

SCHWARTZ SETTLEMENT AGREEMENT

This Schwartz Settlement Agreement (the “Schwartz Settlement Agreement”) is made and entered into this 20th day of July, 2006 by and among Plaintiff Adam Schwartz, purporting to represent the general public (the “Plaintiff”), and Plaintiff’s Counsel, on the one hand, and Visa International Service Association (“Visa International”) (incorrectly named as Visa International Corporation and Visa International Service Association, Inc.), Visa U.S.A. Inc. (“Visa USA”) (collectively and individually “Visa”), and MasterCard International Incorporated (“MasterCard”) (collectively, the “Defendants”), on the other hand. The above are collectively referred to as “the Parties” and individually as a “Party.” This Schwartz Settlement Agreement shall become effective on the Schwartz Effective Date.

I. Recitals.

WHEREAS, on February 1, 2000, Plaintiff filed Schwartz v. Visa Int’l Co., et al., No. 822404-4 (Alameda Cty., Cal.) against Visa in the Superior Court of California, County of Alameda;

WHEREAS, on or about February 7, 2000 Plaintiff Darrin Irvine filed Darrin Irvine v. MasterCard Int’l, No. 309763 (San Francisco Cty., Cal.) (the “Irvine Action”) against MasterCard under the same legal theories;

WHEREAS, on February 15, 2000, Plaintiff filed an amended complaint in the Schwartz Trial Court, naming both Visa and MasterCard as defendants, and Darrin Irvine dismissed the Irvine Action;

WHEREAS, on August 3, 2001, Plaintiff filed a second amended complaint (the “Schwartz Complaint”) in the Schwartz Action, in which he alleged a failure to disclose currency conversion pricing, including that Defendants allegedly had levied a “hidden” (or

“embedded”) 1% “currency conversion fee” on transactions in foreign countries, and that the “fee” was allegedly unfair, unlawful, unconscionable and deceptive, and that Defendants thereby allegedly violated California Business and Professions Code §§ 17200 et seq. (the “UCL”);

WHEREAS, a trial of the Schwartz Action commenced in May 2002;

WHEREAS, on April 7, 2003, the Schwartz Trial Court entered a Final Statement of Decision in the Schwartz Action (copy attached hereto as Exhibit 1); on September 18, 2003, the Schwartz Trial Court entered an Order Regarding Means of Effecting Restitution; and on October 31, 2003, the Schwartz Trial Court entered judgment (copy attached hereto as Exhibit 2) for the Plaintiff in this Action ordering the injunctive and monetary relief set forth in Exhibit 2;

WHEREAS, subsequent to the Schwartz Trial Court Decision, each of the Defendants adopted a rule, regulation and/or procedure with respect to foreign transactions that does not include the alleged “embedding” of a 1% currency conversion fee or mark-up that was challenged by Plaintiff in the Schwartz Action;

WHEREAS, on December 29, 2003, Defendants filed Notices of Appeal of the Schwartz Trial Court Judgment;

WHEREAS, on August 6, 2004, the Schwartz Trial Court issued an order (copy attached hereto as Exhibit 3) awarding attorneys’ fees in the amount of \$27,600,000, plus 17.5% of the qualifying amounts claimed by eligible cardholders, and costs in the amount of \$624,168 (the “Schwartz Trial Court Attorneys’ Fees Award”);

WHEREAS, no statement of interest is included in the Schwartz Trial Court Attorneys' Fees Award, but the statutory interest rate is 10% per annum (see Cal. Code Civ. Proc. § 685.010);

WHEREAS, based on a 10% interest rate running from August 6, 2004, the total of attorneys' fees and costs awarded in the Schwartz Trial Court Attorneys' Fees Award on August 6, 2004 (not including the 17.5% of amounts claimed), plus interest, amounts to more than \$33,000,000;

WHEREAS, Defendants have appealed the Schwartz Trial Court Attorneys' Fee Award;

WHEREAS, on September 28, 2005, the Court of Appeal reversed the Schwartz Trial Court Judgment, stating:

Visa and MasterCard (jointly appellants) allege numerous claims of error. We do not reach these claims, however, because we hold that recent amendments to the UCL, which became effective while this appeal was pending, bar the present action and require us to reverse the judgment.

Adam A. Schwartz v. Visa International Service Association et al., A105222 (the "Court of Appeal Decision"), Slip. Op. at 1 (copy attached hereto as Exhibit 4);

WHEREAS, in its decision the Court of Appeal remanded the Schwartz Action to the trial court with directions to exercise its discretion to determine whether to grant leave to amend and, if leave is not granted, to enter judgment on the pleadings in favor of Defendants;

WHEREAS, on November 27, 2005, the Court of Appeal issued an order staying the appeals of the Schwartz Trial Court Attorneys' Fees Award pending further proceedings in the California Supreme Court;

WHEREAS, on December 14, 2005, the California Supreme Court granted review of the September 28, 2005 decision of the Court of Appeal in the Schwartz Action, and—deferred the matter “pending consideration and disposition of a related issue in Californians for Disability Rights v. Mervyn's, S131798 (“Meryvn's”) and Branick v. Downey Savings & Loan Association, S132433 (see Cal. Rules of Court, rule 28.2(d)(2)), or pending further order of the court. Submission of additional briefing, pursuant to California Rules of Court, Rule 29.1, is deferred pending further order of the court.” Adam A. Schwartz v. Visa International Service Association et al., S138751;

WHEREAS, the Parties acknowledge and agree that if, arguendo, the Schwartz Trial Court Judgment was reinstated, in light of the decision in Meryvn's or otherwise, Defendants' “merits” appeals would raise substantial issues that might result in reversal of the Schwartz Trial Court Judgment;

WHEREAS, Plaintiff contends that members of the general public who used a Visa- or MasterCard- branded credit card to make purchases denominated in a foreign currency have suffered injury as a result of the Defendants' alleged conduct;

WHEREAS, each Defendant vigorously denies that it, its predecessors, or any Person affiliated with it has harmed or injured in any way Plaintiff or any member of the general public, or has violated the UCL or any other law, including any statute, regulation, or principle of common law or equity;

