UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

IN RE HUT 8 CORP. SECURITIES LITIGATION	Case No. 1:24-cv-00904-VM CLASS ACTION
THIS DOCUMENT RELATES TO: ALL ACTIONS	

PLAINTIFF'S MEMORANDUM OF LAW IN SUPPORT OF UNOPPOSED MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT

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Pursuant to Fed. R. Civ. P. 23(e), Lead Plaintiff Abhishek Maheshwari ("Plaintiff"), individually and on behalf of all Settlement Class Members, respectfully submits this memorandum of law in support of his unopposed motion seeking: (i) preliminary approval of the proposed Settlement set forth in the Stipulation and Agreement of Settlement dated June 18, 2026; (the "Stipulation")[1] (ii) preliminary certification of the proposed Settlement Class; (iii) approval of the form and manner of giving notice of the proposed Settlement to the Settlement Class Members; and (iv) a date for a final settlement fairness hearing (the "Settlement Hearing") and deadlines for the mailing and publication of the Notice, Settlement Class Member objections and exclusion requests, the filing of Plaintiff's motion for Final Approval of the Settlement, and the filing of Lead Counsel's application for an award of attorneys' fees, reimbursement of Litigation Expenses, and a compensatory award to Plaintiff.

I. PRELIMINARY STATEMENT

Plaintiff achieved a highly favorable resolution of this litigation. The proposed Settlement will resolve all claims against Defendants in exchange for a cash payment of $2,350,000 (the "Settlement Amount") for the benefit of the Settlement Class. Although certain of Plaintiff's claims brought under the Securities Act of 1933 (the "Securities Act") survived Defendants' motion to dismiss, Plaintiff still faced the risk of dismissal on the pleadings. After filing their answer, Defendants indicated that they would move for judgment on the pleadings and challenge traceability because pursuant to the merger between Hut 8 Mining Corp ("Legacy Hut") and U.S. Data Mining Group, Inc. d/b/a US Bitcoin Corp ("USBTC"), after which Hut 8 was formed, unregistered shares were issued to Legacy Hut shareholders and commingled with registered shares issued to USBTC shareholders. Thus, Defendants' anticipated motion would argue that it

[1] Unless otherwise defined, all capitalized terms have the same meanings as set forth in the Stipulation, attached as Exhibit 1 to the Declaration of Jeremy A. Lieberman ("Lieberman Decl."), which is filed concurrently herewith. All emphasis is added and all internal quotation marks, citations, and brackets are omitted unless otherwise noted.

is virtually impossible to trace shares purchased in the aftermarket back to the registration statement and prospectus for the Merger. Plaintiff faced the risk of dismissal if this argument were successful. Even if Plaintiff were to prevail on a motion for judgment on the pleadings, Plaintiff would still have to prevail at class certification, summary judgment, trial, and any appeals, which would take years. In contrast, the Settlement provides Plaintiff and the Settlement Class with immediate, certain recovery and represents approximately 19.6% of the total estimated damages, well above the 12.9% median recovery and 14.6% average recovery for cases with only Securities Act claims in 2025. *See* Laarni Bulan & Eric Tam, Securities Class Action Settlements – 2025 Review and Analysis (Cornerstone Research 2026) (Lieberman Decl. Ex. 4), (the "Cornerstone Report"), at 20.

Plaintiff and Lead Counsel were well-informed about the strengths and weaknesses of the claims and defenses in this Action. Before reaching the Settlement through vigorous arms'-length negotiations, Lead Counsel: (i) conducted a comprehensive investigation into Defendants' alleged misconduct, (ii) drafted an amended complaint, (iii) successfully defeated in part Defendants' motion to dismiss, (iv) met and conferred with Defendants about their anticipated motion for judgment on the pleadings, (v) exchanged mediation briefing that addressed the strengths and weakness of Plaintiff's claims, (vi) participated in a full-day, virtual mediation session before Jed D. Melnick, Esq., an experienced JAMS mediator (the "Mediator") who recommended the Settlement Amount, and (vii) negotiated the proposed Settlement. Lieberman Decl. ¶ 4. Thus, for the reasons discussed more fully herein, the Settlement is fair, meets the standard for preliminary approval, and is in the best interests of the Settlement Class.

II. SUMMARY OF THE LITIGATION AND SETTLEMENT

A. Procedural History

The initial complaint was filed in this action on February 7, 2024 (ECF No.1) and a related complaint was filed on March 4, 2024. The two cases were consolidated on March 15, 2024 (ECF No. 9), and the following month, the Court appointed Lead Plaintiff and Lead Counsel (ECF No. 34).

