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6  
7 **UNITED STATES DISTRICT COURT**  
8 **NORTHERN DISTRICT OF CALIFORNIA**

9  
10 RON DAVIS, an individual, on behalf of  
himself and all others similarly situated,

11 *Plaintiff,*

12 v.

13 VISA Inc., a Delaware corporation,

14 *Defendant.*

Case No. 3:13-cv-5125

**CLASS ACTION SETTLEMENT  
AGREEMENT**

Judge: Hon. Charles R. Breyer  
Action Filed: November 4, 2013

1 This Settlement Agreement (“Agreement”) is entered into by and among Plaintiff Ron  
2 Davis (“Plaintiff”) for himself individually and on behalf of the Settlement Class, and Defendant  
3 VISA Inc. (“Defendant”). This Agreement is intended by the Parties to fully, finally, and forever  
4 resolve, discharge, and settle the Released Claims upon and subject to the terms and conditions  
5 hereof, and subject to the approval of the Court.

6 **RECITALS**

7 A. WHEREAS, on November 4, 2013, Plaintiff filed a putative class action in the  
8 United States District Court for the Northern District of California, captioned *Davis v. VISA Inc.*,  
9 Case No. 3:13-cv-5125 (the “Action”). In the Action, Plaintiff generally alleges that Defendant  
10 improperly rejected claims made by VISA credit cardholders for damages to Zipcar vehicles made  
11 under VISA’s Auto Rental Collision Damage Waiver - Personal benefit (the “Benefit”), and seeks  
12 certification of a class, monetary damages, restitution, declaratory relief, and an injunction,  
13 amongst other relief;

14 B. WHEREAS, on December 16, 2013, Plaintiff filed a First Amended Complaint;

15 C. WHEREAS, on January 15, 2014, Defendant filed a motion to dismiss or strike  
16 Plaintiff’s First Amended Complaint;

17 D. WHEREAS, on February 28, 2014 and March 10, 2014 respectively, pursuant to a  
18 stipulation and order, Plaintiff filed a Second Amended Complaint and Defendant withdrew its  
19 motion to dismiss the First Amended Complaint;

20 E. WHEREAS, on March 14, 2014, Defendant filed a motion to dismiss or strike  
21 portions of Plaintiff’s Second Amended Complaint;

22 F. WHEREAS, on April 18, 2014, following a hearing, the Court granted in part and  
23 denied in part Defendant’s motion to dismiss or strike portions of Plaintiff’s Second Amended  
24 Complaint;

25 G. WHEREAS, on May 9, 2014, Defendant answered Plaintiff’s Second Amended  
26 Complaint, denying any wrongdoing and the material allegations of the Second Amended  
27 Complaint and setting forth its affirmative defenses;



1 H. WHEREAS, shortly after the pleadings were set, the Parties scheduled an in-person  
2 mediation and exchanged information regarding Plaintiff's claims and Defendant's defenses,  
3 including information regarding the size of the potential class and the claims made under the  
4 Benefit by potential class members;

5 I. WHEREAS, on June 27, 2014, the Parties engaged in a mediation presided over by  
6 the Hon. Rebecca Westerfield (Ret.) of JAMS in San Francisco. During the mediation, the Parties  
7 reached agreement on the material terms of a settlement;

8 J. WHEREAS, at all times, Defendant has denied and continues to deny that it  
9 committed any wrongdoing whatsoever, or that it threatened or attempted to commit any wrongful  
10 act or violation of law or duty alleged in the Action, and contends that it has acted properly in all  
11 regards in connection with the Benefit and the Settlement Class. Nonetheless, taking into account  
12 the costs, burden, and uncertainty inherent in any litigation, Plaintiff and Defendant have each  
13 concluded that it is desirable and beneficial that the Action be fully and finally settled and  
14 terminated in the manner and upon the terms and conditions set forth in this Agreement. This  
15 Agreement is a compromise, and the Agreement, any related documents, and any negotiations  
16 resulting in it shall not be construed as or deemed to be evidence of or an admission or concession  
17 of liability or wrongdoing on the part of Defendant with respect to any claim of any fault, liability,  
18 wrongdoing, or damage whatsoever;

19 K. WHEREAS, Plaintiff believes that the claims asserted in the Action have merit and  
20 Defendant believes the claims asserted in the Action have no merit. Consequently, Plaintiff and  
21 Class Counsel recognize and acknowledge the likely expense and length of continued prosecution  
22 of the Action against Defendant through trial and any subsequent appeals. Plaintiff and Class  
23 Counsel also have taken into account the uncertain outcome and risks of any litigation, especially  
24 in complex actions, as well as the difficulties and delays inherent to such litigation. Therefore,  
25 Plaintiff believes that it is desirable that the Released Claims be fully and finally compromised,  
26 settled and resolved with prejudice, and barred pursuant to the terms set forth herein. Based on his  
27 evaluation, Class Counsel has concluded that the terms and conditions of this Agreement are fair,  
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1 reasonable, and adequate to the Settlement Class, and that it is in the best interests of the  
2 Settlement Class to settle the claims raised in the Action pursuant to the terms and provisions of  
3 this Agreement;

4 L. WHEREAS, the Parties agree that the Action was resolved in good faith, following  
5 arms' length bargaining through a mediator, and that the settlement reflected herein confers  
6 substantial benefits upon the Parties and the Settlement Class Members, and each of them;

7 M. WHEREAS, the Parties agree that all Persons shall have an individual right to  
8 exclude themselves from the Settlement Class, such that participation in the settlement by  
9 accepting the benefits provided by this Agreement shall be voluntary;

10 NOW, THEREFORE, the Parties stipulate and agree that any and all Released Claims  
11 against Defendant, and all other Released Parties, shall be finally settled and resolved on the terms  
12 and conditions set forth in this Agreement, subject to Court approval, as a fair, reasonable, and  
13 adequate settlement.

## 14 AGREEMENT

### 15 1. DEFINITIONS

16 The following terms shall have the meanings set forth below:

17 1.1 "**Action**" means the case captioned *Davis v. VISA Inc.*, Case No. 3:13-cv-5125.

18 1.2 "**Agreement**" means this Class Action Settlement Agreement (including all exhibits  
19 hereto).

20 1.3 "**Approved Claim**" means a Claim Form submitted by a Settlement Class Member  
21 that: (i) is timely and submitted in accordance with the directions on the Claim Form and the terms  
22 of this Agreement and (ii) satisfies the conditions of eligibility for a Settlement Payment as set  
23 forth in Section 2.1.

24 1.4 "**Claim Form**" means a claim form substantially in the format attached hereto as  
25 Exhibit A, as approved by the Court. The Claim Form will require the Settlement Class Member  
26 to (i) provide the following information: full name, current address, telephone number (optional),  
27 and e-mail address (optional); and (ii) confirm that the Settlement Class Member in fact made the  
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1 claim(s) for damage to a Zipcar vehicle, incurred the costs associated with those claims consistent  
2 with Defendant's records, and has not already received compensation for those costs from any  
3 other source. The Claim Form will not require notarization, but will require the Person supplying  
4 the information to sign the Claim Form under penalty of perjury.

5 **1.5** "*Claims Deadline*" means the date by which all Claim Forms must be received to  
6 be considered timely and shall be set as the date ninety (90) days after the Fairness Hearing. The  
7 Claims Deadline shall be clearly set forth in the notice to be provided to the Settlement Class, the  
8 Claim Form, the Court's order granting Preliminary Approval, and the Judgment.

9 **1.6** "*Class Counsel*" means attorney Charles David Marshall of the Marshall Law Firm.

10 **1.7** "*Class Representative*" means the named Plaintiff in this Action, Ron Davis.

11 **1.8** "*Court*" means the United States District Court for the Northern District of  
12 California, the Honorable Charles R. Breyer presiding, or any judge who shall succeed him as the  
13 presiding judge in this Action.

14 **1.9** "*Effective Date*" means one business day following the later of: (i) the date upon  
15 which the time expires for filing or noticing any appeal of the Judgment, (ii) if there is an appeal or  
16 appeals (other than an appeal or appeals solely with respect to attorneys' fees and reimbursement  
17 of expenses), the date of completion, in a manner that finally affirms and leaves in place the  
18 Judgment without any material modification, of all proceedings arising out of the appeal or appeals  
19 (including, but not limited to, the expiration of all deadlines for motions for reconsideration or  
20 petitions for review and/or certiorari, all proceedings ordered on remand, and all proceedings  
21 arising out of any subsequent appeal or appeals following decisions on remand), or (iii) the date of  
22 final dismissal of any appeal or the final dismissal of any proceeding on certiorari with respect to  
23 the Judgment.