WHEREAS, on August 17, 2001, the Judicial Panel on Multidistrict Litigation ordered the consolidation of a number of putative class actions then pending in various federal district courts as In re Currency Conversion Fee Antitrust Litigation, MDL No. 1409, which is pending in the Southern District of New York (the “MDL Action”);

WHEREAS, Plaintiff’s Counsel in the Schwartz Action also represent plaintiffs in the MDL Action, and some are plaintiffs’ Co-Lead Counsel in the MDL Action;

WHEREAS, in an attempt to settle and extinguish the claims in, inter alia, the Schwartz Action, the MDL Action and other actions, the Parties through their counsel in this action attended numerous JAMS dispute resolution mediation sessions before the Honorable Edward A. Infante;

WHEREAS, after substantial litigation and careful consideration, Plaintiff and Plaintiff’s Counsel have decided, in order to avoid the uncertainties of continued litigation, and to help assure that benefits be made available to the members of the general public who would have been able to seek monetary payment pursuant to the Schwartz Trial Court Judgment in the most efficient, cost-effective manner, to enter into this Schwartz Settlement Agreement and to support the entry and approval of the MDL Settlement Agreement, to which this Schwartz Settlement Agreement is attached as Exhibit A, and the settlement contemplated thereby (including, but not limited to, monetary consideration and Defendants’ agreements with respect to future conduct relating to Foreign Transactions, as set forth therein);

WHEREAS, Defendants have concluded that, despite their good faith belief that they are not liable for any of the Claims in the Schwartz Action or any other action or proceeding,

and have good defenses thereto, they will enter into the Schwartz Settlement Agreement to avoid the further expense, inconvenience, and burden of this litigation, and the distraction and diversion of their personnel and resources, and to obtain the conclusive and complete dismissal and/or release of the Schwartz Action, the MDL Action, other actions and all other released claims;

WHEREAS, the proposed Third Amended Complaint in the MDL Action, which plaintiffs in the MDL Action agree to seek leave to file pursuant to the MDL Settlement Agreement, names Visa and MasterCard as defendants and, inter alia, alleges conduct that includes the conduct alleged in the Schwartz Action;

WHEREAS, the Parties believe that, under the totality of the circumstances (including the matters previously stated herein and the MDL Settlement Agreement and the settlement contemplated thereby) , if, arguendo, the Schwartz Trial Court Judgment were reinstated, in light of the decision in Meryvn's or otherwise: (a) vacatur of the Schwartz Trial Court Judgment would not reduce the incentive for pretrial settlement; (b) there is no reasonable possibility that the interests of nonparties or the public would be adversely affected by the vacatur of the Schwartz Trial Court Judgment; (c) the reasons for vacatur of the Schwartz Trial Court Judgment would outweigh the erosion of public trust, if any, that may result from the vacatur of the Schwartz Trial Court Judgment; and (d) no notice would be required under California First Appellate District Local Rule No. 8 of any motion seeking to vacate the Schwartz Trial Court Judgment; and

WHEREAS, the Parties hereto agree that this Schwartz Settlement Agreement shall not be deemed or construed to be an admission or evidence of any violation of any statute,

rule or regulation, or principle of common law or equity, or of any liability or wrongdoing whatever, by any of the Defendants, or of the truth of any of the Claims asserted in the Schwartz Complaint, any prior complaints in the Schwartz Action or elsewhere;

NOW, THEREFORE, in consideration of the foregoing and of the mutual promises, covenants and agreements set forth herein, and intending to be legally bound, the Parties hereto agree as follows:

II. Definitions.

For purposes of this Schwartz Settlement Agreement only, the words and terms used in the Schwartz Settlement Agreement that are expressly defined in this Section or elsewhere in the Schwartz Settlement Agreement shall have the meaning ascribed to them in those definitions.

(a) “Appropriate Court”, as used herein, shall mean the following:

(1) The Schwartz Trial Court is the Appropriate Court if the California Supreme Court resolves Plaintiff’s Petition in a manner that results in the remand of the Schwartz Action to the Schwartz Trial Court without further proceedings in either the California Supreme Court or the California Court of Appeal, excluding proceedings solely to remand the Schwartz Action to the Schwartz Trial Court;

(2) The California Court of Appeal is the Appropriate Court if the California Supreme Court resolves Plaintiff’s Petition in a manner that results in the Schwartz Action being returned to or assigned to the Court of Appeal for further proceedings in that court, excluding proceedings solely to remand the Schwartz Action to the Schwartz Trial Court; and

(3) The California Supreme Court is the Appropriate Court if the California Supreme Court resolves Plaintiff's Petition in a manner that results in the Schwartz Action being retained by the California Supreme Court for further proceedings in that court, excluding proceedings solely to remand the action to the Schwartz Trial Court or to return or assign the Schwartz Action to the California Court of Appeal.

(b) "Base Exchange Amount" means, with regard to a Foreign Transaction, the U.S. dollar amount that results from applying the transaction amount in foreign currency to any factor(s) (however selected, determined, or characterized, and without regard to whether, or the price at which, such currency was obtained from one or more third parties) used in calculating the transaction amount in U.S. dollars for that transaction.

(c) "Claims" means any and all actual or potential claims, actions, causes of action, suits, counterclaims, cross claims, third party claims, contentions, allegations, and assertions of wrongdoing, and any demands for any and all debts, obligations, liabilities, damages (whether actual, treble, punitive, exemplary, statutory, or otherwise), whenever incurred, attorneys' fees, costs, expenses, restitution, disgorgement, injunctive relief, any other type of equitable, legal or statutory relief, any other benefits, or any penalties of any type whatever, whether asserted in federal court, state court, arbitration or otherwise, and whether triable before a judge or jury or otherwise. For avoidance of doubt, Claims includes any right or opportunity to claim, seek or obtain restitution, disgorgement, injunctive relief or any other benefit as a member of the general public, under California Business and Professions Code Section 17200 et seq. or otherwise.

(d) “Credit Cards” means all United States-issued Visa or MasterCard branded payment cards that extend to cardholders a line of credit or which require payment of the amount due by a due date. For avoidance of doubt, solely for purposes of use herein, Credit Cards includes, without limitation, cards commonly known as credit cards, charge cards, corporate cards, company cards, and purchasing cards.