On June 14, 2024, Plaintiff filed the operative Complaint, which asserted claims under Sections 10(b) and 20(a) of the Exchange Act and Sections 11 and 15 of the Securities Act on behalf of persons and entities that purchased or otherwise acquired Hut 8 securities between February 13, 2023 and January 18, 2024. ECF No. 39. Plaintiff's securities fraud claims were based on two categories of alleged misstatements: (1) misrepresentations or omissions concerning energy and internet issues at one of USBTC's digital asset mining sites, the King Mountain joint venture (the "King Mountain JV"); and (2) misrepresentations or omissions about USBTC's dire financial condition before the Merger. *Id.* ¶¶ 61-67, 86-90, 92.

Defendants moved to dismiss the Complaint and the Court denied in part and granted in part the motion on September 12, 2025. ECF No. 57. Specifically, the Court dismissed Plaintiff's Exchange Act claims in their entirety and dismissed the Securities Act claims based on the alleged misrepresentations about USBTC's dire financial condition prior to the Merger. *Id*. at 77. However, the Court sustained Plaintiff's Securities Act claims based on the following alleged misstatements regarding the King Mountain JV:

- "The operation of the grids USBTC relies on, including the . . . [Electrical Reliability Counsel of Texas (ERCOT) grid] . . . subjects USBTC to a variety of risks, including the breakdown and failure of equipment . . . [and] outages affecting information technology systems."
- "USBTC may face risks of Internet disruptions, which could have an adverse effect

on the price of Bitcoin."

Id. at 11-12, 77. Defendants then filed an answer to the Complaint, which erroneously asserted that the Court had dismissed all claims against Shenif Visram with prejudice (ECF No. 60), and the Amended Answer, which clarified that Visram "join[ed] the other Defendants in answering the Complaint" (ECF No. 62).

On December 5, 2025, the Court entered an Amended Civil Case Management Plan and Scheduling Order (ECF No. 66), and, upon the Parties' request, stayed all proceedings on February 4, 2026, so that the Parties could pursue mediation (ECF No. 68). Meanwhile, an action on behalf of Canadian investors asserting related claims was commenced in the Ontario Superior Court of Justice on December 1, 2025, *Duckett v. Hut 8 Corp.*, Case No. CV-25-00757022-00CP (the "Canadian Action").

On May 7, 2026, the Parties participated in a full-day, virtual mediation session with the Mediator. In advance of the mediation, the Parties exchanged opening and reply mediation statements that were accompanied by appendices of exhibits. The session ended without any agreement being reached. Following the mediation session, the Mediator issued a mediator's proposal to resolve the Action for $2,350,000, which the Parties accepted on May 13, 2026. Thereafter, the Parties memorialized their agreement in principle to settle the Action in the Term Sheet and negotiated the terms of the full Stipulation.

B. Summary of the Key Terms of the Proposed Settlement

1. Relief to Settlement Class Members and Release of Claims

Defendants agreed to settle the Action for $2,350,000 in exchange for Plaintiff and the Settlement Class releasing the Released Plaintiffs' Claims against Defendants' Releasees. Stipulation ¶¶ 8-9. The Release expressly excludes claims brought in the related derivative actions. Stipulation ¶ 1(oo). The Settlement Class is limited to persons and entities who

purchased or otherwise acquired Hut 8 securities in the United States or on an exchange based in the United States between February 13, 2024 and January 18, 2024. Stipulation ¶ 1(ss).

2. Notice and Settlement Administration

Within 30 calendar days after entry of the Preliminary Approval Order (Exhibit A to the Stipulation), potential Settlement Class Members will be notified of the proposed Settlement by Postcard Notice (Exhibit A-4 to the Stipulation). Preliminary Approval Order ¶ 13. The Postcard Notice will direct potential Settlement Class Members to the Settlement Website where they can access and download relevant case documents, including, *inter alia*, the Notice of Pendency of Class Action, Proposed Settlement, and Motion for Attorneys' Fees and Litigation Expenses ("Notice") (Exhibit A-1 to the Stipulation) and the Claim Form (Exhibit A-2 to the Stipulation). Preliminary Approval Order ¶ 14. In addition, the Summary Notice will be published in *PR Newswire* within 14 calendar days after the deadline for mailing Postcard Notice. *Id.* ¶ 17.

