

## **PAGA SETTLEMENT AND RELEASE AGREEMENT**

This PAGA Settlement and Release Agreement (hereinafter “Settlement” or “Agreement”) is made and entered into by and between Plaintiff Jenee Jernigan (hereinafter “Plaintiff”) on behalf of herself and as an authorized proxy and agent for the State of California and the Labor and Workforce Development Agency pursuant to Labor Code section 2698 *et seq.*, the Private Attorneys’ General Act (“PAGA”) on the one hand, and Defendant Airbnb, Inc. (“Defendant” or “Airbnb”), on the other hand. Plaintiff and Defendant are collectively referred to herein as “the Parties.”

### **1. THE CONDITIONAL NATURE OF THIS AGREEMENT**

1.1 This Agreement and all associated exhibit(s) or attachment(s) are made for the purpose of settling the Covered Claims, as described herein, in the Action. This Agreement and the settlement it evidences are made in compromise of disputed claims. The Parties enter into this Agreement and associated settlement on a conditional basis. If the Court does not enter the Approval Order and Final Judgment and/or the Effective Date does not occur, this Agreement shall be deemed null and void *ab initio*, it shall be of no force or effect whatsoever, it shall not be referred to or utilized for any purpose whatsoever, and the negotiation of the Agreement shall remain subject to the provisions of California Evidence Code section 1152 and any other analogous rules of evidence that are applicable.

1.2 Defendant denies all the allegations asserted in the Complaint, and any amendments thereto, and also denies any claims for relief, including claims for penalties, attorneys’ fees, and costs of suit. Defendant further denies all allegations that an individual employed by PRO Unlimited, Inc. (hereinafter also referred to as “PRO Unlimited”) (such as Plaintiff) is or was jointly employed by Airbnb. Defendant has agreed to resolve Plaintiff’s sole cause of action for

violation of the PAGA [Labor Code §§ 2698 *et seq.*] via this Agreement, but to the extent this Agreement is not approved or the Effective Date does not occur, Defendant does not waive, but rather expressly reserves, all rights to challenge Plaintiff's Complaint(s) and LWDA Letters upon all procedural and factual grounds, as well as asserting any and all other potential defenses or privileges. Plaintiff and PAGA Counsel agree that Defendant retains and reserves these rights, and agree not to argue or present any argument, and hereby waive any argument that, based on this Agreement, Defendant cannot assert any and all potential defenses and privileges if this Action were to proceed. The Parties further agree that this Agreement does not constitute an initial violation of PAGA by Airbnb.

## **2. NATURE OF ACTION**

2.1 For purposes of this Settlement, the Aggrieved Employees or PAGA Members are defined as: All individuals who are or previously were employed directly by Airbnb who worked in California and who were also subject to stay-at-home orders and/or whose offices were closed due to the COVID-19 pandemic for at least one pay period during the time period from March 16, 2020 through December 31, 2021 (the "PAGA Period").

2.2 Through informal discovery, Airbnb provided Plaintiff and PAGA Counsel with information about the total number of Work Months, estimated at approximately 76,000 through December 31, 2021. The total number of PAGA Members employed by Airbnb during the PAGA Period also was estimated to be 4,128 as of November 2021.

2.3 PRO Unlimited, Inc. was Plaintiff's sole employer at all relevant times during the PAGA Period, and this Agreement settles PAGA claims and causes of action for alleged claims for unreimbursed business expenses under Labor Code section 2802 for employees of Airbnb, as defined, as well as all those entities and parties included in the definition of Released Parties. By

entering into this Agreement, Defendant does not waive, but rather expressly reserves, all rights to challenge Plaintiff's allegation that she (or any other employee of PRO Unlimited) was employed jointly by Airbnb and PRO Unlimited.

### **3. DEFINITIONS**

3.1 "Action" or "Lawsuit" means the civil action pending in Los Angeles County Superior Court entitled, *Jenee Jernigan v. PRO Unlimited, Inc.*, Los Angeles County Superior Court Case No. 21STCV10027.

3.2 "Aggrieved Employee," "Aggrieved Employees," "PAGA Member" or "PAGA Members" mean: All individuals who are or previously were employed directly by Airbnb who worked in California, and who were also subject to stay-at-home orders and/or whose offices were closed due to the COVID-19 pandemic for at least one day during one pay period, during the time period from March 16, 2020 through December 31, 2021.

3.3 "Aggrieved Employee Share" means each Aggrieved Employee's share of the 25% of PAGA penalties allocated to the Aggrieved Employees in accordance with Labor Code section 2699(i).

3.4 "Approval Date" means the date that the Court enters the Approval Order.

3.5 "Approval Motion" or the "Joint Stipulation and Proposed Order for Approval of Settlement" means the pleading that Plaintiff will submit to the Court identifying the key terms of this Agreement and requesting that the Court approve the Settlement.

3.6 "Approval Order" means an Order from the Court approving this PAGA Settlement and Release Agreement.

3.7 "Complaint" collectively means all complaints and amendments in the Action, including the complaint Plaintiff Jenee Jernigan filed on March 15, 2021 (Los Angeles County

Superior Court Case No. 21STCV10027), initiating the Action, and any future amendments thereto, including the First Amended Complaint.

3.8 “Court” means the Los Angeles County Superior Court.

3.9 “Counsel for Defendant(s)” and “Defense Counsel” means Seyfarth Shaw LLP.

3.10 “Covered Claims” includes any and all PAGA claims or PAGA causes of action arising under Labor Code section 2698, *et seq.* during the PAGA Period that were alleged, or that reasonably could have been alleged in the Action based on the facts alleged in any and all of Plaintiff’s LWDA Letters (including the amended LWDA letters) or in the complaints and amendments that constitute the Complaint. The Covered Claims include, but are not limited to, PAGA claims or PAGA causes of action relating to any and all theories of liability regarding or related to any and all possible expense reimbursements that Aggrieved Employees incurred (including but not limited to work from home expenses such as WiFi and phone use). The Covered Claims include any and all violations of Labor Code section 2802, and the applicable Wage Order, regardless of theory of recovery.

