



STATE OF NEW YORK  
OFFICE OF THE ATTORNEY GENERAL

**SUBPOENA DUCES TECUM**

**THE PEOPLE OF THE STATE OF NEW YORK**  
**GREETINGS**

**TO:** Airbnb, Inc.  
99 Rhode Island St., Floor 2  
San Francisco, CA 94103-5232

**YOU ARE HEREBY COMMANDED**, pursuant to Executive Law § 63(12) and § 2302(a) of the New York Civil Practice Law and Rules, to deliver and turn over to Eric T. Schneiderman, the Attorney General of the State of New York, or a designated Assistant Attorney General, on the 7th day of October, 2013, by 5:00 p.m., or any agreed upon adjourned date or time, at 120 Broadway, New York, New York 10271, all documents and information requested in the attached Schedule in accordance with the instructions and definitions contained therein.

**TAKE NOTICE** that the Attorney General deems the documents and information requested by this Subpoena to be relevant and material to an investigation and inquiry undertaken in the public interest.

**TAKE FURTHER NOTICE** that Your disobedience of this Subpoena, by failing to deliver the documents and information requested in the attached Schedule on the date, time and place stated above or on any agreed upon adjourned date or time, may subject You to penalties and other lawful punishment under § 2308 of the New York Civil Practice Law and Rules, and/or other statutes.

**WITNESS, The Honorable Eric T. Schneiderman**, Attorney General of the State of New York, this 4th day of October, 2013.

By: \_\_\_\_\_

Randall Fox  
Bureau Chief  
Taxpayer Protection Bureau  
120 Broadway, 25th Floor  
New York, New York 10271  
(212) 416-6199

By: \_\_\_\_\_

Clark Russell  
Assistant Attorney General  
Internet Bureau  
120 Broadway, 3rd Floor  
New York, New York 10271  
(212) 416-6494

## SCHEDULE

### A. General Definitions and Rules of Construction

1. “All” means each and every.
2. “Any” means any and all.
3. “And” and “or” shall be construed either disjunctively or conjunctively as necessary to bring within the scope of the Subpoena all information or Documents that might otherwise be construed to be outside of its scope.
4. “Communication” means any conversation, discussion, letter, email, memorandum, meeting, note or other transmittal of information or message, whether transmitted in writing, orally, electronically or by any other means, and shall include any Document that abstracts, digests, transcribes, records or reflects any of the foregoing.
5. “Concerning” means, directly or indirectly, in whole or in part, relating to, referring to, describing, evidencing or constituting.
6. “Custodian” means any Person or Entity that, as of the date of this Subpoena, maintained, possessed, or otherwise kept or controlled such Document.
7. “Document” is used herein in the broadest sense of the term and means all records and other tangible media of expression of whatever nature however and wherever created, produced or stored (manually, mechanically, electronically or otherwise), including without limitation all versions whether draft or final, all annotated or nonconforming or other copies, electronic mail (“e-mail”), instant messages, text messages, Blackberry or other wireless device messages, voicemail, calendars, date books, appointment books, diaries, books, papers, files, notes, confirmations, accounts statements, correspondence, memoranda, reports, records, journals, registers, analyses, plans, manuals, policies, telegrams, faxes, telexes, wires, telephone logs, telephone messages, message slips, minutes, notes or records or transcriptions of conversations or Communications or meetings, tape recordings, videotapes, disks, and other electronic media, microfilm, microfiche, storage devices, press releases, contracts, agreements, notices and summaries. Any non-identical version of a Document constitutes a separate Document within this definition, including without limitation drafts or copies bearing any notation, edit, comment, marginalia, underscoring, highlighting, marking, or any other alteration of any kind resulting in any difference between two or more otherwise identical Documents. In the case of Documents bearing any notation or other marking made by highlighting ink, the term Document means the original version bearing the highlighting ink, which original must be produced as opposed to any copy thereof.
8. “Entity” means without limitation any corporation, company, limited liability company or corporation, partnership, limited partnership, association, or other firm or similar body, or any unit, division, agency, department, or similar subdivision thereof.

9. "Identify" or "Identity," as applied to any Entity, means the provision in writing of such Entity's legal name, any d/b/a, former, or other names, any parent, subsidiary, officers, employees, or agents thereof, and any address(es) and any telephone number(s) thereof.
10. "Identify" or "Identity," as applied to any natural person, means and includes the provision in writing of the natural person's name, title(s), any aliases, place(s) of employment, telephone number(s), e-mail address(es), mailing addresses and physical address(es).
11. "Person" means any natural person, or any Entity.
12. "Sent" or "received" as used herein means, in addition to their usual meanings, the transmittal or reception of a Document by physical, electronic or other delivery, whether by direct or indirect means.
13. "Subpoena" means this subpoena and any schedules or attachments thereto.
14. The use of the singular form of any word used herein shall include the plural and vice versa. The use of any tense of any verb includes all other tenses of the verb.