The Notice describes the terms of the Settlement, the considerations that led Plaintiff and Lead Counsel to conclude that the Settlement is fair and adequate, the Plan of Allocation for distribution of the Settlement proceeds, and the maximum attorneys' fees, Litigation Expenses, and compensatory award to Plaintiff that Lead Counsel intends to seek. Notice at 2, 15. The Notice will also provide the details about the Settlement Hearing, as well as the procedures for objecting to these matters, opting out of the Settlement Class, and submitting claims. *Id.* at 14-17.

The cost of providing notice to the Settlement Class and administering the Settlement (the "Notice and Administration Costs") will be funded by the Settlement Fund. Stipulation ¶ 10. Subject to Court approval, Lead Counsel selected Strategic Claims Services ("SCS"), a nationally recognized class action settlement administrator, to serve as the claims administrator, and negotiated favorable rates for the Settlement Class. *See* Lieberman Decl. ¶¶ 10-11 & Ex. 3.

3. Objections

Any Settlement Class Member who objects to the Settlement or related matters must do so by 21 calendar days before the Settlement Hearing and must send copies of such objections to the Court as well as designated counsel for the Settlement Class and Defendants. Preliminary Approval Order ¶ 25. Any Settlement Class Member who does not file a timely written objection to the Settlement shall be foreclosed from seeking any adjudication or review of the Settlement by appeal or otherwise.

4. Requests for Exclusion

Any Settlement Class Member who wishes to be excluded from the Settlement must do so by written request that includes documentation of their transactions, and such request must be received no later than 21 calendar days before the Settlement Hearing. Preliminary Approval Order ¶ 21. The request for exclusion must be sent to the Claims Administrator.

5. Termination of the Settlement

Hut 8 has the right to terminate the Settlement if Settlement Class Members owning a previously negotiated threshold amount of Hut 8 securities request exclusion from the Settlement Class. Stipulation ¶ 37. The threshold amount is set forth in a separate agreement that will not be filed with the Court unless a dispute arises as to its terms or unless otherwise ordered by the Court. *Id.* In the event the Settlement is terminated or does not become effective for any reason, the Parties will be deemed to have reverted to their respective litigation positions as of May 27, 2026. Stipulation ¶ 42.

6. No Admission of Liability

By entering into the Stipulation, Defendants do not admit liability and continue to deny that they engaged in any misconduct or violated the law or that Plaintiff or the Settlement Class have been damaged. Stipulation ¶ 44.

III. THE PROPOSED SETTLEMENT WARRANTS PRELIMINARY APPROVAL

A. The Standards for Preliminary Approval

In the Second Circuit, there is a "'strong judicial policy in favor of settlements, particularly in the class action context.'" *Wal-Mart Stores, Inc. v. Visa U.S.A. Inc.*, 396 F.3d 96, 116-17 (2d Cir. 2005), *superseded on other grounds*, Fed. R. Civ. P. 23(e)(2), *as recognized in Moses v. N.Y. Times Co.*, 79 F.4th 235, 243 (2d Cir. 2023); *see also In re Prudential Sec. Inc. Ltd. P'ships Litig.*, 163 F.R.D. 200, 209 (S.D.N.Y. 1995) ("there is an overriding public interest in settling," particularly "in class actions"). Thus, courts "should be hesitant to substitute [their] judgment for that of the parties who negotiated the settlement." *Christine Asia Co. v. Yun Ma*, 2019 WL 5257534, at *8 (S.D.N.Y. Oct. 16, 2019).

A class action settlement should be approved if the Court finds it is "fair, reasonable, and adequate." Fed. R. Civ. P. 23(e)(2). Preliminary approval should be granted where "the Court will likely be able to: (i) approve the proposal under Rule 23(e)(2); and (ii) certify the class for [settlement] purposes." *Id.* In determining whether a proposed settlement is fair, reasonable, and adequate, Fed. R. Civ. P. 23(e)(2), which governs final approval, requires courts consider whether:

> (A) the class representatives and counsel have adequately represented the class;
>
> (B) the proposal was negotiated at arm's length;
>
> (C) the relief provided for the class is adequate, taking into account:
>
> i. the costs, risks, and delay of trial and appeal;
>
> ii. the effectiveness of any proposed method of distributing relief to the class, including the method of processing class-member claims;
>
> iii. the terms of any proposed award of attorney's fees, including timing of payment; and

iv. any agreement required to be identified under Rule 23(e)(3);[2] and

(D) the proposal treats class members equitably relative to each other.