(e) “Defendants’ Appeals” means the consolidated appeals of the Schwartz Trial Court Judgment, Court of Appeal No. A105222 (Cal. Ct. App., 1st Dist., Dec. 29, 2003), and the appeals of the Schwartz Trial Court Attorneys’ Fees Award, Court of Appeal Nos. A108180 (Cal. Ct. App., 1st Dist., Oct. 1, 2004) and A108181 (Cal. Ct. App., 1st Dist., Oct. 4, 2004).

(f) “Embed,” “Embedding” or “Embedded” means, in connection with a Foreign Transaction, to include without separate identification or itemization any Foreign Transaction Fee in the U.S. dollar transaction amount sent by MasterCard or Visa to issuing Members.

(g) “Foreign Transaction” means a purchase, cash advance or withdrawal or other transaction effected in any manner by use of a United States-issued Visa- or MasterCard-branded Credit Card which transaction (1) is originally denominated in a currency other than the United States dollar, or (2) is originally denominated in the United States dollar and is effected with a merchant or other Person outside the United States and an amount in addition to the transaction amount was applied by Visa or MasterCard because it is a transaction effected with a merchant or other Person outside the United States.

(h) “Foreign Transaction Fee” means, with regard to a Foreign Transaction, any amount (however characterized), over and above the amount of any Base Exchange Amount, applied by Visa or MasterCard because the transaction is a Foreign Transaction or because currency conversion (or “translation”) was performed.

(i) “MasterCard-branded Card” means Credit Cards bearing the name MasterCard, Maestro, Cirrus or any other brand name in the MasterCard family of brands.

(j) “MDL Action” means, for purposes of this Schwartz Settlement Agreement only, those actions consolidated pursuant to the MDL Court’s December 13, 2001 Order in MDL No. 1409 or by any subsequent orders, and not remanded to state court. For avoidance of doubt, MDL Action does not include the following cases: Ross, et al. v. American Express Co., et al., No. 04-CV-05723 (S.D.N.Y.) (WHP); and Ross, et al. v. Bank of America, N.A. (USA), et al., No. 05-CV-7116 (S.D.N.Y.) (WHP).

(k) “MDL Court” means the United States District Court for the Southern District of New York, the Honorable William H. Pauley III, presiding.

(l) “MDL Final Judgment and Order of Dismissal” means the entry by the MDL Court of an order and final judgment in all material respects in the form attached as Exhibit F to the MDL Settlement Agreement. For avoidance of doubt, and without limitation, each of the items listed in Section 8(a)(iii) through (xi) of the MDL Settlement Agreement shall be considered material by the Parties, and Section 8(a)(i) of the MDL Settlement Agreement shall be considered material by Defendants.

(m) “MDL Final Settlement Approval” shall have the meaning of Final Settlement Approval set forth in Section 9 of the MDL Settlement Agreement.

(n) “MDL Preliminary Approval” and “MDL Preliminary Approval Order” means the entry by the MDL Court of an order preliminarily approving the settlement of the MDL Action in all material respects in the form attached as Exhibit E to the MDL Settlement Agreement. For avoidance of doubt, each of the items listed in Section 6(b) of the MDL Settlement Agreement shall be considered material.

(o) “MDL Settlement Agreement” means the Stipulation and Agreement of Settlement in the MDL Action (including its exhibits) with Signature Date of July 20, 2006, to which a copy of this Schwartz Settlement Agreement is appended as Exhibit A.

(p) “Members” means each Person now, previously or hereafter licensed by MasterCard International Incorporated or Visa U.S.A. Inc. to issue payment cards carrying any of its respective brands and/or to contract with merchants to accept such cards.

(q) “Plaintiff’s Counsel” means the following law firms: Lerach Coughlin Stoia Geller Rudman & Robbins LLP (including, without limitation, Patrick Coughlin, Frank J. Janecek, Jr., Bonny E. Sweeney, and Christopher M. Burke), Schrag & Baum, PC (including, without limitation, Thomas F. Schrag, James S. Baum, and Michael L. Schrag), Hulett Harper Stewart, LLP (including, without limitation, Dennis Stewart), Steyer Lowenthal Boodrookas Alvarez & Smith LLP (including, without limitation, Allan Steyer and D. Scott Macrae), and Bushnell, Caplan & Fielding, LLP (including, without limitation, Alan M. Caplan, and Philip Neumark).

(r) “Persons” includes, without limitation, natural persons, firms, banks, corporations, businesses, limited liability companies, partnerships, savings and loan

institutions, credit unions, depository institutions, federal, state and other governments and their political subdivisions, agencies and instrumentalities, and all other entities.

(s) “Plaintiff’s Petition” means the Petition for Review filed by Plaintiff in the California Supreme Court on November 9, 2005.

(t) “Proposition 64” means the voter proposition passed in November of 2004 amending California’s Unfair Competition Law, California Business and Professions Code §§ 17200 et seq.

(u) “Released Claims” means any and all Claims (i) which in whole or in part arise out of or relate to any Foreign Transaction(s), or the disclosure or pricing thereof, up to MDL Preliminary Approval, including, without limitation, any and all Claims that are based in whole or in part on any act, agreement, conduct or omission up to MDL Preliminary Approval that has or had, and/or allegedly has or had, the purpose or effect of fixing, inflating, Embedding, concealing, or inadequately disclosing the nature, pricing, or any other aspect of any Foreign Transaction (including, but not limited to, Foreign Transaction Fees, Base Exchange Amounts, and/or any component of either), or (ii) which are, have been, or could have been asserted within the scope of the facts asserted in the Schwartz Litigation. Released Claims include, without limitation, all such Claims without regard to whether or not the Releasor knows or suspects such Claims to exist in the Releasor’s favor at the time of the Releases, and without regard to the subsequent discovery or existence of other, different or additional facts, which, if known by the Releasor, might have affected the Releasor’s decision with respect to the Schwartz Settlement Agreement. For avoidance of doubt, Released Claims includes all Claims in the Schwartz Action, including, without limitation,

all Claims for attorneys' fees, costs and/or expenses in connection with the Schwartz Action and/or any interest connected therewith.