#### **B. Particular Definitions**

1. "Accommodation" means the room or group of rooms which a Person or Entity offers to rent to a guest or guests in exchange for payment on Your Website, but not including where the Host stays at the Accommodation during the rental period.
2. "Host" is the Person or Entity that owns the Accommodation, and is renting it out on Your Website, or leases the Accommodation, and is sub-letting the Accommodation on Your Website.
3. "You," "Your," and "Respondent" means Airbnb, Inc. and any of its predecessors, successors, present or former parents, subsidiaries, or affiliates, whether direct or indirect; and all directors, officers, partners, employees, agents, contractors, consultants, representatives, and attorneys of the foregoing, or any other Persons associated with or acting on behalf of the foregoing, or acting on behalf of any predecessors, successors, or affiliates of the foregoing.
4. "Your Website" means [www.airbnb.com](http://www.airbnb.com) and any other websites You own that allow people to rent an Accommodation.

#### **C. Instructions**

1. Preservation of Relevant Documents and Information; Spoliation. You are reminded of Your obligations under law to preserve Documents and information relevant or potentially relevant to this Subpoena from destruction or loss, and of the consequences of, and penalties available for, spoliation of evidence. No agreement, written or otherwise, purporting to modify, limit or otherwise vary the terms of this Subpoena, shall

be construed in any way to narrow, qualify, eliminate or otherwise diminish Your aforementioned preservation obligations. Nor shall You act, in reliance upon any such agreement or otherwise, in any manner inconsistent with Your preservation obligations under law. No agreement purporting to modify, limit or otherwise vary Your preservation obligations under law shall be construed as in any way narrowing, qualifying, eliminating or otherwise diminishing such aforementioned preservation obligations, nor shall You act in reliance upon any such agreement, unless an Assistant Attorney General confirms or acknowledges such agreement in writing, or makes such agreement a matter of record in open court.

2. Possession, Custody, and Control. The Subpoena calls for all responsive Documents or information in Your possession, custody or control. This includes, without limitation, Documents or information possessed or held by any of Your officers, directors, employees, agents, representatives, divisions, affiliates, subsidiaries or Persons from whom You could request Documents or information. If Documents or information responsive to a request in this Subpoena are in Your control, but not in Your possession or custody, You shall promptly Identify the Person with possession or custody.
3. Documents No Longer in Your Possession. If any Document requested herein was formerly in Your possession, custody or control but is no longer available, or no longer exists, You shall submit a statement in writing under oath that: (a) describes in detail the nature of such Document and its contents; (b) Identifies the Person(s) who prepared such Document and its contents; (c) Identifies all Persons who have seen or had possession of such Document; (d) specifies the date(s) on which such Document was prepared, transmitted or received; (e) specifies the date(s) on which such Document became unavailable; (f) specifies the reason why such Document is unavailable, including without limitation whether it was misplaced, lost, destroyed or transferred; and if such Document has been destroyed or transferred, the conditions of and reasons for such destruction or transfer and the Identity of the Person(s) requesting and performing such destruction or transfer; and (g) Identifies all Persons with knowledge of any portion of the contents of the Document.
4. No Documents Responsive to Subpoena Requests. If there are no Documents responsive to any particular Subpoena request, You shall so state in writing under oath in the Affidavit of Compliance attached hereto, identifying the paragraph number(s) of the Subpoena request concerned.
5. Format of Production. You shall produce Documents and information responsive to this Subpoena in the format requested by the Office of the New York State Attorney General. Productions in electronic format shall meet the specifications set out in section D hereof.
6. Existing Organization of Documents to be Preserved. Regardless of whether a production is in electronic or paper format, each Document shall be produced in the same form, sequence, organization or other order or layout in which it was maintained before production, including but not limited to production of any Document or other material indicating filing or other organization. Such production shall include without limitation any file folder, file jacket, cover or similar organizational material, as well as any folder

bearing any title or legend that contains no Document. Likewise, all Documents that are physically attached to each other in Your files shall remain so attached in any production; or if such production is electronic, shall be accompanied by notation or information sufficient to indicate clearly such physical attachment.