These factors do "not displace [the Second Circuit's] traditional *Grinnell* factors, which remain a useful framework for considering the substantive fairness of a settlement." *Moses*, 79 F.4th at 243. Thus, the *Grinnell* factors, set forth below, some of which overlap with Rule 23(e)(3), are still relevant:

> (1) the complexity, expense and likely duration of the litigation; (2) the reaction of the class to the settlement;[3] (3) the stage of the proceedings and the amount of discovery completed; (4) the risks of establishing liability; (5) the risks of establishing damages; (6) the risks of maintaining the class action through the trial; (7) the ability of the defendants to withstand a greater judgment; (8) the range of reasonableness of the settlement fund in light of the best possible recovery; [and] (9) the range of reasonableness of the settlement fund to a possible recovery in light of all the attendant risks of litigation.

City of Detroit v. Grinnell Corp., 495 F.2d 448, 463 (2d Cir. 1974), *abrogated on other grounds by Goldberger v. Integrated Res., Inc.*, 209 F.3d 43 (2d Cir. 2000). As set forth below, the Settlement satisfies all these factors and should be preliminarily approved.

B. The Settlement is Fair, Reasonable, and Adequate

1. Plaintiff and Lead Counsel Adequately Represented the Class

Plaintiff and Lead Counsel satisfy Rule 23(e)(2)(A)'s "[a]dequate representation" requirement, which focuses primarily on the "alignment of interests between class members." *See Wal-Mart*, 396 F.3d at 106-07. "[T]he primary factors are whether the representatives have any interests antagonistic to the interests of other class members and whether the representatives have an interest in vigorously pursuing the claims of the class." *In re Patriot Nat'l, Inc. Sec. Litig*., 828 F. App'x 760, 764 (2d Cir. Oct. 2, 2020) (citing cases).

[2] The Term Sheet, Stipulation and Supplemental Agreement are the only agreements concerning the Settlement entered into by the Parties.

[3] The Court does not yet have the benefit of the Settlement Class's reaction because notice of the proposed Settlement has not yet been sent. Lead Counsel and Plaintiff will update the Court as to the Settlement Class's reaction in connection with their motion for final approval of the Settlement.

Plaintiff and Lead Counsel satisfy these criteria. Plaintiff's interests are fully aligned with the interests of absent Settlement Class Members. Plaintiff's claims (like those of the Settlement Class) concern publicly traded Hut 8 common stock and are based on the same facts and legal theory over the same Class Period. Plaintiff and Lead Counsel "share the common goal of maximizing recovery" for the Settlement Class, so "there is no conflict of interest." *See In re Polaroid ERISA Litig.*, 240 F.R.D. 65, 77 (S.D.N.Y. 2006).

Moreover, Plaintiff and Lead Counsel vigorously litigated this case. Lead Counsel: (i) thoroughly investigated Defendants' alleged misstatements and filed a detailed amended complaint; (ii) consulted with experts regarding damages issues; (iv) partially defeated Defendants' Motion to Dismiss; (v) met and conferred with Defendants regarding Defendants' original answer to the Complaint and regarding traceability; and (vi) participated in mediation, which included exchanging opening and reply briefs that evaluated the strengths and weakness of Plaintiff's claims. *See* Lieberman Decl. ¶ 3. Plaintiff diligently oversaw the Litigation and communicated with Lead Counsel to discuss case developments, including Settlement. Lieberman Decl. ¶ 3; *See also In re EVCI Career Colls. Holding Corp. Sec. Litig.*, 2007 WL 2230177, at *4 (S.D.N.Y. July 27, 2007) (holding "a settlement reached under the supervision of appropriately selected lead plaintiffs is entitled to an even greater presumption of reasonableness").

Plaintiff retained counsel that is highly experienced in securities litigation and who has a long and successful record of advocating for investors in such cases. *See* Lieberman Decl. Ex. 2. Lead Counsel had a clear view of the strengths and risks of the Action and were equipped to evaluate the reasonableness of a potential settlement. *In re NASDAQ Mkt.-Makers Antitrust Litig.*, 187 F.R.D. 465, 474 (S.D.N.Y. 1998) ("great weight" given to counsel's

recommendation). The result of these efforts is an impressive $2.35 million settlement. Accordingly, Plaintiff and Lead Counsel have adequately represented the Settlement Class.