3.11 “Defendant” means Airbnb, Inc.

3.12 “Effective Date” means the date the Court enters final judgment as to all complaints and causes of action in the Action in connection with an order granting and entering approval of PAGA settlement pursuant to this Agreement (“Final Judgment”) and shall be the later of the day after (a) the expiration of the time for any notice of intention of a post-judgment motion or appeal to be filed following Final Judgment or (b) if a post-judgment motion or appeal has been filed, the date the Final Judgment is no longer appealable and constitutes a “final judgment” for purposes of res judicata and collateral estoppel.

3.13 “LWDA Letters” means the notice that Plaintiff sent to the California Labor &

Workforce Development Agency (“LWDA”) relating to alleged violations against PRO Unlimited on or about December 31, 2020, the amendment thereto to add Airbnb on or about March 17, 2021, the supplemental letter dated February 28, 2022, and any future amendments thereto.

3.14 “Total Settlement Amount” or “TSA” means ONE MILLION FORTY-SEVEN THOUSAND DOLLARS AND 00/100 CENTS (\$1,047,000.00) that Defendant is obligated to pay under the terms of the proposed settlement. The TSA is non-reversionary, such that the entire amount will be disbursed and none will revert to Defendant. The TSA includes the PAGA Payment (as defined below), PAGA Counsel’s attorney’s fees (not to exceed 33 and 1/3 percent of the Total Settlement Amount) and costs (not to exceed \$15,000), Settlement Administration Costs, and PAGA Representative Awards. In no circumstance will Defendant be required to pay more than \$1,047,000.00 as part of or in connection with this Agreement. Defendant’s payment of the Total Settlement Amount under this Agreement shall in no way be interpreted or construed as a waiver of its right to seek indemnification or contribution from PRO Unlimited in connection with the Lawsuit or this Settlement.

3.15 “PAGA” means the California Labor Code Private Attorneys’ General Act of 2004, codified at Cal. Lab. Code § 2698 *et seq.*

3.16 “PAGA Counsel” means Craig Ackermann of Ackermann & Tilajef, P.C. and India Lin Bodien of India Lin Bodien, Attorney at Law.

3.17 “PAGA Penalties” means the portion of the Total Settlement Amount (after excluding PAGA Counsel’s fees and costs, Settlement Administration Costs, and the Service Award) that represents the amount payable in this settlement for PAGA Penalties, 75% of which will be paid to the Labor and Workforce Development Agency (“LWDA”) and 25% of which

will be paid to the PAGA Members. All PAGA Members will receive a monetary payment from the PAGA Penalties based on the number of Work Months they worked in California during the PAGA Period as a percentage of the total number of Work Months worked by all PAGA Members during the PAGA Period:

- a. “Total Work Months” will be the total number of Work Months worked by all PAGA Members as employees of Airbnb in California during the PAGA Period according to Airbnb’s business records.
- b. “Individual Work Months Worked” will be the total number of calendar month(s) worked by an individual PAGA Member as an employee of Airbnb in California during the PAGA Period according to Airbnb’s business records. For purposes of this Agreement, any calendar month or part of a calendar month worked by a PAGA Member within the PAGA Period shall be counted as one work month (hereinafter referred to as “Work Month” or “Work Months”).
- c. Each PAGA Member’s “Individual PAGA Payment” will be calculated by dividing a PAGA Member’s Individual Work Months Worked by the Total Work Months and multiplying this result by PAGA Penalties for Individual Work Months Worked determined by the Parties.
- d. The Individual PAGA Payments will be allocated 100% as civil penalties. PAGA Members will be issued Form 1099s for their shares of PAGA Penalties.

3.18 “PAGA Period” means the period from March 16, 2020 through December 31, 2021.

3.19 “PAGA Representative” or “Plaintiff” means Plaintiff Jenee Jernigan.

3.20 “Qualified Settlement Fund” or “QSF” means a qualified settlement fund established by the Settlement Administrator for the purpose of administering the settlement.

3.21 “Released Parties” means Defendant, and all of Defendant’s present and former subsidiaries, affiliates, and joint ventures, and all of their shareholders, officers, directors, employees, agents, servants, registered representatives, attorneys, insurers, successors and assigns, and any other persons acting by through, under or in concert with any of them.

3.22 “Service Award” means a monetary amount of up to SEVEN THOUSAND FIVE HUNDRED U.S. DOLLARS AND 00/100 CENTS (\$7,500.00) for Plaintiff, which, subject to Court approval, will be paid as provided for below.

3.23 “Settlement” and “Agreement” means this PAGA Settlement and Release Agreement.

3.24 “Settlement Administrator” means CPT Group.

3.25 “Settlement Administration Costs” means the amount to be paid to the Settlement Administrator for the cost of administering this settlement, which are currently estimated to be approximately \$18,000. The Settlement Administration Costs shall include: all costs of administering the Settlement, including, but not limited to, administering the Qualified Settlement Fund; all tax document preparation, custodial fees, and accounting fees incurred by the Settlement Administrator; all costs and fees associated with preparing, issuing and mailing any and all communications to PAGA Members; all costs and fees associated with issuing the individual payments to PAGA Members and the payments to the State of California LWDA; all costs and fees associated with issuing IRS Form 1099s (to the extent any are required by applicable law), relating to payments made under the settlement; and all costs and fees associated with preparing

any tax returns and any other filings required by any governmental taxing authority or agency; all costs and fees associated with preparing any other notices, reports, or filings to be prepared in the course of administering the settlement, and any other costs and fees incurred and/or charged by the Settlement Administrator in connection with the execution of its duties under this Agreement.