(v) "Releasees" means: each of the Defendants; each of the Defendants' predecessors, successors (including, without limitation, acquirers of all or substantially all of the assets, stock, or other ownership interests of any of the Defendants) and assigns; the past, present and future, direct and indirect, parents (including, but not limited to, holding companies), subsidiaries, affiliates, Members, and associates (as defined in SEC Rule 12b-2 promulgated pursuant to the Securities Exchange Act of 1934) of any of the above; and the past, present and future principals, trustees, partners, officers, directors, employees, agents, attorneys, shareholders, advisors, predecessors, successors (including, without limitation, acquirers of all or substantially all of the assets, stock, or other ownership interests of any of the above), assigns, representatives, heirs, executors and administrators of any of the above.

(w) "Releasor" means Plaintiff.

(x) "Schwartz Action" means the following proceedings: Schwartz v. Visa Int'l Co., et al., No. 822404-4 (Alameda Cty., Cal.) (complaint on behalf of general public nationwide against MasterCard and Visa), 2003 WL 1870370 (Cal. Super. Ct. Apr. 7, 2003), rev'd and remanded, No. A105222, 34 Cal.Rptr.3d 449 (Cal. Ct. App., 1st Dist., Sept. 28, 2005), petition for review granted, No. S-138751 (Cal. Dec. 12, 2005); Schwartz v. Visa Int'l Co., et al., No. 822404-4 (Alameda Cty., Cal. Aug. 6, 2004) (Schwartz Trial Court Attorneys' Fee Award), appeals filed, Nos. A108180 (Cal. Ct. App., 1st Dist., Oct. 1, 2004) (MasterCard's notice of appeal of attorneys' fee and expenses award filed), A108181 (Cal.

Ct. App., 1st Dist., Oct. 4, 2004) (Visa’s notice of appeal of attorneys’ fee and expenses award filed).

(y) “Schwartz Effective Date” means the later of the MDL Effective Date as defined in Section 3(a) of the MDL Settlement Agreement or the Schwartz Signature Date.

(z) “Schwartz Escrow Account” means a separate escrow account with a major financial institution to be established pursuant to an escrow agreement (the “Schwartz Escrow Agreement”) to be signed within 15 business days after the Schwartz Effective Date.

(aa) “Schwartz Final Implementation Date” means: the Schwartz Effective Date; the MDL Final Settlement Approval, either, (i) dismissal of the Schwartz Action under Section III(A)(1) below, or (ii) dismissal of, or application of Plaintiff and Plaintiff’s Counsel’s best efforts to dismiss, the Schwartz Action under Section III(A)(3) below; and, as this defined term applies to Visa, its payment of the amount required of it in Section IV(A)(1)(a) below, and, as this defined term applies to MasterCard, its payment of the amount required of it in Section IV(A)(1)(b) below.

(bb) “Schwartz Litigation” means the Schwartz Action, including, without limitation, any matter relating to attorneys’ fees, costs and/or expenses in connection with the Schwartz Action, and any matters asserted in any of the complaints, pleadings, filings, interrogatory responses, or other papers filed or served in the Schwartz Action.

(cc) “Schwartz Signature Date” means the date on which all Parties sign the Schwartz Settlement Agreement.

(dd) “Schwartz Trial Court” means Department 22 of the Superior Court of the State of California, Alameda County, or such other Department or judge as assigned.

(ee) “Schwartz Trial Court Judgment” means the judgment issued by the Schwartz Trial Court, dated October 31, 2003, the order regarding means of effecting restitution issued by the Schwartz Trial Court, dated September 18, 2003, and the statement of decision issued by the Schwartz Trial Court, dated April 7, 2003.

(ff) “Visa-branded Card” means Credit Cards bearing the name Visa, Plus, Interlink or any other brand name in the Visa family of brands.

III. Resolution Of The Schwartz Action.

A. Dismissal Of The Schwartz Action.

1. Within two business days after the Schwartz Effective Date, Plaintiff and Plaintiff’s Counsel shall file in the California Supreme Court a request for dismissal of Plaintiff’s Petition. That request shall state that Plaintiff and Plaintiff’s Counsel are making the filing pursuant to a settlement agreement under which, upon remand, Plaintiff and Plaintiff’s Counsel will file a request for dismissal without prejudice of the Schwartz Action in its entirety as to all Defendants. Thereafter, all Parties shall take all appropriate steps to ensure the earliest possible filing by Plaintiff and Plaintiff’s Counsel of a request for dismissal without prejudice of the Schwartz Action in its entirety as to all Defendants pursuant to California Code of Civil Procedure §§ 581(b)(2) and 581(e), substantially in the form of Exhibit 5 hereto and entry of that dismissal. It is the understanding of the Parties, and the Parties agree, that Plaintiff and Plaintiff’s Counsel may dismiss the Schwartz Action as a matter of right by the filing of Exhibit 5. Plaintiff’s agreement to dismiss the Schwartz Action without prejudice is made in light of the agreements herein, including the provisions of this Section III.

2. If the Schwartz Action is not dismissed without prejudice despite Plaintiff and Plaintiff's Counsel's best efforts, the Parties shall, at Defendants' request, take all appropriate steps to seek and obtain a stay of the Schwartz Action as to all Defendants in the Appropriate Court. In all events, the Parties acknowledge and agree that, upon entry of the MDL Preliminary Approval Order, the Schwartz Action shall be enjoined and stayed except with respect to the actions required by this Section III(A), and the entry of the MDL Final Judgment and Order of Dismissal shall permanently bar and enjoin the Schwartz Action except with respect to the actions required by this Section III(A).

3. Upon MDL Final Settlement Approval, the Parties shall use their best efforts to dismiss the Schwartz Action in its entirety with prejudice as to all Defendants if it has not been dismissed previously. The Parties acknowledge and agree that MDL Final Settlement Approval shall extinguish all Claims in the Schwartz Action.

4. Plaintiff and Plaintiff's Counsel shall use their best efforts to secure the dismissals, and, if applicable, the stays described in this Section III(A).