24 **1.10** "*Fairness Hearing*" means the hearing before the Court where the Parties will  
25 request that the Judgment be entered by the Court finally approving the settlement as fair,  
26 reasonable, and adequate and approving the Fee Award and any incentive awards to the Class  
27 Representative.

1           **1.11**    “*Fee Award*” means the amount of attorneys’ fees and reimbursement of costs  
2 approved and awarded by the Court to Class Counsel.

3           **1.12**    “*Judgment*” means the order of final judgment, described in Section 8.3 of this  
4 Agreement, to be entered by the Court finally approving this Agreement, without material  
5 modifications that are unacceptable to the Parties, and dismissing the Action with prejudice.

6           **1.13**    “*Notice*” or “*Settlement Class Notice*” means the notice of this proposed Settlement  
7 Agreement and Fairness Hearing, which is to be sent to the putative Settlement Class substantially  
8 in the manner set forth in this Agreement, and that is substantially in the form(s) of Exhibit B  
9 attached hereto.

10          **1.14**    “*Notice Date*” means the date upon which Notice to the Settlement Class is  
11 completed, which shall be no later than 30 days after Preliminary Approval, or such other date as  
12 the Court may order.

13          **1.15**    “*Notice Plan*” means the plan described in Section 4 of this Agreement for  
14 disseminating notice to the Settlement Class of the terms of this Agreement and the Fairness  
15 Hearing.

16          **1.16**    “*Objection/Exclusion Deadline*” means the date by which a written objection to  
17 this Settlement Agreement or a request for exclusion submitted by a Person within the Settlement  
18 Class must be postmarked, which shall be designated as a date no later than forty-five (45) days  
19 after the Notice Date.

20          **1.17**    “*Parties*” means, collectively, Plaintiff Ron Davis and Defendant VISA Inc.

21          **1.18**    “*Person*” means any individual, corporation, trust, partnership, limited liability  
22 company, or other legal entity and their respective predecessors, successors, or assigns.

23          **1.19**    “*Preliminary Approval*” means the Court’s entry of an order preliminarily  
24 approving this Agreement, certifying the Settlement Class for settlement purposes, approving the  
25 form of the Notice and the Notice Plan, and directing that Notice be disseminated to the Settlement  
26 Class in accordance with this Agreement, and scheduling the date for the Fairness Hearing.

27          **1.20**    “*Released Claims*” means any and all claims or causes of action of every kind and  
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1 description (including any causes of action in law, claims in equity, complaints, suits, or petitions)  
2 and any allegations of wrongdoing (including any assertions of liability, debts, legal duties, torts,  
3 unfair or deceptive practices, statutory violations, contracts, agreements, obligations, promises,  
4 promissory estoppel, detrimental reliance, or unjust enrichment) and any demands for legal,  
5 equitable, or administrative relief (including any claims for injunction, rescission, reformation,  
6 restitution, disgorgement, constructive trust, compensatory damages, consequential damages,  
7 penalties, exemplary damages, punitive damages, attorneys' fees, costs, interest, or expenses) that  
8 the Releasing Parties had or have (including assigned claims and "Unknown Claims" as defined  
9 below) that have been or could have been asserted in the Action or in any other action or  
10 proceeding before any court, arbitrator(s), tribunal or administrative body (including any state,  
11 local, or federal regulatory body), in any jurisdiction worldwide, regardless of whether the claims  
12 or causes of action are based on federal, state, or local law, statute, ordinance, regulation, contract,  
13 common law, or any other source, and regardless of whether they are known or unknown, foreseen  
14 or unforeseen, suspected or unsuspected, or fixed or contingent, arising out of, and that are related  
15 in any way to (1) any damage to a Zipcar, (2) the Benefit, (3) the marketing and advertising of the  
16 Benefit (including any claim that the scope of the Benefit was not properly explained by  
17 Defendant), (4) warranties, representations, or omissions regarding or related to the Benefit, or (5)  
18 all claims that were brought, alleged, argued raised, or asserted in the Action.

19       **1.21 "Released Parties"** means Defendant, its respective predecessors, successors,  
20 affiliates, parents, subsidiaries, divisions, departments, and any and all of its past, present, and  
21 future officers, directors, employees, stockholders, partners, servants, retained contractors,  
22 successors, attorneys, representatives, insurers, subrogees, participating financial institutions  
23 (whether issuers or acquirers) in their capacity as such, and assigns of any of the foregoing.  
24 "Released Parties" also means and includes the companies that administer the Benefit (Indemnity  
25 Insurance Company of North America ("IINA") and Allianz Global Assistance) and their  
26 respective predecessors, successors, assigns, parents, subsidiaries, divisions, departments, and any  
27 and all of their past, present, and future officers, directors, employees, stockholders, partners,  
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1 servants, successors, attorneys, representatives, insurers, subrogees, and assigns of any of the  
2 foregoing.

3       **1.22 “Releasing Parties”** means Plaintiff, and those Members of the Settlement Class  
4 who do not exclude themselves from the Settlement Class by the Objection/Exclusion Deadline  
5 (whether or not such Persons submit claims). To the extent a Member of the Settlement Class is  
6 not a natural person, all of its present, former, and future direct and indirect parent companies,  
7 affiliates, subsidiaries, divisions, agents, franchisees, successors, predecessors-in-interest, and all  
8 of the aforementioned present, former, and future officers, directors, employees, shareholders,  
9 attorneys, agents, and independent contractors; and, to the extent any Member of the Settlement  
10 Class is a natural person, any present, former, and future spouses, as well as the present, former,  
11 and future heirs, executors, administrators, representatives, agents, attorneys, partners, successors,  
12 predecessors-in-interest, and assigns of each of them.

13       **1.23 “Request for Exclusion”** is the written communication by or on behalf of a Member  
14 of the Settlement Class in which he, she, or it requests to be excluded from the Settlement Class.

15       **1.24 “Settlement Class”** means all Persons in the United States who (1) maintain a VISA  
16 standard, VISA Rewards, or VISA premium branded credit card offering an automobile rental  
17 collision damage waiver benefit, (2) who, prior to November 6, 2014, made a claim to VISA for  
18 such benefit based on an incident involving a Zipcar (the “Claim”), and (3) whose claims were  
19 denied because the vehicle involved was a Zipcar. Attached hereto as Exhibit C is a list of all  
20 Persons who (based on a review of records maintained by Defendant) qualify as potential members  
21 of the Settlement Class under the definition set forth above. Excluded from the Settlement Class  
22 are the following: (a) all Persons who file timely Requests for Exclusion, (b) all Persons who had  
23 their claims discharged in bankruptcy, finally adjudicated on the merits or otherwise released  
24 against Defendant, (c) the Defendant, IINA, and any respective parent, subsidiary, affiliate, or  
25 control person of either, as well as their officers, directors, agents, servants, or employees, (d) any  
26 judge presiding over this Action, and (e) the immediate family members of any such Person(s).

27       **1.25 “Settlement Class Member” or “Class Member”** means a Person who falls within  
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1 the definition of the Settlement Class as set forth in this Agreement and who has not submitted a  
2 valid Request for Exclusion.

3       **1.26 “Settlement Payment”** means the payments to be made on Approved Claims as  
4 described in Section 2.1 of this Agreement.

5       **1.27 “Unknown Claims”** means claims that could have been raised in this litigation  
6 and that Plaintiff, any Member of the Settlement Class, or any Releasing Party, do not know or  
7 suspect to exist, which, if known by him, her, or it, might affect his, her, or its agreement to release  
8 the Released Parties or the Released Claims or might affect his, her, or its decision to agree, object,  
9 or not to object to the settlement. Upon the Effective Date, Plaintiff, any Member of the  
10 Settlement Class, and any Releasing Party shall be deemed to have, and shall have, expressly  
11 waived and relinquished, to the fullest extent permitted by law, the provisions, rights, and benefits  
12 of Section 1542 of the California Civil Code, which provides as follows:

13                   **A GENERAL RELEASE DOES NOT EXTEND TO**  
14                   **CLAIMS WHICH THE CREDITOR DOES NOT**  
15                   **KNOW OR SUSPECT TO EXIST IN HIS OR HER**  
16                   **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.**

17 Upon the Effective Date, each of the Releasing Parties shall be deemed to have, and shall have,  
18 waived any and all provisions, rights, and benefits conferred by any law of any state, the District of  
19 Columbia, or territory of the United States, by federal law, or principle of common law, or the law  
20 of any jurisdiction outside of the United States, which is similar, comparable, or equivalent to  
21 Section 1542 of the California Civil Code. Plaintiff, the Settlement Class, and the Releasing  
22 Parties acknowledge that they may discover facts in addition to or different from those that they  
23 now know or believe to be true with respect to the subject matter of the Release, but that it is their  
24 intention to finally and forever settle and release the Released Claims, notwithstanding any  
25 Unknown Claims they may have, as that term is defined in this Paragraph.

