et
6. Votre signature (ou, si vous êtes légalement incapable, la signature de votre parent ou tuteur légal).

Le choix écrit de vous exclure doit être envoyé par courrier enregistré, service de messagerie, télécopieur ou courriel à l'avocat du groupe, aux coordonnées figurant à la fin de cet avis.

ET SI JE SUIS EN DÉSACCORD AVEC LE RÈGLEMENT?

Si vous n'êtes pas d'accord avec le Règlement, vous pouvez vous y opposer en envoyant une objection écrite conformément à la procédure prévue à l'article 4.1 de l'Entente de règlement.

Pour être valide, votre objection écrite doit être remise aux Avocats du Groupe, aux coordonnées figurant à la fin de cet avis, au plus tard le << **délai d'objection**>>, et doit inclure toutes les informations suivantes :

1. Le nom et le numéro de dossier de la Cour (Lin c. Airbnb, Inc. et al., Cour fédérale du Canada, dossier T-1663-17);
2. Votre nom complet, votre adresse actuelle, votre numéro de téléphone et l'adresse e-mail à laquelle vous avez reçu l'avis concernant ce recours collectif ;
3. Une affirmation que vous êtes résident du Canada (mais pas du Québec);

4. Les motifs de votre objection ;
5. Si vous avez l'intention de comparaître vous-même à l'audience d'approbation ou par l'intermédiaire de votre avocat (à vos frais) ; et
6. Votre signature (ou, si vous êtes légalement incapable, la signature de votre parent ou tuteur légal).

Vous pouvez vous opposer au Règlement sans avocat. Si vous souhaitez être représenté par un avocat, vous pouvez en engager un à vos frais.

Si, malgré votre objection, le Règlement est toujours approuvé, vous pouvez toujours recevoir un Crédit échangeable si vous êtes admissible.

Les Avocats du Groupe déposeront des copies de toutes les objections auprès de la Cour. Vous ne pouvez pas vous opposer au Règlement si vous vous êtes exclu (retiré) du Groupe.

COMMENT PUIS-JE AVOIR PLUS D'INFORMATIONS?

Pour plus d'informations et pour accéder à l'Entente de règlement et à d'autres documents judiciaires, veuillez vous rendre sur <https://evolinklaw.com/airbnb-service-fees-national-class-action/> ou contacter les Avocats du Groupe à l'aide des informations ci-dessous.

QUI ME REPRÉSENTE?

Le demandeur et les Membres du groupe sont représentés par les Avocats du groupe:

Sébastien Paquette et Jérémie John Martin
Champlain Avocats
1434 Sainte-Catherine O., Suite 200
Montréal, Québec H3G 1R4
Fax: 514 800-2286
Email: jmartin@champlainavocats.com
Email: spaquette@champlainavocats.com

Simon Lin
Evolink Law Group
4388 Still Creek Drive, Suite 237
Burnaby, British Columbia V5C 6C6
Fax: <<fax number>>
Email: simonlin@evolinklaw.com

Si le Règlement est approuvé par la Cour, un autre avis vous sera envoyé par courriel qui vous invitera à cliquer sur un hyperlien afin de soumettre une demande de Crédit échangeable.

En cas de divergence entre les conditions du présent avis et l'Entente de règlement, les conditions de l'Entente de règlement prévaudront. Tout terme non défini dans le présent avis aura le sens qui lui est attribué dans l'Entente de règlement.

LA PUBLICATION ET LA DIFFUSION DE CET AVIS ONT ÉTÉ APPRUVÉES PAR LA COUR FÉDÉRALE DU CANADA.

Schedule D

PLAN OF DISSEMINATION OF THE NOTICES TO SETTLEMENT CLASS MEMBERS

Claims Administrator

1. The Claims Administrator will be Deloitte LLP.
2. The estimated costs and expenses for the Claims Administrator are \$290,500, which will be paid from the Settlement Amount.
3. The aforementioned costs and expenses include: issuing the notice of settlement approval hearing; issuing the notice of the Court's approval of the settlement; providing a dedicated hyperlink for each Settlement Class Member to submit their claim; and processing those claims for Airbnb to distribute.

Translation of Notices

4. The Court-approved notices will be in both French and English.
5. Class Counsel will be responsible for and will bear the costs of preparing the translations.

Distribution of Notices Regarding the Proposed Settlement and Opt-Out Period

6. Notice will be forthwith posted on Class Counsel's website for this class action (<https://evolinklaw.com/airbnb-service-fees-national-class-action/>).
 7. The Claims Administrator will distribute the Court-approved notices (Schedules "B" and "C" of the Proposed Order) to the Settlement Class Members in accordance with section 9.1 of the Settlement Agreement within **ten (10) calendar days** of the Court's Order approving the notices.
 8. The deadline for opting out of the class action or submitting a written objection to the settlement will be **thirty (30) calendar days** from the dissemination of the notice of settlement approval hearing.
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