B. Termination Of The Schwartz Settlement Agreement.

1. In the event the MDL Settlement Agreement terminates, or MDL Final Settlement Approval does not occur, this Schwartz Settlement Agreement shall terminate, and;

(a) On Plaintiff and Plaintiff's Counsel election, the claims formerly asserted in the Schwartz Action will be reinstated in the Appropriate Court in the procedural and substantive posture the Schwartz Action was in as of the Schwartz Signature Date, consistent with the applicable law at the time of reinstatement; and all statutes of limitation

and other periods of limitation under the California Code of Civil Procedure shall be deemed tolled with respect to such action as to the period between the Schwartz Signature Date and the earlier of: (i) 30 days after the termination of the MDL Settlement Agreement or the failure of MDL Final Settlement Approval to occur; or (ii) Plaintiff and Plaintiff's Counsel seeking the reinstatement of the claims formerly asserted in the Schwartz Action. For the avoidance of doubt, it is the intent of the Parties that they will return to the status quo ante and will retain all rights, positions and privileges they had as of the Schwartz Effective Date.

(b) If the claims formerly asserted in the Schwartz Action cannot be reinstated to the status quo ante as of the Schwartz Effective Date in the Appropriate Court, the Parties shall without delay submit to a private, binding, contractual JAMS alternative dispute resolution proceeding to resolve those claims. Such proceeding shall be initiated by the written request of a Party to JAMS with copy to counsel for the other Parties. The JAMS proceeding will replicate where the Parties would have been if:

(i) The Schwartz Action had been stayed on the Schwartz Effective Date with all statutes of limitation and other periods of limitation under the California Code of Civil Procedure deemed tolled with respect to such action as to the period between the Schwartz Effective Date and the earlier of: (a) 30 days after the termination of the MDL Settlement Agreement or the failure of MDL Final Settlement Approval to occur; or (b) Plaintiff and Plaintiff's Counsel seeking the reinstatement of the claims formerly asserted in the Schwartz Action; and

(ii) The stay had been lifted as of the start of the JAMS alternative dispute resolution proceeding.

Applicable law at the time of the JAMS proceeding shall be applied in such JAMS proceedings. For the avoidance of doubt, it is the intent of the Parties that they will return to the status quo ante as of the Schwartz Effective Date and will retain all rights, positions and privileges they had.

One new neutral JAMS adjudicator shall adjudicate any and all issues for which the Schwartz Trial Court would have otherwise been the Appropriate Court. Three new neutral JAMS adjudicators shall adjudicate any and all issues for which the California Court of Appeal would have otherwise been the Appropriate Court. One new additional neutral JAMS adjudicator shall adjudicate any and all issues pertaining to replicating the status quo ante and any related issues. Each neutral JAMS adjudicator shall be jointly chosen by the Parties. If the parties are unable to agree upon an adjudicator, each party shall designate a single adjudicator, and these two adjudicators shall serve on the appellate panel and choose the following: the third adjudicator for the appellate panel; the one adjudicator to replicate the trial court; and the additional adjudicator to adjudicate any issues pertaining to replicating the status quo ante. For avoidance of doubt, this JAMS proceeding will include the adjudication of Defendants' Appeals, if applicable.

The cost of the JAMS proceedings shall be paid equally by Plaintiff and Plaintiff's Counsel, on the one hand, and Defendants, on the other hand.

(2) For avoidance of doubt, this Section III(B) will survive the termination of this Schwartz Settlement Agreement.

C. Request For Vacatur Of The Schwartz Trial Court Judgment.

1. At Defendants' option, upon MDL Final Settlement Approval or at such time after MDL Final Settlement Approval, as decided by Defendants, the Parties shall jointly request that any Schwartz Trial Court Judgment in effect at that time be vacated within the meaning of the term "reverse or vacate" as used in California Code of Civil Procedure 128(a)(8).

2. The Parties shall use their best efforts to secure vacatur of the Schwartz Trial Court Judgment if sought pursuant to this Section. For avoidance of doubt, entry of a vacatur of any Schwartz Trial Court Judgment is not a condition for the effectiveness of the Schwartz Settlement Agreement, shall not affect the validity or enforceability of the Schwartz Settlement Agreement and shall not affect any obligation of the Parties under the Schwartz Settlement Agreement.

IV. Payment.

A. Funding of the Schwartz Escrow Account.

1. a. If the Schwartz Effective Date has occurred, and if this Schwartz Settlement Agreement has not previously terminated, Visa shall pay \$18,560,000.00 by wire transfer into the Schwartz Escrow Account three (3) business days after the earlier of: (i) the hearing in the MDL Court on plaintiffs' motion for entry of the MDL Final Judgment and Order of Dismissal; or (ii) September 1, 2007. Timely payment by Visa of the above amount shall fully satisfy its payment and financial obligations under this Schwartz Settlement Agreement and the settlement contemplated hereby, and it shall thereafter have no payment or financial

obligation whatever relating to or in connection with this Schwartz Settlement Agreement or the settlement contemplated hereby.

b. If the Schwartz Effective Date has occurred, and if this Schwartz Settlement Agreement has not previously terminated, MasterCard shall pay \$13,440,000.00 by wire transfer into the Schwartz Escrow Account three (3) business days after the earlier of: (i) the hearing in the MDL Court on plaintiffs' motion for entry of the MDL Final Judgment and Order of Dismissal; or (ii) September 1, 2007. Timely payment by MasterCard of the above amount shall fully satisfy its payment and financial obligations under this Schwartz Settlement Agreement and the settlement contemplated hereby, and it shall thereafter have no payment or financial obligation whatever relating to or in connection with this Schwartz Settlement Agreement or the settlement contemplated hereby.

2. Plaintiff's Counsel shall be co-escrow agents of the Schwartz Escrow Account. The funds in the Schwartz Escrow Account shall be invested solely in obligations of, or obligations guaranteed by, the United States of America or any of its departments or agencies, or in money market funds invested solely in obligations of the United States of America or any of its departments or agencies, and all earnings shall be held in the Schwartz Escrow Account.

3. The co-escrow agents shall be responsible for the timely preparation and filing of any tax returns or other tax-related statements required to be filed by the Schwartz Escrow Account pursuant to any federal, state, local, and/or foreign law. Any and all taxes imposed on earnings from or in respect of the Schwartz Escrow Account (whether such taxes are incurred by the Schwartz Escrow Account or the Defendants) and any costs and expenses

related to the calculation or payment of such taxes (the “Schwartz Tax Payments”) shall be borne by, and payable out of, the Schwartz Escrow Account. If any Schwartz Tax Payments are incurred by any Defendant, upon certification or other proof of such payment such Defendant shall be entitled to reimbursement from the Schwartz Escrow Account within five (5) business days of receipt by the co-escrow agents of a written request by such Defendant, copies to be sent to each other Defendant. The Defendants’ calculations of the reimbursement amount shall be final and binding, provided such calculation is reasonable. Reimbursement will be by wire transfer unless otherwise instructed by the receiving Party. The co-escrow agents shall cooperate with the Defendants with respect to the preparation and filing of any tax return or other tax-related statements by the Defendants for which information relating to the Schwartz Escrow Account is necessary or appropriate.