26       **1.28 “VISA” or “Defendant” or “Settling Defendant”** means Defendant VISA Inc., a  
27 Delaware corporation.

1           **1.29**   “*VISA’s Counsel*” or “*Settling Defendant’s Counsel*” means Matthew D. Powers  
2 of O’Melveny & Myers LLP.

3   **2.     SETTLEMENT RELIEF TO THE CLASS**

4           **2.1    Payment of Claims and the Claims Process.**

5           (a)    Claims Process. For a claim to qualify as an Approved Claim under this  
6 Agreement, the Settlement Class Members making the claim must (1) complete a Claim Form, (2)  
7 sign the Claim Form under penalty of perjury, and (3) mail or email the Claim Form to the address  
8 identified in the Claim Form and Notice, postmarked (or emailed) no later than the Claims  
9 Deadline. In addition, as set forth below in Section 6.3, Defendant shall be entitled to reject Claim  
10 Forms, or any part of a claim for a payment reflected therein, where there is evidence of  
11 duplication, abuse, or fraud; such Claim Forms will not qualify as Approved Claims.

12           (b)    Individual Settlement Payments to Class Members. Each Settlement Class  
13 Member who submits an Approved Claim shall be entitled to a payment, via check, in the amount  
14 of the Claim he, she or it previously submitted for coverage under the Benefit (up to the maximum  
15 amount that was available under the Benefit at the time the Claim was submitted).

16           (b)    Uncashed Checks. All payments issued to Settlement Class Members via  
17 check will state on the face of the check that it will expire and become null and void unless cashed  
18 within ninety (90) days after the date of issuance.

19           **2.2    Other Relief.**

20           (a)    Through April 1, 2015, Defendant shall treat claims involving Zipcars as  
21 covered under the Benefit and shall not deny any claim submitted under the Benefit solely because  
22 the vehicle at issue was a Zipcar. Nothing in this Agreement prohibits Defendant or any other  
23 Released Party from engaging in its normal claims review process and denying claims, where  
24 appropriate, for other reasons.

25           (b)    Nothing in this Agreement prohibits Defendant or any other Released Party  
26 from changing its policies and practices regarding coverage of Zipcar-related claims after April 1,  
27 2015. However, to the extent that Defendant decides not to cover Zipcar-related claims under the  
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1 Benefit, that change to the Benefit's coverage shall be clearly and reasonably communicated to  
2 cardholders covered by the Benefit. The form of such communication shall be left to the discretion  
3 of Defendant. The Parties agree that adding language to the Benefit itself that expressly  
4 communicates that Zipcars will not be treated as covered vehicles under the Benefit shall satisfy  
5 this portion of the Settlement Agreement.

6 **3. RELEASES**

7 **3.1** The obligations incurred pursuant to this Agreement shall be a full and final  
8 disposition of the Action, including any and all Released Claims, as against all Released Parties.

9 **3.2** Upon the Effective Date, the Releasing Parties, and each of them, shall be deemed  
10 to have, and by operation of the Judgment shall have, fully, finally, and forever released,  
11 relinquished and discharged all Released Claims against the Released Parties, and each of them.

12 **4. NOTICE TO THE CLASS**

13 **4.1** Within thirty (30) days after Preliminary Approval of this Agreement, either  
14 Defendant or Class Counsel (or both of them) shall cause the Settlement Class Notice to be  
15 transmitted to each putative Class Member listed on Exhibit C. The Notice shall be transmitted by  
16 U.S. mail and, where possible, by email as well.

17 **4.2** Class Counsel and Defendant may, at their discretion, place a copy of the Notice on  
18 their respective websites. They may also, at their discretion, place the following statement on their  
19 respective websites with a link to a web page Class Counsel will establish that will contain the  
20 Notice, this Agreement, Class Counsel's motion for attorney's fees and other documents pertinent  
21 to the proposed settlement:

22 Proposed Settlement in Davis v. VISA Inc.

23 A proposed settlement has been reached in a class action lawsuit that may  
24 apply to you. The lawsuit concerns whether VISA's Auto Rental  
25 Collision Damage Waiver - Personal benefit (the "Benefit") applies to  
26 Zipcar vehicles. The plaintiff in Davis v. VISA Inc. asserts that VISA  
27 improperly rejected claims made under the Benefit by credit card holders  
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1 who were involved in accidents while driving Zipcars. VISA, on the other  
2 hand, contends that Zipcars were never covered under the Benefit and  
3 maintains that it handled all claims properly. The parties have agreed to  
4 settle the lawsuit to avoid the burden and costs associated with litigation.  
5 You can read more about the lawsuit and proposed settlement here: [add  
6 link]

7 The Parties and their counsel shall limit all other public statements they make about the  
8 Action to saying that the Parties have reached a tentative settlement that requires Court approval  
9 and that details of the settlement are contained in the Notice. The Parties, Class Counsel and  
10 Defendant's Counsel agree that they will make no other statements to the public or the press  
11 (including statements on social media) regarding the Action or this Agreement. Nothing in this  
12 Agreement prohibits Defendant from discussing or promoting the coverage of Zipcar-related  
13 claims under the Benefit, so long as Defendant does not make any statements regarding the Action  
14 or this Agreement (except as set forth above).

15 **4.3 Contents of the Settlement Class Notice.** The Notice shall (i) advise the putative  
16 Settlement Class Members of their rights, including the right to be excluded from or object to the  
17 Settlement Agreement or its terms, (ii) set forth the amount the putative Class Member will receive  
18 if he, she or it does not file a timely Request for Exclusion, and (iii) be in substantially the same  
19 form as the sample Notice(s) attached hereto as Exhibit B.

20 **5. OPT-OUT AND OBJECTIONS**

21 **5.1 Right to Exclusion.** Any putative Member of the Settlement Class may submit a  
22 Request for Exclusion from the settlement at any time on or before the Objection/Exclusion  
23 Deadline. To be valid, any Request for Exclusion must be in writing; identify the case name *Davis*  
24 *v. VISA Inc.*, No. 3:13-cv-5125; state the name, address and telephone number of the Person  
25 seeking exclusion; be physically signed by the Person(s) seeking exclusion; and must be  
26 postmarked on or before the Objection/Exclusion Deadline. Each Request for Exclusion must also  
27 contain a statement to the effect that he, she, or it is a Member of the Class and wishes to be  
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1 excluded for purposes of this settlement. Any requests to be excluded that do not include all of the  
2 foregoing information, that are sent to an address other than that designated in the Notice, or that  
3 are not postmarked within the time specified shall be invalid, and the Persons listed in such a  
4 request shall be Members of the Settlement Class and shall be bound as Settlement Class Members  
5 by the Agreement, if approved. Any Member of the Settlement Class who elects to be excluded  
6 shall not: (i) be bound by any orders or the Judgment; (ii) be entitled to relief under this  
7 Agreement; (iii) gain any rights by virtue of this Agreement; or (iv) be entitled to object to any  
8 aspect of this Agreement. No Person may opt out of the Settlement Class through “mass” or  
9 “class” opt-outs.

10 **5.2 Right to Object.** Any Settlement Class Member may comment in support of or in  
11 opposition to this Agreement or its terms and may do so in writing, in person, or through counsel,  
12 at his or her own expense, to be heard at the Fairness Hearing. Except as the Court may order  
13 otherwise, no Settlement Class Member objecting to the settlement shall be heard and no papers,  
14 briefs, pleadings, or other documents submitted by any such Settlement Class Member shall be  
15 received and considered by the Court unless such Settlement Class Member shall both file with the  
16 Court and serve by mail on Class Counsel and Defendant’s Counsel by the Objection/Exclusion  
17 Deadline a written objection with the caption *Davis v. VISA Inc.*, No. 3:13-cv-5125, that includes:  
18 (i) the Settlement Class Member’s full name and current address, (ii) a statement explaining why  
19 he or she believes himself or herself to be a Member of the Settlement Class, (iii) the specific  
20 grounds for the objection, (iv) all documents or writings that the Settlement Class Member desires  
21 the Court to consider, (v) the name and contact information of any and all attorneys representing,  
22 advising, or in any way assisting the objector in connection with the preparation or submission of  
23 the objection or who may profit from the pursuit of the objection (the “Objecting Attorneys”), and  
24 (vi) a statement indicating whether the objector intends to appear at the Fairness Hearing (either  
25 personally or through counsel). If a Settlement Class Member or any of the Objecting Attorneys  
26 has objected to any other class action settlement where the objector or the Objecting Attorneys  
27 asked for or received any payment in exchange for dismissal of the objection, or any related  
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1 appeal, without any modification to the settlement, then the objection must include a statement  
2 identifying each such case by full case caption. Any Settlement Class Member who fails to timely  
3 file and serve a written objection with the Court and notice of his or her intent to appear at the  
4 Fairness Hearing in accordance with the terms of this paragraph (and as detailed in the Notice)  
5 shall not be permitted to object to this Agreement at the Fairness Hearing, shall be foreclosed from  
6 seeking any review of this Agreement by appeal or other means, and shall be deemed to have  
7 waived his, her, or its objections and be forever barred from making any such objections in the  
8 Action or any other related action or proceeding.