4. **REPRESENTATIONS**

4.1 Plaintiff alleged on behalf of the State of California, among other things, that she and the other Aggrieved Employees were not reimbursed for all business expenses incurred while working from home during the PAGA Period, including home internet and home office expenses. Plaintiff alleges that this underlying conduct gives rise to a claim pursuant to PAGA.

4.2 On November 10, 2021, the Parties attended an all-day mediation with Tripper Ortman, a private mediator mutually selected by the Parties, for resolution. Prior to mediation, the Parties exchanged meaningful information through informal discovery for the mediation including policies and practices, information about the number of Aggrieved Employees, and the number of Work Months at issue during the PAGA Period. Defendant denied and continues to deny all of the allegations made by Plaintiff. In the weeks following the mediation, which was initially unsuccessful, the Parties continued to work with the mediator and ultimately reached a settlement in principle limited to penalties under PAGA that, following additional negotiations, now is finalized herein and will be presented to the Court for approval.

4.3 Defendant denies any liability or wrongdoing of any kind associated with the claims alleged in the Lawsuit and denies any liability or intentional wrongdoing. Nor does Defendant admit to any allegation or finding that an individual employed by PRO Unlimited, Inc. (such as Plaintiff) is jointly employed by Defendant. Defendant contends, among other things, that it has complied at all times with the California Labor Code, the related California Wage

Orders, and all other state and federal wage laws, and further contends that the Lawsuit is without merit and that Plaintiff cannot pursue claims, if any, against Defendant. Defendant has denied and continues to deny each and every material factual allegation and alleged claim asserted against it in the Lawsuit. Defendant further contends that the imposition of any penalties would be unjust, arbitrary, oppressive, and confiscatory. Nevertheless, Defendant is willing to resolve this matter in accordance with the terms set forth herein.

4.4 The Parties recognize that the issues presented in the Lawsuit are likely only to be resolved with extensive and costly pretrial and trial proceedings, and that further litigation will cause inconvenience, distraction, disruption, delay, and expense disproportionate to the potential benefits of litigation. The Parties have taken into account the risk and uncertainty of the outcome inherent in any litigation.

4.5 Plaintiff and PAGA Counsel contend that they have diligently pursued an investigation of the State of California's claims under PAGA against Defendant.

4.6 Based on their own independent investigations and evaluations, Plaintiff and PAGA Counsel are of the opinion that the settlement for the consideration (which is limited to penalties under PAGA) and on the terms set forth in this Agreement is fair, reasonable, and adequate and is in the best interests of the Plaintiff, the Aggrieved Employees, and the State of California in light of all known facts and circumstances and the risks inherent in litigation, including the potential appellate issues. Further, PAGA Counsel believes that the settlement amount entered into is in the best interests of the Aggrieved Employees and the State of California and that the settlement is fair, reasonable, and adequate, given the inherent risk of litigation.

4.7 The purpose of this Settlement is to settle and compromise the Lawsuit and all Covered Claims that Plaintiff, the State of California, and the Aggrieved Employees have under

PAGA against Defendant and the Released Parties. Neither the existence of this Settlement nor anything contained in this Settlement shall be construed or deemed as an admission of liability, culpability, negligence, or wrongdoing on the part of Defendant or the Released Parties. Nothing herein shall constitute an admission by Defendant or the Released Parties that the Lawsuit was properly brought as a representative action other than for settlement purposes. Settlement of the Lawsuit, the negotiation and execution of this Settlement, and all acts performed or documents executed pursuant to or in furtherance of this Settlement or the settlement of the Lawsuit: (a) are not, shall not be deemed to be, and may not be used as, an admission or evidence of any wrongdoing or liability on the part of Defendant or the Released Parties or of the truth of any of the factual allegations in the operative Complaint in the Lawsuit; (b) are not, shall not be deemed to be, and may not be used as, an admission or evidence of any fault or omissions on the part of Defendant or the Released Parties in any civil, criminal, or administrative proceeding in any court, administrative agency, or other tribunal; (c) are not, shall not be deemed to be, and may not be used as, an admission or evidence of the appropriateness of these or similar claims for representative treatment, or administration other than for purposes of administering this Settlement; and (d) shall not constitute or be deemed a waiver of Defendant's or the Released Parties' right to compel arbitration of any dispute with an Aggrieved Employee.

4.8 This Settlement shall be binding on Plaintiff, the Aggrieved Employees she represents (as defined herein), and on the Defendant and the Released Parties, subject to the terms and conditions hereof and the approval of the Court.

4.9 In order to comply with the requirements of Labor Code Section 2699(I), Plaintiff shall submit an Approval Motion identifying the key terms of this Agreement and requesting that the Court approve the Settlement. The Settlement is contingent upon the approval by the Court.

If the Court denies the Approval Motion due to concerns that the Parties cannot address through non-material modifications of this Agreement, (i) this Settlement shall be considered null and void; (ii) neither this Agreement nor any of the related negotiations or proceedings shall be of any force or effect; and (iii) all Parties to this Agreement shall stand in the same position, without prejudice, as if this Settlement had been neither entered into nor filed with the Court. Invalidation of any material portion of this Settlement, except for the amount of attorneys' fees and costs and Service Award to the PAGA Representative, shall invalidate this Settlement in its entirety unless the Parties shall subsequently agree in writing that the remaining provisions shall remain in full force and effect. The Parties agree to abide by all of the terms of the Settlement in good faith and to support the Settlement fully and to use their best efforts to defend this Settlement from any legal challenge, whether by appeal or collateral attack. The Parties shall make all possible good faith efforts to resolve any issues raised by the Court during the approval process.

4.10 In the event that the Court does not grant the Approval Motion after three attempts to address any issues raised by the Court to the satisfaction of all Parties (unless all of the Parties agree in writing to proceed with additional attempts), the Parties will be restored to their respective positions prior to attending mediation on November 10, 2021. The Parties reserve all substantive and procedural arguments in the event that the Court does not approve this Settlement.