B. Distribution of the Schwartz Escrow Account.

Upon the Schwartz Final Implementation Date, Plaintiff’s Counsel or any of them shall give notice to Defendants by facsimile of the occurrence of the Schwartz Final Implementation Date. Four (4) business days after Defendants have received the notice described in the prior sentence, Plaintiff’s Counsel shall be paid the balance remaining in the Schwartz Escrow Account, including all interest earned thereon, less all funds necessary to reimburse any Defendant for any actual or projected Schwartz Tax Payments. Distribution of the funds to Plaintiff’s Counsel shall be made by wire transfer or as otherwise instructed by Plaintiff’s Counsel in writing to the financial institution holding the Schwartz Escrow Account with copies to the co-escrow agents. Within two (2) business days of the distribution, the distribution of the funds shall be confirmed in writing by the co-escrow

agents to Defendants. Releasees shall have no liability whatsoever with respect to any allocation or distribution of any amounts in the Schwartz Escrow Account to or among Plaintiff's Counsel.

Payments under this Section IV(B) may be made prior to the Schwartz Final Implementation Date if: (i) all Parties subsequently so agree in a writing signed by all Parties, provided, the Parties shall have no obligation to so agree; and (ii) the issue is presented to the MDL Court and the MDL Court enters an order approving payments to attorneys in the MDL Action prior to MDL Final Settlement Approval under the last sentence of Section 3(c) of the MDL Settlement Agreement, in which case payments may be made pursuant to this Section IV(B) consistent with the agreement of the Parties and in a manner consistent with the ruling set forth in the order of the MDL Court.

C. Reversion of the Schwartz Escrow Account.

If this Schwartz Settlement Agreement terminates, then, within fourteen (14) calendar days after the Schwartz Settlement Agreement has terminated, the amounts remaining in the Schwartz Escrow Account, including the principal and accrued interest, shall be paid, by wire transfer, to Visa and MasterCard, pursuant to instructions to be provided by each of Visa and MasterCard to the financial institution holding the Schwartz Escrow Account, with copies to the co-escrow agents, in proportion to the amounts paid by Visa and MasterCard to the Schwartz Escrow Account. For avoidance of doubt, this Section IV(C) will survive the termination of this Schwartz Settlement Agreement.

D. Incentive Payment.

Plaintiff's Counsel may, at their expense, apply in an appropriate forum, including JAMS, for a service award of \$15,000 to Adam Schwartz. Any service award will not increase the amount that Defendants will have to pay under this Schwartz Settlement Agreement.

V. Releases.

A. Upon the Schwartz Final Implementation Date, the Releasor unconditionally, fully and finally releases and forever discharges each of the Releasees from each of the Released Claims.

B. Upon the Schwartz Final Implementation Date, the Releasor unconditionally, fully and finally releases and forever discharges Defendants, their counsel and experts from any Claims relating to the defense of the Schwartz Litigation, except as to any Claims for any violation of any protective order or confidentiality order or confidentiality agreement in the Schwartz Action or any other proceeding.

C. Upon the Schwartz Final Implementation Date, each of Plaintiff's Counsel unconditionally, fully and finally releases and forever discharges each of the Releasees, from any Claims for attorneys' fees, costs and expenses incurred in connection with the Schwartz Action and/or any interest connected therewith.

D. Upon the Schwartz Final Implementation Date, each of the Defendants unconditionally, fully and finally releases and forever discharges Plaintiff, his counsel and experts from any Claims relating to the institution or prosecution of the Schwartz Litigation up to the Schwartz Final Implementation Date, except as to any Claims for any violation of

any protective order or confidentiality order or confidentiality agreement in the Schwartz Action, or any other proceeding, provided however that Plaintiff shall not be liable for any violation of any such protective order, confidentiality order, or confidentiality agreement by his counsel or his experts.

E. For avoidance of doubt, nothing in this Section V releases or discharges the right of Plaintiff's Counsel to receive interest accruing in the Schwartz Escrow Account in accordance with the terms and conditions of Section IV hereof, or any claims by any Party for breach of this Schwartz Settlement Agreement.

VI. Waiver of Rights.

Upon the Schwartz Final Implementation Date, each of the Parties hereby expressly waives and relinquishes, with respect to the Claims the Party is releasing under Section V hereof, the provisions, rights, and benefits of Section 1542 of the California Civil Code, which provides:

A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor.

and any and all provisions, rights and benefits of any similar, comparable, or equivalent state, federal, or other law, rule or regulation or the common law or equity.

VII. Covenant Not to Sue or Continue Suit.

A. Upon the Schwartz Final Implementation Date, the Releasor hereby covenants and agrees that he shall not take any step whatsoever to commence, institute, continue, pursue, maintain, prosecute or enforce any Released Claim(s), on behalf of Releasor and any

other Person (including, without limitation, the general public or any member of the general public), against any of the Releasees.

B. Upon the Schwartz Final Implementation Date, each of Plaintiff's Counsel covenants and agrees that he/she/it shall not take any step whatsoever to commence, institute, continue, pursue, maintain, prosecute or enforce any Claims he/she/it has released or discharged under Section V(C) hereof.

C. Upon MDL Final Settlement Approval, each of the Parties hereby warrants and represents that he/she/it has not assigned, sold or otherwise transferred any Claim that he/she/it previously had that otherwise would fall within the scope of Sections V, VI, or VII hereof.

VIII. Preservation of Discovery Materials.

The Parties shall preserve all discovery materials in the Schwartz Action until the Schwartz Final Implementation Date. Within sixty (60) days after the Schwartz Final Implementation Date, and in accordance with the provisions of the Confidentiality Order entered by the Schwartz Trial Court on March 2, 2001, Plaintiff's Counsel shall, upon request by a Defendant, take all steps appropriate to return, or certify the destruction of, the discovery materials produced in the Schwartz Action by such Defendant.