9 **6. SETTLEMENT ADMINISTRATION**

10 **6.1** The Parties shall disseminate the Notice as provided in Section 4 *supra*. To the  
11 extent putative Class Members do not respond to the Notice, the Parties may use reasonable  
12 additional efforts, including contacting Class Members by telephone or email (where available), to  
13 confirm that the non-responding Class Members received the Notice and that they are aware of the  
14 potential benefits available under this Settlement.

15 **6.2** Defendant and the entities that administer the Benefit (IINA and Allianz Global  
16 Assistance) shall maintain reasonably detailed records of their activities performed under this  
17 Agreement and Defendant shall make such records available to Class Counsel upon request.  
18 Defendant shall also provide reports and other information about the administration of this  
19 Agreement to the Court as the Court may require. Without limiting the foregoing, Defendant (and,  
20 at Defendant's election, the entities that administer the Benefit, or such other Persons that  
21 Defendants may designate) shall:

22 (a) Receive Requests for Exclusion from putative Settlement Class Members  
23 and promptly provide to Class Counsel a copy thereof upon receipt. If Defendant receives any  
24 Requests for Exclusion from Settlement Class Members after the Objection/Exclusion Deadline,  
25 Defendant shall promptly provide copies thereof to Class Counsel.

26 (b) Upon request and reasonable notice, make available for inspection by Class  
27 Counsel the Claim Forms and any other documents or correspondence received relating to the  
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1 Settlement Agreement.

2       **6.3** Defendant shall employ reasonable procedures to screen Claim Forms for  
3 duplication, abuse, or fraud, and shall be entitled to reject Claim Forms, or any part of a claim for a  
4 payment reflected therein, where there is evidence of duplication, abuse, or fraud. Defendant shall  
5 also reject a Claim Form that does not contain all requested information necessary to screen the  
6 Claim Form for duplication, fraud, or abuse, after giving the Person submitting the Claim Form a  
7 reasonable opportunity to provide any requested missing information. If Defendant intends to  
8 reject a Claim Form, Defendant shall provide Class Counsel with a written explanation of the basis  
9 for Defendant's rejection of the Claim Form, along with copies of all correspondence between  
10 Defendant and the Class Member who submitted the Claim Form.

11       **6.4** In the exercise of its duties outlined in this Agreement, Defendant shall have the  
12 right to reasonably request additional information from Class Counsel or any Settlement Class  
13 Member.

14       **6.5** Defendant shall make all Settlement Payments by check and mail them to  
15 Settlement Class Members within thirty (30) days after the Effective Date.

16 **7. TERMINATION OF SETTLEMENT**

17       **7.1** Subject to Paragraph 10 below, the Class Representative, on behalf of the  
18 Settlement Class, or Defendant, shall have the right to terminate this Settlement Agreement by  
19 providing written notice of the election to do so ("Termination Notice") to all other Parties hereto  
20 within ten (10) days, of any of the following events: (i) the Court's refusal to grant Preliminary  
21 Approval of this Agreement in any material respect; (ii) the Court's refusal to grant final approval  
22 of this Agreement in any material respect; (iii) the Court's refusal to enter the Judgment in this  
23 Action in any material respect; (iv) the date upon which the Judgment is modified or reversed in  
24 any material respect by the Court of Appeals or the Supreme Court; or (v) the date upon which an  
25 Alternative Judgment, as defined in Section 10.1(d) of this Agreement, is modified or reversed in  
26 any material respect by the Court of Appeals or the Supreme Court. In addition, subject to Section  
27 10 below, Defendant shall have the unilateral right to terminate this Settlement Agreement if more  
28

1 than one-third of the potential members of the settlement class identified on Exhibit C (i.e., 25  
2 potential class members) submit valid Requests for Exclusion. Defendant may or may not exercise  
3 this right in its sole discretion. Defendant shall exercise this right, if at all, by providing a  
4 Termination Notice to all other Parties no later than 10 days after the Objection/Exclusion  
5 Deadline.

6 **8. PRELIMINARY AND FINAL APPROVAL**

7 **8.1** Promptly after the execution of this Agreement, Class Counsel shall submit this  
8 Agreement together with its exhibits to the Court and shall move the Court for Preliminary  
9 Approval of the settlement set forth in this Agreement, appointment of Class Counsel and the  
10 Class Representative, and entry of Preliminary Approval, which order shall set a Fairness Hearing  
11 date and approve the Notice and Claim Form for dissemination in accordance with the Notice Plan.

12 **8.2** At the time of the submission of this Agreement to the Court as described above,  
13 Class Counsel shall request that, after Notice is disseminated to the Settlement Class, the Court  
14 hold a Fairness Hearing and approve the settlement of the Action as set forth herein.

15 **8.3** After Notice is disseminated to the Settlement Class, the Parties shall request that  
16 the Court enter a proposed final judgment. The proposed final judgment will (among other  
17 things):

18 (a) find that the Court has personal jurisdiction over all Settlement Class  
19 Members and that the Court has subject matter jurisdiction to approve this Agreement, including  
20 all exhibits thereto;

21 (b) approve this Agreement and the proposed settlement as fair, reasonable and  
22 adequate as to, and in the best interests of, the Settlement Class Members; direct the Parties and  
23 their counsel to implement and consummate this Agreement according to its terms and provisions;  
24 and declare this Agreement to be binding on, and have *res judicata* and preclusive effect in, all  
25 pending and future lawsuits or other proceedings maintained by or on behalf of Plaintiff and all  
26 other Settlement Class Members, and Releasing Parties;

27 (c) find that the Notice and the Notice Plan implemented pursuant to this  
28



1 Agreement (1) constitute the best practicable notice under the circumstances, (2) constitute notice  
2 that is reasonably calculated, under the circumstances, to apprise the Settlement Class of the  
3 pendency of the Action, their right to object to or exclude themselves from this Agreement and to  
4 appear at the Fairness Hearing, (3) are reasonable and constitute due, adequate and sufficient  
5 notice to all Persons entitled to receive notice, and (4) meet all applicable requirements of the  
6 Federal Rules of Civil Procedure, the Due Process Clause of the United States Constitution and the  
7 rules of the Court;

8 (d) find that the Class Representative and Class Counsel adequately represented  
9 the Settlement Class for purposes of entering into and implementing this Agreement;

10 (e) dismiss the Action (including all individual claims and Settlement Class  
11 claims presented thereby) on the merits and with prejudice, without fees or costs to any party  
12 except as provided in this Agreement and determined by the Court;

13 (f) incorporate the Release set forth above, make the Release effective as of the  
14 date of the Judgment, and forever discharge the Released Parties as set forth herein;

15 (g) permanently bar and enjoin all Settlement Class Members who have not  
16 been properly excluded from the Settlement Class from filing, commencing, prosecuting,  
17 intervening in, or participating (as class members or otherwise) in, any lawsuit or other action in  
18 any jurisdiction based on or arising out of the Released Claims;

19 (h) authorize the Parties, without further approval from the Court, to agree to  
20 and adopt such amendments, modifications, and expansions of this Agreement and its  
21 implementing documents (including all exhibits to this Agreement) as (1) shall be consistent in all  
22 material respects with the final judgment, or (2) do not limit the rights of Settlement Class  
23 Members;

24 (i) without affecting the finality of the final judgment for purposes of appeal,  
25 retain jurisdiction as to all matters relating to administration, consummation, enforcement, and  
26 interpretation of the Agreement and the final judgment, and for any other necessary purpose; and

27 (j) incorporate any other provisions, as the Court deems necessary and just.  
28

1 **9. CLASS COUNSEL’S ATTORNEYS’ FEES AND REIMBURSEMENT OF**  
2 **EXPENSES; INCENTIVE AWARD**

3 9.1 Class Counsel shall make, and Defendant agrees not to oppose, an application for  
4 (1) an award of attorneys’ fees and expenses not exceeding \$57,520.00 (the “Fee Award”) and (2)  
5 a class representative award of \$2,000.