## **5. TERMS OF SETTLEMENT**

The Parties to the Action agree as follows:

5.1 **Agreement to Settle Lawsuit and the Covered Claims.** In consideration of the mutual covenants, promises, and representations set forth in this Settlement, Plaintiff, on behalf of the State of California as Private Attorney General as well as the Aggrieved Employees, and Defendant agree to settle and compromise the Lawsuit and the Covered Claims, subject to the

terms and conditions set forth in this Settlement.

5.2 **Filing of Amended Complaint.** No later than April 1, 2022, Plaintiff will file a Joint Stipulation and Proposed Order To Allow Plaintiff Leave To File First Amended Complaint and, provided that the Court approves the Stipulation and Proposed Order, Plaintiff will then file the First Amended Complaint adding Airbnb, Inc. as a named Defendant. Before filing the First Amended Complaint, Plaintiff will (a) provide Defendant with a reasonable time of no less than three (3) business days to review and provide comments or revisions to the draft First Amended Complaint, and (b) consider and incorporate in good faith Defendant's comments or revisions into the First Amended Complaint.

5.3 **Total Settlement Amount ("TSA").** As consideration for the settlement described herein and the release contained in this Settlement, Defendant agrees to pay the TSA of One Million Forty-Seven Thousand and Zero Cents (\$1,047,000.00) to resolve this Action. The TSA will be allocated as follows:

- (a) PAGA Counsel's attorney fee request of one-third of the TSA (\$349,000);
- (b) PAGA Counsel's request for costs in the amount of up to \$15,000.00;
- (c) Service Award in the amount of \$7,500.00 to Plaintiff for her service on behalf of the State of California and Aggrieved Employees and in contemplation of the broader release of claims entered into by Plaintiff as part of this Settlement;
- (d) Settlement Administration Costs of \$18,000.00 to be paid to the Settlement Administrator (administration costs shall not exceed the amount estimated by the bid submitted by the Settlement Administrator to administrate the Settlement); and,

- (e) the remainder of the TSA after deducting the items (a), (b), (c), and (d) herein shall be designated as the PAGA Payment, which is estimated to be \$657,500.00 and will be allocated between the LWDA and the Aggrieved Employees pursuant to Labor Code section 2699(i) with 75% paid to the LWDA (\$493,125.00) and 25% paid to the Aggrieved Employees on a pro-rata basis (\$164,375.00).

5.4 **Allocation and Calculation of the PAGA Payment.** The anticipated total PAGA Payment will be approximately \$657,500.00. Seventy-five percent (75%) of the PAGA Payment will be paid to the LWDA as required by Labor Code section 2699(i). The remaining twenty-five percent (25%) of the PAGA Payment will be distributed to Aggrieved Employees based on the number of Individual Work Months Worked each PAGA Member worked during the PAGA Period as a percentage of the total number of Total Work Months worked by all PAGA Members during the PAGA Period. Because the Aggrieved Employee Share payments are payments in compromise and settlement of a claim for alleged penalties, each Individual PAGA Payment will be treated as nonwage income with no tax withholdings and will be reported, if required, on an IRS Form 1099. Each Individual PAGA Payment of the PAGA Penalties represents their share of the twenty-five percent (25%) in PAGA penalties distributable to the Aggrieved Employees.

5.5 **PAGA Counsel's Fees and Costs.** As part of the Approval Motion, PAGA Counsel will request Court approval of one-third of the TSA, which is \$349,000.00. In addition, PAGA Counsel will request cost reimbursement in an amount up to \$15,000.00 for costs incurred by PAGA Counsel. Should PAGA Counsel request a lesser amount for attorneys' fees and costs and/or the Court approve a lesser amount, the difference shall be allocated to the PAGA Penalties and distributed accordingly. Any attorneys' fees and costs awarded to PAGA Counsel, hereinafter

referred to as “PAGA Counsel Fees & Costs,” shall fully compensate and reimburse PAGA Counsel for any and all of the work already performed in connection with the Lawsuit and all work remaining to be performed in fully and finally resolving the Lawsuit, including but not limited to securing Court approval of the settlement, appearing at any hearings, making sure that the settlement is fairly and properly administered, defending the settlement in any appeal or other post-approval matter, all other work that PAGA Counsel has performed or will perform, and all costs that PAGA Counsel has incurred or will incur.

5.6 **Tax Treatment of Settlement Amounts.** With regard to settlement payments to Aggrieved Employees, IRS Form 1099s will be issued, if required. Nothing in this Settlement is intended to constitute legal advice regarding federal, state, and/or local tax obligations. Plaintiff acknowledges that she has obtained no tax advice from Defendant and that neither Defendant nor its attorneys have made any representation concerning the tax consequences, if any, of the TSA in this Agreement or any payment to be made pursuant to this Agreement. Plaintiff also acknowledges she has had an opportunity to consult with independent tax counsel. To the extent that this Settlement or any of its attachments is interpreted to contain or constitute advice regarding any state or federal tax issue, such advice is not intended or written to be used, and cannot be used, by any person for the purpose of avoiding penalties under the Internal Revenue Code. Defendant is not responsible for any Aggrieved Employees’ tax obligations regarding their respective Aggrieved Employee Share. Payment of PAGA Counsel Fees & Costs will be reflected in a Form 1099 to PAGA Counsel who shall assume full responsibility and liability for the payment of taxes due on such payments. The Service Award to Plaintiff will be in addition to her Aggrieved Employee Share. Because the Service Award represent payment to Plaintiff for service in this Action, payroll taxes will not be withheld from the Service Awards. The Settlement

Administrator will report the Service Awards on a Form 1099, and any other required tax forms, and will provide the form(s) to the PAGA Representatives and to the pertinent taxing authorities as required by law. The PAGA Representative assumes full responsibility for paying all taxes, federal and state, if any, due as a result of the Service Award and agrees to indemnify Defendant for any such taxes owed by it. An award by the Court of less than the amount of the requested Service Awards shall not be a basis upon which PAGA Counsel may void this Agreement, and any amount not awarded shall remain included in the amount available for distribution to the Aggrieved Employees.