2. The Settlement is the Result of Arm's Length Negotiations

Although the fact that a settlement is negotiated at arm's length no longer gives rise to a presumption of fairness, it does support a settlement's approval. *Moses*, 79 F.4th at 243. Further, a mediator's involvement in settlement negotiations supports the fairness of a settlement. *See In re Facebook, Inc., IPO Sec. & Derivative Litig.*, 343 F. Supp. 3d 394, 408-09 (S.D.N.Y. 2018) (involvement of a third-party mediator supported the settlement was procedurally fair), *aff'd*, 822 F. App'x 40 (2d Cir. 2020). Here, as explained above, the Parties participated in a full-day, virtual mediation session with Mr. Melnick, a respected mediator with substantial experience in complex securities class actions. Lieberman Decl. ¶ 4. In advance of the mediation, the Parties exchanged detailed mediation statements and exhibits that addressed liability and traceability issues. During the mediation, the Parties had candid discussions about the strengths and weaknesses of Plaintiff's claims and Defendants' defenses to those claims. Following the mediation, the Parties agreed to Mr. Melnick's recommendation to settle the Action for $2.35 million. The arm's length nature of the negotiations and Mr. Melnick's involvement as mediator weighs in favor of approval. *See, e.g.*, *Celeste v. Intrusion Inc.*, 2022 WL 17736350, at *4 (E.D. Tex. Dec. 16, 2022) ("The mediator, Jed D. Melnick, had substantial experience mediating complex securities actions, lending further support to the agreement's legitimacy."); *In re China Med. Corp. Sec. Litig.*, 2014 WL 12581781, at *5 (C.D. Cal. Jan. 7, 2014) (similar).

3. The Settlement is an Excellent Result for the Settlement Class

The proposed Settlement provides an excellent result and immediate recovery for the Class, and is fair, reasonable, and adequate considering "the costs, risks, and delay of trial and appeal" and other relevant factors. Fed. R. Civ. P. 23(e)(2)(C)(i). The Settlement must be judged

"not in comparison with the possible recovery in the best of all possible worlds, but rather in light of the strengths and weaknesses of plaintiffs' case." *In re "Agent Orange" Prod. Liab. Litig.*, 597 F. Supp. 740, 762 (E.D.N.Y. 1984), *aff'd*, 818 F.2d 145 (2d Cir. 1987).

a. The Costs, Risks, and Delay of Trial and Appeal Support Approval[4]

This case involves alleged violations of the federal securities laws, and Plaintiff and Lead Counsel believe the claims asserted against Defendants have merit. They acknowledge, however, the expense and length of continued litigation of the claims through trial and appeals, as well as the very substantial risks Plaintiff would face in establishing liability, traceability, and damages. Before the Settlement was reached, Defendants indicated that they intended to move for judgment on the pleadings on the issue of traceability, given that pursuant to the Merger, unregistered shares were issued to certain shareholders and were commingled with registered shares issued to other shareholders. Assuming Plaintiff's claims survived the anticipated motion for judgment on the pleadings, were certified to proceed as a class action under Rule 23 (and not reversed on a Rule 23(f) interlocutory appeal), and survived summary judgment, litigating the Action through trial and post-trial appeals would have undoubtedly been a long and expensive endeavor. Were the litigation to continue, potential recovery—if any—would occur years from now, substantially delaying payment to the Settlement Class. *See In re GSE Bonds Antitrust Litig.*, 414 F. Supp. 3d 686, 693 (S.D.N.Y. 2019) ("Courts favor settlement when litigation is likely to be complex, expensive, or drawn out."). In contrast, the Settlement provides an immediate and substantial recovery for the Settlement Class, without exposing the Settlement Class to the risk, expense, and delay of continued litigation.

[4] This factor overlaps with the following *Grinnell* factors: the complexity, expense, and duration of litigation (first factor) and the risk of establishing liability and damages (fourth and fifth factors).

b. The Other Rule 23(e)(2)(C) Factors Support Approval

Rule 23(e)(2)(C) states that adequacy should be assessed in light of "the effectiveness of any proposed method of distributing relief to the class, including the method of processing class-member claims," "the terms of any proposed award of attorney's fees, including timing of payment," and "any agreement required to be identified under Rule 23(e)(3)." Fed. R. Civ. P. 23(e)(2)(C)(ii)-(iv). Each of these factors supports approval here.