6 9.2 If there have been no objections to the Agreement, Defendant shall pay to Class  
7 Counsel the Fee Award, as determined by the Court, within thirty (30) business days after the date  
8 that the Court enters the Judgment. If there have been objections to the Agreement, then  
9 Defendant shall pay to Class Counsel the Fee Award, as determined by the Court, within thirty  
10 (30) business days after the Effective Date. Payment of the Fee Award shall be made via wire  
11 transfer to an account designated by Class Counsel after providing necessary information for  
12 electronic transfer.

13 **10. CONDITIONS OF SETTLEMENT, EFFECT OF DISAPPROVAL,**  
14 **CANCELLATION, OR TERMINATION**

15 10.1 The Effective Date of this Settlement Agreement shall not occur unless and until  
16 each of the following events occurs and shall be the date upon which the last (in time) of the  
17 following events occurs:

18 (a) This Agreement has been signed by the Parties, Class Counsel and  
19 Defendant’s Counsel;

20 (b) The Court has entered an order granting Preliminary Approval of the  
21 Agreement;

22 (c) The Court has entered an order finally approving the Agreement, following  
23 Notice to the Settlement Class and a Fairness Hearing, as provided in the Federal Rules of Civil  
24 Procedure, and has entered the Judgment, or a judgment substantially consistent with this  
25 Agreement; and

26 (d) The Judgment has become final, as set out above in Section 1.9 (“Effective  
27 Date”), or, in the event that the Court enters an order and final judgment in a form other than that  
28 provided above (an “Alternative Judgment”) and that has the consent of the Parties, such



1 Alternative Judgment becomes final.

2       **10.2** If some or all of the conditions specified in Paragraph 10.1 are not met, or in the  
3 event that this Agreement is not approved by the Court, or the settlement set forth in this  
4 Agreement is terminated or fails to become effective in accordance with its terms, then this  
5 Agreement shall be canceled and terminated subject to Paragraph 10.3 unless Class Counsel and  
6 Defendant's Counsel mutually agree in writing to proceed with this Agreement. If any Party is in  
7 material breach of the terms hereof, any other Party, provided that it is in substantial compliance  
8 with the terms of this Agreement, may terminate this Agreement on notice to all Parties.  
9 Notwithstanding anything herein, the Parties agree that the Court's decision as to the amount of the  
10 Fee Award set forth above, regardless of the amount awarded, shall not prevent the Agreement  
11 from becoming effective, nor shall it be grounds for termination.

12       **10.3** If this Agreement is terminated or fails to become effective for the reasons set forth  
13 in Paragraphs 7.1, 10.1, or 10.2 above, the Parties shall be restored to their respective positions in  
14 the Action as of the date of the signing of this Agreement. In such event, any Judgment or other  
15 order entered by the Court in accordance with the terms of this Agreement shall be treated as  
16 vacated, *nunc pro tunc*, and the Parties shall be returned to the *status quo ante* with respect to the  
17 Action as if this Agreement had never been entered into.

18 **11. MISCELLANEOUS PROVISIONS**

19       **11.1** The Parties shall request that the Court stay all pending case deadlines.

20       **11.2** The Parties (a) acknowledge that it is their intent to consummate this Agreement;  
21 and (b) agree, subject to their fiduciary and other legal obligations, to cooperate to the extent  
22 reasonably necessary to effectuate and implement all terms and conditions of this Agreement and  
23 to exercise their reasonable best efforts to accomplish the foregoing terms and conditions of this  
24 Agreement. Class Counsel and Defendant's Counsel agree to cooperate with one another in  
25 seeking entry of an order granting Preliminary Approval of this Agreement, as well as entry of the  
26 Judgment, and promptly to agree upon and execute all such other documentation as may be  
27 reasonably required to obtain final approval of the Agreement.

1           **11.3** The Parties intend this Agreement to be a final and complete resolution of all  
2 disputes between them with respect to the Released Claims by Plaintiff and the Settlement Class,  
3 and each or any of them, on the one hand, against the Released Parties, and each or any of the  
4 Released Parties, on the other hand.

5           **11.4** The Parties have relied upon the advice and representation of counsel, selected by  
6 them, concerning their respective legal liability for the claims hereby released. The Parties have  
7 read and understand fully the above and foregoing agreement and have been fully advised as to the  
8 legal effect thereof by counsel of their own selection and intend to be legally bound by the same.

9 Whether or not the Effective Date occurs or this Agreement is terminated, neither this Agreement  
10 nor the settlement contained herein, nor any act performed or document executed pursuant to or in  
11 furtherance of this Agreement or the settlement:

12           (a) is, may be deemed, or shall be used, offered or received against the Released  
13 Parties, or each or any of them, as an admission, concession or evidence of, the validity of any  
14 Released Claims, the truth of any fact alleged by Plaintiff, the deficiency of any defense that has  
15 been or could have been asserted in the Action, the violation of any law or statute, the  
16 reasonableness of the settlement amount or the Fee Award, or of any alleged wrongdoing, liability,  
17 negligence, or fault of the Released Parties, or any of them, or of the ability or suitability of  
18 certifying a class outside the context of settlement;

19           (b) is, may be deemed, or shall be used, offered or received against Defendant  
20 as an admission, concession or evidence of any fault, misrepresentation or omission with respect to  
21 any statement or written document approved or made by the Released Parties, or any of them;

22           (c) is, may be deemed, or shall be used, offered or received against Plaintiff or  
23 the Settlement Class, or each or any of them, as an admission, concession or evidence of, the  
24 infirmity or strength of any claims raised in the Action, the truth or falsity of any fact alleged by  
25 Defendant, or the availability or lack of availability of meritorious defenses to the claims raised in  
26 the Action;

27           (d) is, may be deemed, or shall be used, offered or received against the Released  
28



1 Parties, or each or any of them, as an admission or concession with respect to any liability,  
2 negligence, fault or wrongdoing as against any Released Parties, in any civil, criminal or  
3 administrative proceeding in any court, administrative agency or other tribunal. However, the  
4 settlement, this Agreement, and any acts performed and/or documents executed in furtherance of  
5 or pursuant to this Agreement and/or settlement may be used in any proceedings as may be  
6 necessary to effectuate the provisions of this Agreement. If this Agreement is approved by the  
7 Court, any party or any of the Released Parties may file this Agreement and/or the Judgment in  
8 any action that may be brought against such party or parties in order to support a defense or  
9 counterclaim based on principles of *res judicata*, collateral estoppel, release, good-faith settlement,  
10 judgment bar or reduction, or any other theory of claim preclusion or issue preclusion or similar  
11 defense or counterclaim;

12 (e) is, may be deemed, or shall be construed against Plaintiff, the Settlement  
13 Class, or each or any of them, or against the Released Parties, or each or any of them, as an  
14 admission or concession that the consideration to be given hereunder represents an amount equal  
15 to, less than or greater than that amount that could have or would have been recovered after trial;  
16 and

17 (f) is, may be deemed, or shall be construed as or received in evidence as an  
18 admission or concession against Plaintiff, the Settlement Class, or each and any of them, or against  
19 the Released Parties, or each or any of them, that any of Plaintiff's claims are with or without merit  
20 or that damages recoverable in the Action would have exceeded or would have been less than any  
21 particular amount.

22 **11.5** The headings used herein are used for the purpose of convenience only and are not  
23 meant to have legal effect.

24 **11.6** The waiver by one party of any breach of this Agreement by any other party shall  
25 not be deemed as a waiver of any other prior or subsequent breaches of this Agreement.

26 **11.7** All of the exhibits to this Settlement Agreement are material and integral parts  
27 thereof and are fully incorporated herein by this reference.  
28

1           **11.8** This Agreement and its exhibits set forth the entire agreement and understanding of  
2 the Parties with respect to the matters set forth herein and supersede all prior negotiations,  
3 agreements, arrangements, and undertakings with respect to the matters set forth herein. No  
4 representations, warranties, or inducements have been made to any party concerning this  
5 Agreement or its exhibits other than the representations, warranties, and covenants contained and  
6 memorialized in such documents. This Agreement may be amended or modified only by a written  
7 instrument signed by or on behalf of all Parties or their respective successors-in-interest.

8           **11.9** Except as otherwise provided herein, each Party shall bear its own costs.

9           **11.10** Plaintiff represents and warrants that he has not assigned any claim or right or  
10 interest therein as against the Released Parties to any other Person or party and that they are fully  
11 entitled to release the same.