Aggrieved Employees' Aggrieved Employee Shares pursuant to this Agreement are not intended by the Parties to be compensation for purposes of determining eligibility for or benefit calculations of any health and welfare benefit plan, retirement benefit plan, vacation benefit plan, unemployment compensation, including, without limitation, all plans, subject to the Employee Retirement Income Security Act ("ERISA"). The Parties agree that the Aggrieved Employee Shares are not intended to represent any modification of any employee's previously-credited hours of service or other eligibility criteria under any employee pension benefit plan, employee welfare benefit plan, or other program or policy.

5.7 **Release.**

5.7.1 **Release By All PAGA Members.** Upon approval of the Settlement, and except as to the right to enforce the terms and conditions of the Settlement, Plaintiff, on behalf of herself and the State of California, and all PAGA Members, hereby fully releases and discharges Defendant, and all of Defendant's present and former subsidiaries, affiliates, and joint ventures, and all of their shareholders, officers, directors, employees, agents, servants, registered representatives, attorneys, insurers, successors and assigns, and any other persons acting by through, under or in concert with any of them ("Released

Parties”) from any and all claims, rights, demands, statutory or civil penalties, liabilities and causes of action of every nature and description, whether known or unknown, that arise from the same set of operative facts alleged, or that reasonably could have been alleged, in the Lawsuit (including, but not limited to, the Complaint, First Amended Complaint, and LWDA Letters), and that arose during the PAGA Period. The release thus includes PAGA claims or PAGA causes of action for violations of Labor Code section 2802, and the applicable Wage Order, regardless of theory of recovery. Notwithstanding the foregoing, Plaintiff’s PAGA penalty claims against PRO Unlimited based on PRO Unlimited’s direct employees’ unreimbursed home internet and home office expenses incurred while working for PRO Unlimited itself and/or any of PRO Unlimited’s clients, including Airbnb, are not included in the Released Claims (hereinafter the “Carved-Out Claims”), and the Parties agree they are subject to and released through the separate settlement in principle between Plaintiff and PRO Unlimited. In consideration for their awarded PAGA Counsel’s fees and costs, PAGA Counsel waives any and all claims to any further attorneys’ fees, costs, and expenses in connection with the Action (other than any fees that may arise from the litigation or settlement of the “Carved-Out Claims” and may be payable by PRO Unlimited).

5.7.2 **Covenant Not to Participate in Proceedings.** The Settlement is conditioned upon this release by all PAGA Members of any claim or right under Labor Code section 2698 *et seq.* as to the release set forth above, and upon covenants by all PAGA Members that they will not participate in any proceeding seeking PAGA penalties as to the released claims set forth above. The Parties stipulate that beyond the TSA, Defendant shall not owe any further monies to Plaintiff, PAGA Counsel, PAGA Members, the State of California, or LWDA based upon any allegations made in the Lawsuit (including the Complaint, First Amended Complaint, and LWDA Letters)

5.7.3 **Release by Plaintiff.** In addition to her participation in the Release by all PAGA Members and except as otherwise provided herein, upon the funding of the TSA and the payment of the Service Award pursuant to this Settlement, Plaintiff, on her own behalf and on behalf of her descendants, dependents, heirs, executors, administrators, assigns, and successors (collectively, “Plaintiff’s Releasors”), hereby covenants not to sue and fully and unconditionally release and discharge the Released Parties from and against any and all claims, causes of action, damages, costs, and expenses, including, but not limited to, attorneys’ fees and disbursements (collectively, “Claims”) that Plaintiff’s Releasors now have, have had, or may hereafter have against the Released Parties arising out of the relationship between Defendant and Plaintiff, including but not limited to those claims arising out of or relating to federal, state, or local law, and the Private Attorneys General Act of 2004 under Labor Code section 2698 *et seq.* Except for any rights created by this Agreement, this General Release is intended to be interpreted as broadly as possible and to apply to any and all claims available to Plaintiff in any forum, including, but not limited to, any claims for unpaid penalties, unreimbursed business expenses, unpaid wages, and class, collective, or representative actions governing employment (to the fullest extent allowed by applicable law), violation of any provision of federal or state law governing employment, and any claim for attorneys’ fees or costs. All such claims are forever barred by this Agreement. Plaintiff also grants a general release to the Released Parties and waives all rights to assert any individual common law, tort, or unlawful employment practices claims against the Released Parties. Plaintiff expressly waives the rights provided under California Civil Code Section 1542, which states that:

**A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.**

Plaintiff understands the significance and consequences of a California Civil Code Section 1542 waiver, and understands that she hereby waives all claims, known or unknown, suspected or unsuspected against the Released Parties. Plaintiff alone shall assume full responsibility for any damages or losses caused by this waiver.

Nothing contained in this Agreement shall be deemed a release or waiver by Plaintiff of claims Plaintiff may have against any of the Released Parties for: (a) unemployment and disability pursuant to the terms of applicable California law; (b) workers' compensation insurance injury or pay benefits pursuant to Division 4 of the California Labor Code, under the terms of any worker's compensation insurance policy or fund of the Plaintiff; and (c) any claims that, under applicable federal, state, or local law, are not waivable. This waiver and release is contingent upon the Court's approval of the Parties' PAGA settlement.

5.8 **Approval of the Settlement.** As explained in Paragraph 4.9, in order to comply with the requirements of Labor Code Section 2699(l), Plaintiff shall file an Approval Motion identifying the key terms of this Settlement requesting that the Court approve the Settlement.