7. Document Numbering. All Documents responsive to this Subpoena, regardless of whether produced or withheld on ground of privilege or other legal doctrine, and regardless of whether production is in electronic or paper format, shall be numbered in the lower right corner of each page of such Document, without disrupting or altering the form, sequence, organization or other order or layout in which such Documents were maintained before production. Such number shall comprise a prefix containing the producing Person's name or an abbreviation thereof, followed by a unique, sequential, identifying document control number.
8. Privilege Placeholders. For each Document withheld from production on ground of privilege or other legal doctrine, regardless of whether a production is electronic or in hard copy, You shall insert one or more placeholder page(s) in the production bearing the same document control number(s) borne by the Document withheld, in the sequential place(s) originally occupied by the Document before it was removed from the production.
9. Privilege. If You withhold any Document responsive to this Subpoena on ground of privilege or other legal doctrine, You shall submit with the Documents produced a statement in writing under oath, stating: (a) the document control number(s) of the Document withheld; (b) the type of Document; (c) the date of the Document; (d) the author(s) and recipient(s) of the Document; (e) the general subject matter of the Document; and (f) the legal ground for withholding the Document. If the legal ground for withholding the Document is attorney-client privilege, You shall indicate the name of the attorney(s) whose legal advice is sought or provided in the Document.
10. Your Production Instructions to be Produced. You shall produce a copy of all written or otherwise recorded instructions prepared by You concerning the steps taken to respond to this Subpoena. For any unrecorded instructions given, You shall provide a written statement under oath from the Person(s) who gave such instructions that details the specific content of the instructions and any Person(s) to whom the instructions were given.
11. Cover Letter. Accompanying any production(s) made pursuant to this Subpoena, You shall include a cover letter that shall at a minimum provide an index containing the following: (a) a description of the type and content of each Document produced therewith; (b) the paragraph number(s) of the Subpoena request to which each such Document is responsive; (c) the Identity of the Custodian(s) of each such Document; and (d) the document control number(s) of each such Document.
12. Affidavit of Compliance. A copy of the Affidavit of Compliance provided herewith shall be completed and executed by all natural persons supervising or participating in compliance with this Subpoena, and You shall submit such executed Affidavit(s) of Compliance with Your response to this Subpoena.

13. Identification of Persons Preparing Production. In a schedule attached to the Affidavit of Compliance provided herewith, You shall Identify the natural person(s) who prepared or assembled any productions or responses to this Subpoena. You shall further Identify the natural person(s) under whose personal supervision the preparation and assembly of productions and responses to this Subpoena occurred. You shall further Identify all other natural person(s) able competently to testify: (a) that such productions and responses are complete and correct to the best of such person's knowledge and belief; and (b) that any Documents produced are authentic, genuine and what they purport to be.
14. Continuing Obligation to Produce. This Subpoena imposes a continuing obligation to produce the Documents and information requested. Documents located, and information learned or acquired, at any time after Your response is due shall be promptly produced at the place specified in this Subpoena.
15. No Oral Modifications. No agreement purporting to modify, limit or otherwise vary this Subpoena shall be valid or binding, and You shall not act in reliance upon any such agreement, unless an Assistant Attorney General confirms or acknowledges such agreement in writing, or makes such agreement a matter of record in open court.
16. Time Period. Unless otherwise specified, the time period covered by this Subpoena shall be from January 1, 2010 until the date of Your response.
17. Stored Communications Act. If You are a service which provides (a) the ability to send or receive wire or electronic communication to users; or (b) computer storage or processing services by means of an electronic communications system available to the public, the Stored Communications Act ("SCA"), 18 U.S.C. § 2703, may protect certain customer/subscriber communications, records, and other information pertaining to customers/subscribers that You maintain, other than the (a) name; (b) address; (c) local and long distance telephone connection records, or records of session times and durations; (d) length of service (including start date) and types of service utilized; (e) telephone or instrument number or other subscriber number or identity, including any temporarily assigned network address; and (f) means and source of payment for such service (including any credit card or bank account number), of a subscriber to or customer of such service. 18 U.S.C. § 2703(c)(2). This Subpoena should not be interpreted to request information protected by the SCA. Such protected information need not be produced in response to this Subpoena. If You have any questions regarding whether certain information is protected by the SCA, You should contact an attorney.