12           **11.11** Each counsel or other Person executing this Agreement, any of its exhibits, or any  
13 related settlement documents on behalf of any party hereto hereby warrants and represents that  
14 such Person has the full authority to do so and has the authority to take appropriate action required  
15 or permitted to be taken pursuant to the Agreement to effectuate its terms.

16           **11.12** This Agreement may be executed in one or more counterparts. All executed  
17 counterparts and each of them shall be deemed to be one and the same instrument. Signature by  
18 digital, facsimile, or in PDF format will constitute sufficient execution of this Agreement.

19           **11.13** This Settlement Agreement shall be binding upon, and inure to the benefit of, the  
20 successors and assigns of the Parties hereto.

21           **11.14** The Court shall retain jurisdiction with respect to implementation and enforcement  
22 of the terms of this Agreement, and all Parties hereto submit to the jurisdiction of the Court for  
23 purposes of implementing and enforcing the settlement embodied in this Agreement.

24           **11.15** This Agreement shall be governed by, and construed and enforced in accordance  
25 with, the laws of the State of California. California law shall govern the interpretation of this  
26 Agreement even if a choice of law analysis under state or federal law would otherwise dictate that  
27 another forum's law be applied.





1 **IT IS SO AGREED TO BY THE PARTIES:**

2 **RON DAVIS,**

3 Dated: November \_\_, 2014

4 \_\_\_\_\_  
Individually and as representative of the Class

5 **VISA INC.**

6 Dated: November 5, 2014

7 By (signature):

8 Name (printed):

9 Its (title):

10 **IT IS SO STIPULATED BY COUNSEL FOR THE PARTIES:**

11  
12 Dated: November \_\_, 2014

**MARSHALL LAW FIRM**

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

15 **CHARLES D. MARSHALL**  
16 Attorney for Plaintiff and the Class

17  
18 Dated: November 6, 2014

**O'MELVENY & MYERS, LLP**

20 BY \_\_\_\_\_


21 **MATTHEW D. POWERS**  
22 Attorney for Defendant VISA Inc.



1 **IT IS SO AGREED TO BY THE PARTIES:**

2  
3 Dated: November 4, 2014

RON DAVIS,

  
Individually and as representative of the Class

VISA, INC.

6 Dated: November \_\_, 2014

By (signature): \_\_\_\_\_

Name (printed): \_\_\_\_\_

Its (title): \_\_\_\_\_

10 **IT IS SO STIPULATED BY COUNSEL FOR THE PARTIES:**

11 Dated: November 5, 2014

MARSHALL LAW FIRM

13  
14 By: 

15 CHARLES D. MARSHALL  
16 Attorney for Plaintiff and the Class

17 Dated: November \_\_, 2014

O'MELVENY & MYERS, LLP

20 BY: \_\_\_\_\_

21 MATTHEW D. POWERS  
22 Attorney for Defendant VISA, Inc.

Ex. A



**SETTLEMENT CLAIM FORM**  
*Davis v. VISA, Inc., Case No. 3:13-cv-5125 (N.D. Cal.)*

**Please read the Notice of Pendency of Class Action and Proposed Settlement (“Notice”) AND all of the following instructions carefully before filling out your Claim Form.**

1. You must submit this claim form to receive any cash benefit from this settlement.
2. Type or print legibly in black or blue ink. You must provide **all** requested information to make a claim.
3. Your claim must be submitted under penalty of perjury by signing the affirmation below.
4. **YOUR CLAIM FORM WILL ONLY BE CONSIDERED IF** you send it (by mail or email) to: \_\_\_\_\_ . Your claim ***MUST*** be sent (if by email) or postmarked (if by mail) ***no later than [DATE]***.
5. Please keep a copy of your completed Claim Form for your records.

**PERSONAL INFORMATION**

Name: \_\_\_\_\_

Business Name (if applicable): \_\_\_\_\_

Street Address: \_\_\_\_\_

Daytime Phone No.: \_\_\_\_\_

City, State, Zip Code: \_\_\_\_\_

Alternate Phone No. (optional): \_\_\_\_\_

Email Address (optional): \_\_\_\_\_

**AFFIRMATION**

I confirm that I made a claim to VISA for damage to a Zipcar vehicle on approximately [DATE] in an amount that was at least [AMOUNT]. I also confirm that, to date, I have not been reimbursed by any other person or entity for the costs associated with that damage.

I swear under penalty of perjury that the information on this claim form is true and correct to the best of my knowledge and belief.

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

**The deadline to submit a claim is [ADD DATE], 2014**

# Ex. B



Name  
Street Address  
City, State Zip Code  
[email address, if available]

Regarding: Zipcar Litigation: Legal Notice of Proposed Settlement and Claim Form

Dear [Name],

This is to advise you that a proposed settlement has been reached in a class action lawsuit that may apply to you. The lawsuit concerns the applicability of a benefit VISA provides to its cardholders that covers damage caused to rental cars under certain circumstances. Specifically, the claims in this class action involve whether VISA's Auto Rental Collision Damage Waiver - Personal benefit (the "Benefit") applies to Zipcar vehicles. ***You are receiving this notice because the parties have identified you as a potential class member.***

According to VISA's records, you are a VISA cardholder who (1) submitted a claim to VISA on approximately [ADD DATE] for damage that was incurred while you were driving a Zipcar, but (2) had that claim denied because the vehicle involved was a Zipcar (as opposed to a traditional rental car). ***If this is correct, you may be entitled to a payment of [\$AMOUNT].***

Included with this [email, letter] is a more detailed summary of the terms of this settlement. ***Please read it carefully.*** You can also see a copy of the actual settlement agreement at [www.marshall-law-firm.com/VISA-Zipcar-Class-Action-Settlement](http://www.marshall-law-firm.com/VISA-Zipcar-Class-Action-Settlement), along with a copy of the complaint and other materials related to this litigation (such as the plaintiff's motion for preliminary approval of the settlement agreement).

If you do nothing, you will remain part of the settlement class (and will release your claims) but will not receive any payment. ***So it is very important for you to submit a claim form no later than [DATE] if you believe you are entitled to payment.*** To submit a claim, just fill out the enclosed form, sign it, and send it back to VISA. You can submit the claim by U.S. mail, just put the completed form in the enclosed envelope and mail it to VISA at [add address]. Or, if you prefer, you can send in your claim form by email—simply scan a copy of the completed, signed form and email the form to [ADD EMAIL ADDRESS].

[NAME OF ADMINISTRATOR]  
[ADD ADDRESS]  
[PHONE NUMBER]  
[EMAIL ADDRESS]

**Notice of Pendency and Proposed Settlement of Class Action**

**If your claim against VISA’s Auto Rental Collision Damage Waiver - Personal benefit was denied because the vehicle was a Zipcar, a pending class action lawsuit may affect your rights.**

This is to advise you that a proposed settlement has been reached in a class action lawsuit (*Davis v. VISA*, U.S. District Court for the Northern District of California, Case No. 3:13-cv-5125, or the “Lawsuit”) that may apply to you. Specifically, the claims in this class action involve whether VISA’s Auto Rental Collision Damage Waiver - Personal benefit (the “Benefit”) applies to Zipcar vehicles. *You are receiving this notice because the parties have identified you as a potential class member.*

Your rights may be affected by the Lawsuit and the proposed settlement discussed in this court-authorized notice (the “Notice”). This Notice is to inform you of the conditional certification of a settlement class, the nature of the claims at issue, your right to participate in or exclude yourself from the class, and the effect of exercising your various options. You are not being sued.

This Notice is a summary of the terms of the parties’ settlement. The complete terms of the settlement are set out in the Settlement Agreement available at [www.marshall-law-firm.com/VISA-Zipcar-Class-Action-Settlement](http://www.marshall-law-firm.com/VISA-Zipcar-Class-Action-Settlement).

Your legal rights and options—and the deadlines to exercise them—are explained in this Notice. Your legal rights may be affected whether you act or do not act. Please read this Notice carefully.

**YOUR LEGAL RIGHTS AND OPTIONS:**

<i>YOU MAY:</i>		<i>DUE DATE</i>
<b>FILE A CLAIM FORM</b>	This is the <u>only</u> way to get cash reimbursement.	<b><i>Postmarked by [90 days after Fairness Hearing]</i></b>
<b>EXCLUDE YOURSELF</b>	Write to [name, address] if you do not want to benefit from or be bound by this settlement.	<b><i>Postmarked by [45 days after date notice mailed]</i></b>
<b>OBJECT</b>	File an objection with the Court if you are not satisfied with the settlement.	<b><i>Postmarked by [45 days after date notice mailed]</i></b>
<b>DO NOTHING</b>	If you do nothing, you will be bound by the settlement, if it is approved.	