5.9 **Administering the Settlement and Payment Plan.**

5.9.1 Within fifteen (15) calendar days after the Effective Date, Defendant will provide an Aggrieved Employee list ("Aggrieved Employee List") to the Settlement

Administrator containing: (1) the name; (2) last known home address; (3) the number of Individual Work Months Worked by an Aggrieved Employee during the PAGA Period; and (4) social security number of each Aggrieved Employee.

5.9.2 Defendant shall pay to the Settlement Administrator the TSA within fifteen (15) calendar days after the Effective Date.

5.9.3 The Settlement Administrator shall distribute each Aggrieved Employee Share to the Aggrieved Employees, the attorneys' fees and costs approved by the Court, and the Service Awards approved by the Court within thirty (30) calendar days of receipt of the TSA from Defendant (which, as set forth in Paragraph 5.9.2, will occur within fifteen (15) calendar days after the Effective Date).

5.9.4 The payment checks for each Aggrieved Employee Share shall be sent to each Aggrieved Employee by U.S. First Class mail to the Aggrieved Employee's address with directions to the Postmaster to forward the payment checks and return all undeliverable payment checks to the Settlement Administrator. A notice explaining this Settlement (substantially in the form attached hereto as Exhibit A) will be included in the mailing of each Aggrieved Employees' check and submitted to the Court for its review and approval ("Notice"). Prior to mailing the Notice and payment check, the Settlement Administrator shall check the addresses provided by Defendant in the Aggrieved Employee List using the National Change of Address database and shall update any addresses accordingly. Should any of the Notices and payment checks be returned as undeliverable, the Settlement Administrator will conduct a search for a more current address (via a skip trace or other reasonable method) and re-mail the Notice and payment check to the more current address, if any. It will be conclusively presumed that an

Aggrieved Employee's Aggrieved Employee Share check was received if the payment check has not been returned within thirty (30) days of the original mailing of the payment check. The date of the initial mailing of the payment check shall be conclusively determined according to the records of the Settlement Administrator.

5.9.5 The Settlement Administrator shall ensure that seventy-five percent (75%) of the PAGA Payment is paid to the LWDA within thirty (30) calendar days of receipt of the TSA from Defendant.

5.9.6 Settlement checks shall remain valid and negotiable for one hundred eighty (180) calendar days from the date of their issuance. If there are uncashed checks following this period, the Settlement Administer will ensure that uncashed funds shall be forwarded to the State of California's unclaimed property fund in the name of the respective PAGA Member.

5.9.7 Since this is not a settlement of a class action but a PAGA settlement on behalf of the State of California, no person can (a) object to the settlement after the Court's Approval Order is made, or (b) opt out from being covered by release of claims at any time before or after the Approval Order is made.

5.10 **Duties of the Parties Prior to Approval.** As set forth herein, the Parties shall apply to the Court for the entry of an Approval Order and Final Judgment approving this Settlement as required by Labor Code section 2699(l). Within fourteen (14) days after the execution of this Agreement, Plaintiff will prepare the Joint Stipulation and Proposed Order for Approval of Settlement for review and comments from Defendant. Plaintiff agrees to provide Airbnb with a reasonable amount of time of no less than five (5) business days to review and provide comments or revisions to the Joint Stipulation and Proposed Order for Approval of

Settlement, which Plaintiff agrees to consider and incorporate in good faith. Once the Parties have finalized and executed the Joint Stipulation and Proposed Order for Approval of Settlement, and after Plaintiff has filed the First Amended Complaint and Defendant has filed an Answer thereto, Plaintiff will file with the Court the fully-executed Joint Stipulation and Proposed Order for Approval of Settlement. However, prior to filing the Joint Stipulation and Proposed Order for Approval of Settlement, Plaintiff agrees to also provide Defendant with a copy of the proposed notice of the Settlement to the LWDA for review and comments from Defendant. Plaintiff agrees to provide Airbnb with a reasonable amount of time of no less than five (5) business days to review and provide comments or revisions to the proposed notice of the Settlement to the LWDA, which Plaintiff agrees to consider and incorporate in good faith.. Once the notice of the Settlement to the LWDA is finalized and mutually agreed upon, Plaintiff may provide the LWDA with such notice in compliance with Labor Code section 2699(1)(2). The Joint Stipulation and Proposed Order for Approval of Settlement will request Court approval of the following:

- a. Approving the terms of this PAGA Settlement and Release Agreement;
- b. Approving the amount of PAGA Counsel Fees & Costs;
- c. Appointing CPT Group as the Settlement Administrator and approving the amount of Settlement Administration Costs;
- d. Approving the amount of Plaintiff's Service Awards;
- e. Approving the Notice; and
- f. Entering Final Judgment.

In conjunction with the Approval Motion, the Parties will submit a proposed Approval Order granting the Approval Motion, which will include a Final Judgment consistent with the

terms of this Agreement. The proposed Approval Order and Final Judgment will include a dismissal of Plaintiff's representative PAGA claims against Airbnb with prejudice, and a request pursuant to California Code of Civil Procedure section 664.6 that the Court retain continuing jurisdiction over this Action and over the Parties, to the fullest extent necessary to enforce and effectuate the terms and intent of this Agreement.

5.11 **Parties' Authorization.** The signatories hereto hereby represent that they are fully authorized to enter into this Settlement and bind the Parties hereto to the terms and conditions hereof.

5.12 **Mutual Full Cooperation.** The Parties agree to fully cooperate with each other to accomplish the terms of this Settlement, including, but not limited to, execution of such documents and to take such other action as may reasonably be necessary to implement the terms of this Settlement. The Parties to this Settlement shall use their best efforts, including all efforts contemplated by this Settlement and any other efforts that may become necessary by order of the Court, or otherwise, to effectuate this Settlement and the terms set forth herein. As soon as practicable after execution of this Settlement, PAGA Counsel shall, with the assistance and cooperation of Defendant and its counsel, take all necessary steps to secure the approval of this Settlement from the Court. The Parties agree to work cooperatively to comply with the notice requirements to the LWDA pursuant to Labor Code sections 2699(1)(2) and 2699(1)(3).