#### **D. Electronic Document Production Format**

Unless otherwise specified and agreed to by Office of Attorney General staff, responsive documents shall be produced in electronic, native file format and also converted into Concordance load files in accordance with these instructions:

1. The concordance load file shall contain a hyperlink field that points to each produced native file.

2. The concordance load file shall also include all extracted metadata and bibliographical data in text delimited format (.DAT file).
3. The .DAT file must include field headers. Note: Once metadata fields have been established, the field names and field order should be maintained throughout the course of production, unless they are being changed to solve a problem.
4. The production must include searchable text for each document. The searchable text shall be extracted directly from the electronic document when an electronic document is available or OCR'd when the document(s) exists only in paper form.
5. The text shall be produced as either the last field in the concordance .DAT file or as separate document based text (.TXT) files.
6. If the searchable text is being produced as .TXT files, it shall be named based on its associated document bates number.
7. The production shall include single page, Tagged Image File Format (TIFF, black and white, Fax IV compressed, 300x 300dpi) image files. The image files shall be bates stamped, and the files shall be named based on their associated bates stamp.
8. The production shall also include an Opticon (.opt) image base file. This file shall have one record for each image file. The image base shall be produced in sequential order with appropriate document break information.
9. The production shall provide, as metadata fields, parent child relationships for all compound documents (emails, zip files, ...).
10. When a document cannot be converted to a static concordance production the Native file must be provided and a link to that native file must be provided in the concordance .DAT file.

In addition:

1. Unless otherwise indicated, documents are to be produced on computer CD/DVD media or hard drives.
2. The Office of the Attorney General prefers encryption using Winzip (.zip) files (use AES-256 bit encryption option or greater). The Office accepts encryption using WinRAR (.rar) files, and the Trucrypt (TC) and Sophos/Utlimaco (UTI) software. The Office does not accept self-extracting .exe files bundled with the data produced.
3. Global de-duplication of all ESI at the native file level – both within the current production and against all previous productions pursuant to this or previous related subpoenas – must be performed prior to rolling production of data. De-duplication logs confirming this process must be provided that reference: (1) the document ID metadata field (“docid”) of the master document, (2) the docid of any documents removed from

this production as duplicative, (3) the de-duplicated source data files, and (4) the custodian of those de-duplicated data files.

#### **E. Documents to be Produced**

1. An Excel spreadsheet Identifying all Hosts that rent Accommodation(s) in New York State, including: (a) name, physical and email address, and other contact information; (b) Website user name; (c) address of the Accommodation(s) rented, including unit or apartment number; (d) the dates, duration of guest stay, and the rates charged for the rental of each associated Accommodation; (e) method of payment to Host including account information; and (f) total gross revenue per Host generated for the rental of the Accommodation(s) through Your Website. The Excel spreadsheet should be capable of being organized by gross revenue per Host and per Accommodation.
2. For each Host identified in response to Request No. 1, Documents sufficient to Identify all tax-related communications Your Website has had with the Host, including tax inquiries or tax document requests whether initiated by the Host or You.



AFFIDAVIT OF COMPLIANCE WITH SUBPOENA

State of \_\_\_\_\_ }  
County of \_\_\_\_\_

I, \_\_\_\_\_, being duly sworn, state as follows:

1. I am employed by Respondent in the position of \_\_\_\_\_;
2. Respondent's productions and responses to the Subpoena of the Attorney General of the State of New York, dated \_\_\_\_\_, 20\_\_\_\_\_ (the "Subpoena") were prepared and assembled under my personal supervision;
3. I made or caused to be made a diligent, complete and comprehensive search for all Documents and information requested by the Subpoena, in full accordance with the instructions and definitions set forth in the Subpoena;
4. Respondent's productions and responses to the Subpoena are complete and correct to the best of my knowledge and belief;
5. No Documents or information responsive to the Subpoena have been withheld from Respondent's production and response, other than responsive Documents or information withheld on the basis of a legal privilege or doctrine;
6. All responsive Documents or information withheld on the basis of a legal privilege or doctrine have been identified on a privilege log composed and produced in accordance with the instructions in the Subpoena;
7. The Documents contained in Respondent's productions and responses to the Subpoena are authentic, genuine and what they purport to be;
8. Attached is a true and accurate record of all persons who prepared and assembled any productions and responses to the Subpoena, all persons under whose personal supervision the preparation and assembly of productions and responses to the Subpoena occurred, and all persons able competently to testify: (a) that such productions and responses are complete and correct to the best of such person's knowledge and belief; and (b) that any Documents produced are authentic, genuine and what they purport to be; and

9. Attached is a true and accurate statement of those requests under the Subpoena as to which no responsive Documents were located in the course of the aforementioned search.

\_\_\_\_\_  
Signature of Affiant

\_\_\_\_\_  
Date

\_\_\_\_\_  
Printed Name of Affiant

\* \* \*

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_, Notary Public

My commission expires: \_\_\_\_\_