IX. Termination of the Schwartz Settlement Agreement.

If for any reason the MDL Settlement Agreement terminates or MDL Final Settlement Approval does not occur, then this Schwartz Settlement Agreement shall terminate and become null and void. It is the Parties intent that such termination shall be without prejudice

to the status quo ante rights, positions and privileges of the Parties as of the Schwartz Effective Date.

X. This Settlement Is Not an Admission.

The Parties hereto agree that, whether or not this Schwartz Settlement Agreement terminates, this Schwartz Settlement Agreement (including, without limitation, its exhibits), and any and all negotiations, documents and discussions associated with it, shall be without prejudice to the rights, positions or privileges of any Party (except as expressly provided for in this Schwartz Settlement Agreement, including, without limitation, its exhibits), and shall not be deemed or construed to be an admission or evidence of any violation of any statute, law, rule, regulation or principle of common law or equity, or of any liability or wrongdoing, by any of the Defendants, or of the truth of any of the claims asserted in the Schwartz Litigation or elsewhere, and evidence thereof shall not be discoverable or used, directly or indirectly, in any way, whether in the Schwartz Action or in any other action or proceeding, except for purposes of demonstrating, describing, implementing or enforcing the terms and conditions of this Schwartz Settlement Agreement or the MDL Settlement Agreement.

XI. Binding Effect.

The Schwartz Settlement Agreement shall be binding upon, and inure to the benefit of the Parties, and their respective successors and assigns. The Releasees other than Defendants are third party beneficiaries authorized to enforce the Releases, the Covenant Not to Sue, and the Waiver of Rights, as applicable to them.

XII. Integrated Agreement.

The Schwartz Settlement Agreement (with its exhibits and expressly referenced documents) contains an entire, complete, and integrated statement of each and every term and condition agreed to by and among the Parties and is not subject to any term or condition not provided for herein. The Schwartz Settlement Agreement shall not be modified in any respect except by a writing executed by duly authorized representatives of all the Parties hereto. In entering into the Schwartz Settlement Agreement, no Party has made or relied on any warranty or representation not specifically set forth herein. There shall be no waiver of any term or condition absent an express writing to that effect by an officer of, or counsel for, the Party to be charged with that waiver. No waiver of any term or condition in this Schwartz Settlement Agreement by any Party shall be construed as a waiver of a subsequent breach or failure of the same term or condition, or waiver of any other term or condition of this Schwartz Settlement Agreement.

XIII. Headings.

The headings used in the Schwartz Settlement Agreement are for the convenience of the reader only and shall not affect the meaning or interpretation of the Schwartz Settlement Agreement.

XIV. No Party Is the Drafter.

No Party hereto shall be considered the drafter of the Schwartz Settlement Agreement or any provision hereof for the purpose of any statute, case law or rule of interpretation or construction that might cause any provision to be construed against the drafter.

XV. Choice of Law.

The Schwartz Settlement Agreement is made in the State of California, and all terms of the Schwartz Settlement Agreement and the exhibits hereto shall be governed by and interpreted according to the substantive laws of the State of California without regard to its choice of law or conflict of laws principles.

XVI. Authorization to Enter Settlement Agreement.

Each of the Parties agrees that, in return for his/her/its agreements herein, he/she/it is receiving good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged. Plaintiff acknowledges that he is represented by Plaintiff's Counsel, and has had the time and opportunity to read this Schwartz Settlement Agreement and review it with Plaintiff's Counsel prior to entering into it, and enters into it knowingly and voluntarily, and that he is fully authorized to enter into, and to sign, this Schwartz Settlement Agreement. The signatory for each of the Plaintiff's Counsel represents that he/she is fully authorized to enter into, and to sign, this Schwartz Settlement Agreement on behalf of such Plaintiff's Counsel. The authorized representative for each Defendant acknowledges that it is represented by counsel, and has had the time and opportunity to read this Schwartz Settlement Agreement and review it with counsel prior to entering into it, and enters into it knowingly and voluntarily. The signatory for each Defendant represents that he/she is fully authorized to enter into, and to sign, this Schwartz Settlement Agreement on behalf of such Defendant.

XVII. Signature.

The Parties may sign the Schwartz Settlement Agreement in counterparts, and the signature of counterparts shall have the same effect as if the same instrument had been signed. Facsimile signatures shall be considered as valid signatures as of the Schwartz Signature Date, although the original signature pages shall thereafter be appended to the Schwartz Settlement Agreement. The Schwartz Settlement Agreement shall not be deemed signed until it has been signed by Plaintiff, all of Plaintiff's Counsel, and by an authorized representative of each of the Defendants.

XVIII. Publicity.

A. Plaintiff's Counsel, Plaintiff, Defendants and counsel for Defendants shall not file in any court the full text or substantially all of any copy of this Schwartz Settlement Agreement and/or the MDL Settlement Agreement during the period from the Schwartz Signature Date to the date prescribed in Section 6(a) of the MDL Settlement Agreement for the filing of the motion for MDL Preliminary Approval of the MDL Settlement Agreement. For avoidance of doubt: (i) this Section XVIII(A) shall not prohibit the filing in any court of any of the exhibits to this Schwartz Settlement Agreement; and (ii) compliance with this Section XVIII(A) shall not constitute a failure of Plaintiff and Plaintiff's Counsel's best efforts referred to in Section III(A).

B. Plaintiff's Counsel, Plaintiff, Defendants and counsel for Defendants shall make no public statements regarding this settlement prior to the Schwartz Effective Date. Provided, however, that nothing in this Section XVIII(B) shall limit in any way the ability of Plaintiff's Counsel, Plaintiff, Defendants or counsel for any Defendants to: make any

disclosure under state or federal law (including, without limitation, state or federal securities law, such as the Securities Exchange Act of 1934, as amended); make any disclosure under the rules or regulations of any self-regulatory organization, including, without limitation, New York Stock Exchange LLC; make disclosure of any information that is already a matter of public record; respond to press or other inquiries; or disclose any information to auditors, accountants, tax and financial advisors and/or legal counsel to render professional advice.