## 1. Why did the Court issue this notice?

This Notice is given to inform you that (1) a class action lawsuit is pending in the U.S. District Court for the Northern District of California, entitled *Davis v. VISA, Inc.*, Case No.3:13-cv-5125; (2) you may be a class member; (3) the parties have proposed to settle the Lawsuit; (4) the proposed settlement may affect your legal rights; and (5) you have a number of options.

## 2. What is this Lawsuit about?

The lawsuit concerns the applicability of a benefit VISA provides to its cardholders covering damages caused to rental cars under certain circumstances. Specifically, the claims in this class action involve whether the Benefit applies to Zipcar vehicles.

The plaintiff in the lawsuit asserts that VISA improperly rejected claims made under the Benefit by credit card holders who were involved in accidents while driving Zipcars. VISA, on the other hand, contends that Zipcars were never covered under the Benefit and maintains that it handled all claims properly. The parties have agreed to settle the lawsuit to avoid the burden and costs associated with litigation.

## 3. How do I know if I am part of the Settlement Class?

The proposed settlement class (the "Settlement Class") includes: all Persons in the United States who (1) maintain a VISA standard, VISA Rewards, or VISA premium branded credit card offering an automobile rental collision damage waiver benefit, (2) who, prior to November 6, 2014, made a claim to VISA for such benefit based on an incident involving a Zipcar (the "Claim"), and (3) whose claims were denied because the vehicle involved was a Zipcar.

In other words, if you made a claim under the Benefit for damage to a vehicle but had that claim denied because the vehicle involved was a Zipcar, then you are a class member (unless you timely exclude yourself from the class as set out below).

## 4. What are the reasons for the settlement?

The Court has not decided in favor of either party. Instead, both sides agreed to a settlement that they believe is a fair, reasonable, and adequate compromise of their respective positions. The parties reached this agreement only after protracted negotiations, multiple exchanges of information, and independent consideration of the risks and benefits of settlement.

## 5. What does the settlement provide?

**Benefits.** In return for the relief described below, the members of the Settlement Class will give up rights to sue VISA and certain related entities (the "Released Parties") for claims related to the benefit (see below).



**A. PAYMENT OF DENIED BENEFIT CLAIMS AT 100% OF BENEFIT ALLOWED**

Each Settlement Class member who submits an Approved Claim will receive a payment, via check, of the amount of the Claim that was previously denied (up to the maximum amount available under the Benefit at the time the claim was made, which was either \$500 or \$750, depending on when the Settlement Class Member signed up for Zipcar and on the date that the Claim was submitted).

**To get a payment under the Settlement, you must fill out and send a completed Claim Form postmarked on or before \_\_\_\_\_ . A Claim Form was included with this notice. Please refer to the Claim Form itself for further details.**

**B. VISA WILL TREAT ZIPCARS AS COVERED BY THE BENEFIT THROUGH AT LEAST APRIL 1, 2015.**

As part of the Settlement, through April 1, 2015, VISA will treat claims involving Zipcars as covered under the Benefit and has agreed not to deny any claim submitted under the Benefit solely because the vehicle at issue was a Zipcar. However, nothing in this Agreement prohibits VISA or any other Released Party from engaging in its normal claims review process and denying claims, where appropriate, for other reasons. In addition, the Settlement Agreement allows VISA and the released parties to change their policies and practices regarding coverage of Zipcar-related claims *after* April 1, 2015.

**Release.** Unless you exclude yourself from the Settlement Class, approval of this settlement will result in a release by you of claims against the “Released Parties” (which includes VISA and the companies that administer the Benefit, Indemnity Insurance Company of North America (“IINA”) and Allianz Global Assistance) that are related in any way to (1) any damage to a Zipcar, (2) the Benefit, (3) the marketing and advertising of the Benefit (including any claim that the scope of the Benefit was not properly explained by VISA), (4) warranties, representations, or omissions regarding or related to the Benefit, or (5) all claims that were brought, alleged, argued raised, or asserted in the Action.

Please see the Settlement Agreement for a more complete explanation of both the release and the people and entities that are included in the “Released Parties.”

**Proposed Payment to Plaintiff Ron Davis.** Class Counsel has requested a payment to the class representative Ron Davis, not to exceed \$2,000. Defendant has agreed not to oppose this request. This payment will not reduce any benefits recoverable by members of the Settlement Class.

The information set out above is a summary of the settlement. The complete terms of the settlement are in the Settlement Agreement, which is available at [www.marshall-law-firm.com/VISA-Zipcar-Class-Action-Settlement](http://www.marshall-law-firm.com/VISA-Zipcar-Class-Action-Settlement).

**6. Do I have a lawyer in the case?**

The Court appointed the following counsel for the class (“Class Counsel”): Charles D. Marshall, Marshall Law Firm, 2121 N. California Blvd., Suite 290, Walnut Creek, CA 94596. The Marshall Law Firm may be reached at (925) 575-7105 and more information about the firm may be found at [www.marshall-law-firm.com](http://www.marshall-law-firm.com).

**7. How will the lawyers for the Settlement Class be paid?**

If the Court approves the Settlement, the Court will also determine what amount of attorney fees and expenses should be paid to Class Counsel for their representation of Plaintiff and the putative class in this Lawsuit.



Payment of attorney fees and expenses to Class Counsel will not reduce any benefit available to you as part of the settlement. Defendant has agreed to pay Class Counsel an amount to be fixed by the Court as reasonable attorney fees and expenses, as long as the amount does not exceed \$57,520.00.

## 8. What happens if I do nothing after receiving this notice?

If you do nothing and the Court approves the settlement, you will be bound by the terms of the settlement and give up any claims you have relating to the Benefit against VISA or the other Released Parties. (Please see the Settlement Agreement for a more complete explanation of both the release and the people and entities that are included in the “Released Parties.”)

**If you are eligible for relief under this settlement, you must complete and submit a Claim Form postmarked no later than [date], or your claim will not be considered.**

## 9. What does it mean to request exclusion from the Settlement Class?

If you have received this notice, you may be a member of the Settlement Class and, if so, will be bound by the settlement (if the Court approves it) unless you exclude yourself from the Settlement Class (also known as “opting out”). Persons who exclude themselves from the Settlement Class will not be bound by the terms of the settlement and will not be eligible to receive any benefits from the settlement, but they will retain the right to sue the Released Parties if they wish (at their own cost).

You cannot exclude yourself from the Settlement Class and the proposed settlement if you wish to object to the settlement (see Sections 11 and 12), as you need to be a member of the Settlement Class to object.

## 10. How do I request exclusion?

You may exclude yourself from the Settlement Class provided that your request is made in writing and postmarked before [date]. To exclude yourself, send a letter that includes (a) the name of the case (*Davis v. Visa, Inc.*, No. 3:13-cv-5125), (b) your name, current address, telephone number, and signature, (d) provide a clear statement communicating that you elect to be excluded from the settlement. Your written request to exclude yourself from the settlement must be sent to [ADDRESS OF ADMINISTRATOR].

You will only be excluded from the settlement if your request is *postmarked* on or before [date], and includes the required information.

In determining whether you want to exclude yourself from the settlement, you are advised to consult your own attorney, as there may be issues particular to your circumstances that require consideration.

## 11. Can I object to the settlement?

If you are a Class Member, you can object to the settlement. To object, you must send a letter to the Court and: (a) set forth your full name, current address and telephone number; (b) state that you understand that you are a Settlement Class Member (*see* Section 3, above) and that you have not requested exclusion from the Settlement Class; (c) set forth a complete statement of all legal and factual reasons for any objection that you wish to assert; and (d) provide copies of any documents that you want the Court to review.

You must send your objection before [date] to **all three** of the following (1) the Clerk of the Court for the United States District Court, Northern District of California, 450 Golden Gate Avenue, 16th Floor, San



Francisco, California 94102; (2) Class Counsel—Charles D. Marshall, Marshall Law Firm, 2121 N. California Blvd., Suite 290, Walnut Creek, CA 94596; and (3) Defense Counsel—Matt Powers; O’Melveny & Myers LLP, Two Embarcadero Center, 28th Floor, San Francisco California 94111.