5.13 **Confidentiality.** Other than information necessary to secure Court approval of this Settlement, the Parties agree to keep confidential all matters related to this Settlement, including the terms of the Settlement and the facts and circumstances leading up to it. The Parties may, however, discuss the terms of this Settlement, as applicable, with their spouses, fiancées, attorneys, financial advisors, tax advisors, and accountants, or upon a valid court order, at which

time the individual receiving information about the terms of this Settlement shall be informed that the terms of this Settlement are confidential, and the individual may not reveal or disclose to any third party the terms of the Settlement. Prior to the filing of the Joint Stipulation and Proposed Order for Approval of Settlement, the Parties and Parties' respective counsel agree not to publicize or discuss the facts, amount, terms, or existence of the Settlement in any way to anyone other than the Parties or the Parties' counsel, or the mediator, Tripper Ortman. Plaintiff and PAGA Counsel additionally agree not to reference this Settlement in any advertisement or on any website. The Parties and their counsel shall keep this Settlement and its terms confidential except for any and all documents and information which is made a public record as part of the Settlement. Prior to any publication or filing by Plaintiff and/or PAGA Counsel relating to this Action, Airbnb will have reasonable edit and revisions rights of all public announcements, communications, and/or papers filed in connection with the Action and Settlement, *e.g.*, Joint Stipulation and Proposed Order To Allow Plaintiff Leave To File First Amended Complaint, First Amended Complaint, Joint Approval and Proposed Order for Approval of Settlement, any notices issued to PAGA Members, any press statements, announcements, communications, or similar, etc. Breach of this provision shall entitle Defendant, in the exercise of their sole discretion, to nullify the Settlement at any time before the Effective Date.

5.14 **No Prior Assignments.** The Parties hereto represent, covenant, and warrant that they have not directly or indirectly, assigned, transferred, or purported to assign, or transfer to any person or entity any portion of any liability, claim, demand, action, cause of action or rights herein released and discharged except as set forth herein. The representations, warranties, covenants, and agreements contained in this Agreement are for the sole benefit of the Parties under this Agreement, and shall not be construed to confer any right or to avail any remedy to

any other person.

5.15 **No Admission.** Nothing contained herein, nor is the consummation of this Settlement, to be construed or deemed an admission of liability, culpability, negligence, or wrongdoing on the part of Defendant or any of the Released Parties. Each of the Parties hereto has entered into this Settlement with the intention to avoid further disputes and litigation with the attendant inconvenience and expense. Defendant and the Released Parties deny that they have engaged in any unlawful activity, that they failed to comply with the law in any material respect, that they have any liability to anyone under the claims asserted in the Lawsuit, or that Defendant jointly employed any employee of PRO Unlimited, including its employees assigned to perform work for third party clients of PRO Unlimited such as Airbnb. This Agreement is entered into solely for the purpose of compromising highly-disputed claims. Nothing in this Agreement is intended or shall be construed as an admission of liability or wrongdoing by Defendant or any of the Released Parties.

5.16 **Non-Evidentiary Use.** Whether or not the Effective Date occurs, neither this Agreement nor any of its terms nor the Settlement itself shall be: (a) construed as, offered, or admitted in evidence as, received as, or deemed to be evidence for any purpose adverse to Defendant or any other of the Released Parties, including but not limited to, evidence of a presumption, concession, indication, or admission by any of the Released Parties of any liability, fault, wrongdoing, omission, concession, or damage, or (b) disclosed, referred to, or offered in evidence against any of the Released Parties in any further proceeding in the Lawsuit, or any other civil, criminal, or administrative action or proceeding except for the purposes of effectuating the Settlement pursuant to this Agreement or for Defendant or any of the Released Parties to establish

that an Aggrieved Employee has resolved any of his/her claims released through this Agreement.

5.17 **Nullification.** If (a) the Court should for any reason fail to approve this Settlement in the form agreed to by the Parties (except for the amount of attorneys' fees and costs and Service Awards), or (b) the Court's approval of this Settlement is reversed, modified, or declared or rendered void, then (i) this Agreement shall be considered null and void; (ii) neither this Agreement nor any of the related negotiations or proceedings shall be of any force or effect; and (iii) all Parties to this Agreement shall stand in the same position, without prejudice, as if the Agreement had been neither entered into nor filed with the Court. Invalidity of any material portion of this Agreement, except for the amount of attorneys' fees and costs and Service Awards, shall invalidate this Agreement in its entirety unless the Parties shall subsequently agree in writing that the remaining provisions shall remain in full force and effect.

5.18 **Attorneys' Fees, Costs, and Expenses.** None of the Parties shall be construed as the prevailing party in this matter. Except as specifically set forth herein, each party shall bear their/her own attorneys' fees, costs, and expenses, taxable or otherwise, incurred by them/her arising out of the Lawsuit, and shall not seek reimbursement thereof from any other party to this Agreement. The Parties further agree that this Agreement shall in no way be interpreted or construed as a waiver of Airbnb's right to seek indemnification or contribution from PRO Unlimited in connection with the Lawsuit or this Settlement, up to and including the attorneys' fees, costs, and expenses that Airbnb incurred in connection with the Lawsuit and this Settlement.

5.19 **Construction.** The Parties hereto agree that the terms and conditions of this Settlement are the result of lengthy, intensive, arms-length negotiations between the Parties and that this Agreement constitutes the entire agreement between Plaintiff (on behalf of herself and the State of California and the Aggrieved Employees) and Defendant regarding actual or potential

claims asserted by Plaintiff against the Released Parties. Excluding any confidentiality agreement executed by Plaintiff with Defendant, which will remain in full force and effect, this Agreement supersedes all prior agreements, written or oral, between or among the Parties regarding those claims or potential claims and the resolution of those claims. Consequently, no other agreement, statement, or promise made by one Party to another as to any matter addressed in this Agreement shall be binding or valid.