C. In no event shall Plaintiff's Counsel or Plaintiff make any public statements that disparage the business or reputation of any of the Releasees based on the subject matter of the Schwartz Action, or mischaracterize the Schwartz Settlement Agreement or any of its terms, provided, that this sentence does not apply to statements in any judicial proceeding, including, but not limited to, Ross et al. v. American Express Co. et al., No. 04-CV-05723 (S.D.N.Y.) (WHP), and Ross et al. v. Bank of America, N.A. (USA) et al., No. 05-CV-7116 (S.D.N.Y.) (WHP). Nor shall Plaintiff's Counsel or Plaintiff fail to comply with any applicable confidentiality order or confidentiality agreements or protective orders in communicating with members of the MDL Settlement Classes (as defined in Section 2(pp) of the MDL Settlement Agreement) or otherwise.

D. In no event shall Defendants or counsel for any Defendants make any public statements that disparage the business or reputation of any of the Plaintiff's Counsel or Plaintiff based on the subject matter of the Schwartz Action, or mischaracterize the Schwartz Settlement Agreement or any of its terms, provided, that this sentence does not apply to statements in any judicial proceeding, including, but not limited to, Ross et al. v. American Express Co. et al., No. 04-CV-05723 (S.D.N.Y.) (WHP), and Ross et al. v. Bank of America,

N.A. (USA) et al., No. 05-CV-7116 (S.D.N.Y.) (WHP). Nor shall Defendants or counsel for any Defendants fail to comply with any applicable confidentiality order or confidentiality agreements or protective orders in communicating with members of the MDL Settlement Classes (as defined in Section 2(pp) of the MDL Settlement Agreement) or otherwise.

XIX. Construction.

All disputes concerning the construction of this Schwartz Settlement Agreement shall be submitted for binding arbitration at JAMS with no rights of appeals, costs to be shared equally by Plaintiff and Plaintiff's Counsel, on the one hand, and Defendants, on the other hand.

XX. Provision of Notice.

All notices under this Settlement Agreement shall be in writing. Except as otherwise specifically provided herein, each such notice shall be given by (i) hand delivery, (ii) facsimile, or (iii) Federal Express or similar overnight courier, addressed to the applicable address set forth on the signature pages hereof, or to such other address or person as the applicable Person may designate by giving notice in the manner described in this Section, except as follows:

Notices to Plaintiff are to be sent to the applicable address set forth below for Christopher M. Burke, Allan Steyer, Dennis Stewart, and Thomas F. Schrag.

Notices to Defendant Visa International are to be sent to:

Randall A. Hack, Esq.
Edward C. Fitzpatrick, Esq.
Timothy M. Maggio, Esq.
LORD, BISSELL & BROOK LLP
111 South Wicker Drive

Chicago, IL 60606
Tel: 312-443-0700
Fax: 312-443-0335

and

Jackie Redin Klein, Esq.
Nina Huerta, Esq.
LORD, BISSELL & BROOK LLP
300 South Grand Avenue, Eighth Floor
Los Angeles, CA 90071-3119
Tel: 213-485-1500
Fax: 213-485-1200

Notices to Defendant Visa U.S.A. are to be sent to:

M. Laurence Popofsky, Esq.
Brian P. Brosnahan, Esq.
Sheldon H. Jaffe, Esq.
HELLER EHRMAN LLP
333 Bush Street
San Francisco, CA 94104-2878
Tel: 415-772-6000
Fax: 415-772-6268

and

Robert J. Vizas, Esq.
ARNOLD & PORTER LLP
90 New Montgomery Street
Suite 600
San Francisco, CA 94105
Tel: 415-356-3001
Fax: 415-356-3099

Notices to Defendant MasterCard shall be sent to:

Jay N. Fastow, Esq.
WEIL, GOTSHAL & MANGES LLP
767 Fifth Avenue
New York, NY 10153
(212) 310-8000 (Telephone)

(212) 310-8007 (Facsimile).

IN WITNESS WHEREOF, each of the signatories has read and understood this Schwartz Settlement Agreement, has executed it, and represents that he/she is authorized to execute this Schwartz Settlement Agreement on behalf of the Party(ies) he/she represents, who or which has/have agreed to be bound by its terms.

DATED: July 20, 2006


ADAM SCHWARTZ

DATED: July 20, 2006

LERACH COUGHLIN STOIA GELLER
RUDMAN & ROBBINS LLP
PATRICK COUGHLIN
FRANK J. JANECEK, JR.
BONNY E. SWEENEY
CHRISTOPHER M. BURKE

CHRISTOPHER M. BURKE

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619/231-7423 (fax)

(212) 310-8007 (Facsimile).

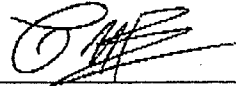
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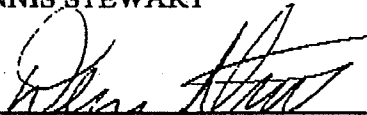
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DATED: July 20, 2006

VISA INTERNATIONAL SERVICE
ASSOCIATION

DATED: July 20, 2006

VISA U.S.A. INC.

Neil Williams
Executive Vice President &
Chief Financial Officer

123 Mission Street
21st Floor
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DATED: July 20, 2006

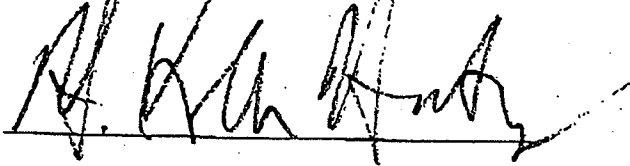
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VISA INTERNATIONAL SERVICE
ASSOCIATION



H. Keith Hastings

Senior Vice President

DATED: July 20, 2006

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Neil Williams
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Chief Financial Officer

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DATED: July 20, 2006

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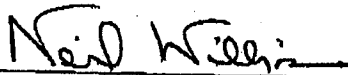
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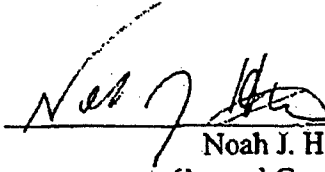


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Executive Vice President &
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DATED: July 20, 2006

MASTERCARD INTERNATIONAL
INCORPORATED



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General Counsel &
Corporate Secretary

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