**If your objections do not meet all of the requirements set forth in this section, they may be deemed invalid and overruled.**

## **12. When and where will the Court determine whether to approve the settlement?**

The Court has scheduled a Fairness Hearing at [time] on [date], 2015, at the U.S. District Court for the Northern District of California, 450 Golden Gate Avenue, Courtroom 11, 17<sup>th</sup> Floor, San Francisco, CA 94102. This hearing may be continued or rescheduled by the Court without further notice. At this hearing, the Court will consider whether the settlement is fair, reasonable, and adequate and will consider Class Counsel’s request for attorneys’ fees and expenses. The Court will also consider objections and may grant permission for objectors to speak. The Court may decide these issues at the fairness hearing or take them under consideration. We do not know how long these decisions will take.

## **13. Do I have to come to the hearing?**

No. You are not required to come to the hearing but you are welcome to come at your own expense.

Settlement Class Members who object to the proposed settlement do not need to attend the Fairness Hearing for their objections to be considered. If you wish to appear either personally or through your own attorney at the settlement hearing, you must send both a timely objection and a notice of intention to appear to the Clerk of the Court at the address set forth in Section 11 above, and serve copies on counsel for the Settlement Class and counsel for Defendant at the addresses set forth in Section 11 above no later than [date].

Your notice of intention to appear must include copies of any papers, exhibits, or other evidence that you or your counsel will present to the hearing.

## **14. How do I get more information about the settlement?**

This Notice only summarizes the proposed settlement. The official Settlement Agreement is available at [www.marshall-law-firm.com/VISA-Zipcar-Class-Action-Settlement](http://www.marshall-law-firm.com/VISA-Zipcar-Class-Action-Settlement), or by visiting the public files for the United States District Court for the Northern District of California.

Further notices regarding this litigation may be posted at [www.marshall-law-firm.com/VISA-Zipcar-Class-Action-Settlement](http://www.marshall-law-firm.com/VISA-Zipcar-Class-Action-Settlement). Please check that website periodically, as information posted may affect your legal rights. If you have any questions, visit [www.marshall-law-firm.com/VISA-Zipcar-Class-Action-Settlement](http://www.marshall-law-firm.com/VISA-Zipcar-Class-Action-Settlement), or contact Class Counsel (Charles D. Marshall) at 2121 N. California Blvd., Suite 290, Walnut Creek, CA 94596; [cdm@marshall-law-firm.com](mailto:cdm@marshall-law-firm.com); (925) 575-7105.

Please do not contact the Court regarding this settlement.

By order of [date], Judge Charles R. Breyer.



# Ex. C

Cardholder Name
Huang,Joan
Quek,Queeseng
Howell,Eve
Baum,Jeffrey
Hermesen,Alexander
King,James
Kehler,Blake
Jahns,Christopher
Lamb,Justin
Slack,Keith
Cote,Daniel
Lee,Henry
Engels,Jennifer
Strange,Elizabeth
Till,Brit
Kolluru,Bheemasank
Zimmerman,Thomas
Callahan,Joanne M.
Popat,Mitesh
Knapp,Mary
Tam,Marcel
Aicahmed,Abdelilah
Murugan,Ganesh
Hepburn,Mary
Schleifer,Dan
Lee,B.
Huang,Chien Tien
Cane,Barbara
Dolinsky,Jason
Baum,Betsy
Mayer,Jonathan
Shepston,Shauna Kristal
Yuan,Tom
Alexander,Betty
Weissman,Suzanne
Rinzler,Michael
Liou,Vanessa
Jia,Tianxia
Hattori,Andrew
Grace,Joseph
Stanco,Frank
Mohamed,Ahlan
Eytan,Ted
Schwarz,Aaron
Zhu,Min



Dillon,Julia
Curson,Julie P.
Parker,Emily A
Magraw,Kim
Gee,Nancie
Collett,Margo
Owen,Laura
Iyer,Vijay
Shaw,Thomas Joseph
Dodson,Alexander
Robert,Fanny
Frederick,Jeffrey
Kennedy,John
Shafer,Jeff
Andino,Alfredo
Hinata,Satomi
Nemcow,Ella
Friedman,Moshe
Loiselle,Courtenay Y
McKenzie,Lauren
Farkas,Zev
Biener,Melina
Wen,Bo
Thakur,Nishil S
Jeavons,Jessica
Joseph,Krishna
Goldberg,David
Luu,Josephine
Kirk,Ashley
Logue,Jenna E
Yuen,Helen
Kim,Young Hoon
Xu,Min
Cordero,Deivis
Gary,Jordan I
Arey,Kalyan
Ranadive,Amogh
Sverdlov,Evgenii
Raghavan,Sesh
Nachamkin,Erica
Wysocki,David
Sivaloganathan,Aravanan
Forsyth-Lovell,Elizabeth
Mui,Ken
Chiong,Cythnia
Bell-Walker,Maggie
Zhu,Siyu

Subba Rao, Sanjay
Vanderpuije, Curtis
Hall, Nathalie
Johnson, Ronald
Larsson, Lowell
Cheng, Daphne R.
Tran, Coleen
Rodriguez-Castillo, Sergio
Hoffman, Ruth Carlisle
Fagan, Leeanne
Barnard, Lucy
Subramanian, Narendran
Sporik, Sarah
Caldora, Beverly
Haggerty, Margaret
Reeves, Elizabeth
Bugayong, Ron
Woods, Michael
Xie, Ying Kang
Mattisson, Nils
Mohan, Avinash
Hoban, Joseph M
Duraisamy, Balamurugan
Matai, Ankita
Chevalier, Timothy J
Lannert, Kerry W
Nugent, Joseph
Zhou, Xizhou
Colquhoun, Edward Earl
Gimpel, William
Hirsch, Elizabeth
Silberman, Shlome
Lee, Therese
Naratajan, Karthikeya
Bernstam, Tikhon M
Smith II, Brian R
Mooney, Kyle W
Zhu, Xu
Hadley, Brandon
Sun, Grace
Madduri, Parimalram
Chan, Ka
Irmeler, Trevor
Okolish, Alex
Elanjezhian, Shivasenthil
Shah, Priyanka
Slater, Gabriel



McGill,Cherie Lynn
Webster,Nelson
Ruberg,Jeffrey
Biberstein,Peter
Nemec,Rebecca Lynn
Anzalone,Joseph C
Vladinska,Velina
Brook,Stacey L
Dengler,Evan
Naveed,Ali
Calmat,Stephane G
Stickles,Peter
Richardson,Pearl
Sundaram,Sivakumar
Rottner,Lauren
Curtis,Andrew
Ferguson,John-Paul
Harris,Anthony
Kinger,Ayan
Faraci,Daniel
Kafoury,Stephen
Hernandez,Josias
Barrera,Xavier
Senecal,Hoiyan
Hedjazi Moghari,Mehdi
Wong,Paula
Ng,Jia
Kadiyala,Bharadwaj
Yi,Joseph
Bennett,Julie
Griffith,David M
Patterson,Susan
Li,Shaw
Mbogi,Jules
Pelkey,Jenna
Liu,Barbara
Thottungal,Jamie
Yee,Monita
Lin,Shuoyuan
Pathania,Divya
Brothers,Bridgette
Moody,Jeremy
Phillips,Malcolm
Ferrer,Nina Elizabeth
Bujeker,Ryan
Turaga,Nitesh
Klingensmith,Gail

Fekete, Moshe
Johnson, Derek A
Nash, Cynthia K
Andersson, Henrik
O'higgins, Tadhg
Ling, Jiayin
Chang, Fu T
Kornbluh, Yoel
Qian, Eric
Bryan, Crystal
Bueide, Eric
Gulati, Radhika
Agarwal, Ritesh
Gong, Wenfeng
Law, Casey Thomas
Yang, Sizhao
Johnsen, Gregory
Rheaume, A Jamie
Yang, Jae
Kajjam, Dinesh
Rutner, Seth
Richardson, Anastasia
Simon, Adam
Dolan, Sean
Barnard, Monica Elizabeth
Thompson, Tess A
Chinnaswamynaidu, Pradeep
Olsen, Daniel F.
Davis, Nathan
Phelps, Mariah
Poon, Kinlok
Urowsky, Robert
Bloom, Michael
Choi, Junginn
Gosson, Grace
Martin, Chad
Krishnamoorthy, Senthilkumar
Wang, Lin
Mayr, Gisbert
Hessney, Jonathan
Yong, Kin F.
Begay, Megan
Kumar, Charanya
Shukla, Raj
Whiting, Audrey
Kostelansky, David
Amiram, Tal



Cai,Diana
Yim,Anais W
Clifford,Deborah
Naous,Jad
Arthur,Robert
Hovhannisyan,Hayk
Espinoza-Toro,Carlos
Juvvadi,Sridhaman
Hruby,Gregory W.
Nava,Jacqueline
Swanson,Nina
Samstein,Robert