5.20 **Captions and Interpretations.** Paragraph titles or captions contained herein are inserted as a matter of convenience and for reference, and in no way define, limit, extend, or describe the scope of this Settlement or any provision hereof. Each term of this Settlement is contractual and not merely a recital.

5.21 **Modifications.** This Settlement may not be amended, changed, altered, or modified, except in writing and signed by the Parties (or their successors-in-interest) hereto. This Settlement may not be discharged except by performance in accordance with its terms or by a writing signed by the Parties hereto.

5.22 **Additional Considerations.** As announced on November 1, 2021, Airbnb has already issued retroactive reimbursements to its current and former Global employees for time worked during the PAGA Period, and will continue to provide \$50.00 per month reimbursements to its current Global employees (including its California employees) until their respective offices fully reopen.

## **6. MISCELLANEOUS**

6.1 This Settlement contains the entire agreement between the Parties relating to the Settlement of the Covered Claims and Plaintiff's released claims, and all prior or contemporaneous agreements (except any confidentiality agreement), understandings,

representations, and statements, whether oral or written and whether by a party or such Party's legal counsel, are merged herein. No rights hereunder may be waived except in writing. The Parties have made such investigation of the facts and the law pertaining to the matters described herein and to this Agreement as they deem necessary, and have not relied, and do not rely, on any statement, promise, or representation of fact or law, made by any of the other parties, or any of their agents, employees, attorneys, or representatives, with regard to any of their rights or asserted rights, or with regard to the advisability of making and executing this Agreement, or with respect to any such matters that would alter or change the terms of this Agreement. No representations, warranties, or inducements have been made to any party concerning this Agreement other than those expressly set forth or referred to herein.

6.2 This Settlement shall be binding upon and inure to the benefit of the Parties hereto and their respective heirs, trustees, executors, administrators, successors, and assigns.

6.3 This Settlement may be executed in counterparts, and when each Party has signed and delivered at least one such counterpart, each counterpart shall be deemed an original, and, when taken together with other signed counterparts, shall constitute one Settlement, which shall be binding upon and effective as to all Parties. The counterparts may be transmitted electronically (PDF) or by facsimile.

6.4 This Agreement shall be governed, construed, and interpreted, and the rights of the Parties shall be determined, in accordance with the laws of the State of California, irrespective of the State of California's choice of law principles.

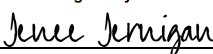
6.5 The Parties have cooperated in the negotiation and preparation of this Agreement. This Agreement shall not be construed against any Party on the basis that the Party, or the Party's counsel, was the drafter or participated in the drafting of this Agreement.

6.6 The Los Angeles County Superior Court shall retain jurisdiction to enforce this Agreement pursuant to California Code of Civil Procedure section 664.6 and California Rule of Court 3.769(h). The Court shall retain continuing jurisdiction over this Lawsuit and over all Parties to the fullest extent to enforce and effectuate the terms and intent of this Agreement.

6.7 This Agreement shall not be subject to collateral attack by any Aggrieved Employees. Such prohibited collateral attack shall include, but not be limited to, claims that the Aggrieved Employees failed, for any reason, to timely receive his or her Aggrieved Employee Share.

**THE PARTIES HAVE READ THE FOREGOING AGREEMENT. THEY HAVE CONSULTED WITH LEGAL COUNSEL REGARDING THE FOREGOING AGREEMENT AND KNOW THE CONTENTS THEREOF AND SIGN THE SAME AS THEIR FREE, KNOWING, AND VOLUNTARY ACT AND DEED, BEING FULLY AWARE OF ITS CONSEQUENCES AND ITS FINAL AND BINDING EFFECT.**

DATED: April 5, 2022

DocuSigned by:  
  
JENEE JERNIGAN  
as PAGA Representative

DATED: April \_\_, 2022

\_\_\_\_\_  
FOR DEFENDANT AIRBNB, INC.  
By: \_\_\_\_\_  
Its: \_\_\_\_\_

[ADDITIONAL SIGNATURES ON FOLLOWING PAGE]

6.6 The Los Angeles County Superior Court shall retain jurisdiction to enforce this Agreement pursuant to California Code of Civil Procedure section 664.6 and California Rule of Court 3.769(h). The Court shall retain continuing jurisdiction over this Lawsuit and over all Parties to the fullest extent to enforce and effectuate the terms and intent of this Agreement.

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DATED: April \_\_, 2022

\_\_\_\_\_  
JENEE JERNIGAN  
as PAGA Representative

DATED: April 28, 2022

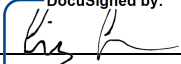
*Samantha Becker*  
\_\_\_\_\_  
FOR DEFENDANT AIRBNB, INC.  
By: Samantha Becker  
Its: Lead Counsel, Employment

[ADDITIONAL SIGNATURES ON FOLLOWING PAGE]

APPROVED AS TO FORM AND CONTENT:

DATED: April 5, 2022

**ACKERMANN & TILAJEF, P.C.**

By:  DocuSigned by:  
CRAIG J. ACKERMANN  
Attorney for Plaintiff Jenee Jernigan and the  
Aggrieved Employees

DATED: April \_\_, 2022

**SEYFARTH SHAW LLP**

By: \_\_\_\_\_  
ARI HERSHER  
Attorney for Defendant

APPROVED AS TO FORM AND CONTENT:

DATED: April \_\_, 2022

**ACKERMANN & TILAJEF, P.C.**

By: \_\_\_\_\_  
CRAIG J. ACKERMANN  
Attorney for Plaintiff Jenee Jernigan and the  
Aggrieved Employees

DATED: April 29, 2022

**SEYFARTH SHAW LLP**

By:  \_\_\_\_\_  
ARI HERSHER  
Attorney for Defendant