First, the method for processing Settlement Class Members' claims includes well-established and effective procedures. Subject to Court approval, SCS will process claims under Lead Counsel's guidance, allow claimants an opportunity to cure any claim deficiencies or request the Court to review their claim denial, and mail or wire Authorized Claimants their *pro rata* share of the Net Settlement Fund (per the Plan of Allocation) after Court approval. Preliminary Approval Order ¶ 18. Claims processing, like the method proposed here, is standard in securities class action settlements and has been long found to be effective, as well as necessary, insofar as neither Plaintiff nor Defendants possess the individual investor trading data required for a claims-free process. *See In re Advanced Battery Techs., Inc. Sec. Litig.*, 298 F.R.D. 171, 182 n.3 (S.D.N.Y. 2014) ("The use of a combination of a mailed post card directing class members to a more detailed online notice has been approved by courts."); *In re Schering-Plough Corp. Sec. Litig.*, 2009 WL 5218066, at *1, *6 (D.N.J. Dec. 31, 2009) (finding that a settlement notice with a mailing to all class members who could be identified with reasonable effort and publication of a summary notice and over *PR Newswire*, satisfied the requirements of Rule 23 and due process).

Second, as disclosed in the Notice, Lead Counsel will be applying for a percentage of the common fund fee award in an amount not to exceed 33.3% to compensate them for the services they have rendered on behalf of the Settlement Class, with interest at the same rate as the

Settlement Fund. This attorneys' fee request is reasonable and within the range of fee awards in this District. *See, e.g.*, *Enriquez v. Nabriva Therapeutics plc*, No. 19-cv-04183, ECF No. 78 ¶¶ 9, 18 (S.D.N.Y. May 14, 2021) (Marrero, J.) (approving fee award that was one-third of a $3 million settlement); *Pearlman v. Cablevision Sys. Corp.*, 2019 WL 3974358, at *3 (E.D.N.Y. Aug. 20, 2019) ("[I]t is very common to see 33% contingency fees in cases with funds of less than $10 million, and 30% contingency fees in cases with funds between $10 million and $50 million." (quoting *In re Payment Card Interchange Fee & Merch. Disc. Antitrust Litig.*, 991 F. Supp. 2d 437, 445 (E.D.N.Y. 2014))); *In re BioScrip, Inc. Sec. Litig.*, 273 F. Supp. 3d 474, 497 (S.D.N.Y. 2017) (approving 33 1/3% settlement and stating "courts routinely award a percentage amounting to approximately 1/3"), *aff'd sub nom. Fresno Cnty. Emps.' Ret. Ass'n v. Isaacson/Weaver Fam. Tr.*, 925 F.3d 63 (2d Cir. 2019); *Mohney v. Shelly's Prime Steak, Stone Crab & Oyster Bar*, 2009 WL 5851465, at *5 (S.D.N.Y. Mar. 31, 2009) (collecting cases awarding fees over 30% and noting "Class Counsel's request for 33% of the Settlement Fund is typical in class action settlements in the Second Circuit"). Notably, approval of the requested attorneys' fee is separate from approval of the Settlement and the Settlement may not be terminated based on a ruling with respect to attorneys' fees. Stipulation ¶ 18.

Third, the Parties have entered into a confidential agreement that establishes certain conditions under which Hut 8 may terminate the Settlement if Settlement Class Members, who are eligible to participate in the Settlement and collectively purchased more than a previously agreed-upon number of shares of Hut 8's common stock, request exclusion (or "opt out") from the Settlement. The Supplemental Agreement is being kept confidential to avoid incentivizing the formation of a group of opt-outs for the sole purpose of leveraging a larger individual settlement to the detriment of the Settlement Class. "This type of agreement is standard in

securities class action settlements and has no negative impact on the fairness of the Settlement." *Christine Asia*, 2019 WL 5257534, at *15. The Term Sheet, Stipulation, and Supplemental Agreement are the only agreements between the Parties concerning the Settlement.

4. All Settlement Class Members are Treated Equitably Relative to One Another

Here, the proposed Plan of Allocation is fair, reasonable and adequate because it treats Plaintiff and other Settlement Class Members fairly and equally. The Plan of Allocation, which is set out in the Notice, explains how the Settlement proceeds will be distributed among Authorized Claimants. Notice at 8-11. Each Authorized Claimant, including Plaintiff, will receive a *pro rata* distribution pursuant to the formulas for calculating losses. *Id.* at 10. Plaintiff will be subject to the same formulas as all Settlement Class Members for distribution of the Settlement.

The Postcard Notice (Stipulation Ex. A-4) and Notice (Notice at 2, 15) advise potential Settlement Class Members that Lead Counsel intends to request a compensatory award to Plaintiff not to exceed $10,000. Such an award is permitted under the PSLRA. 15 U.S.C. § 77z-1(a)(4); 15 U.S.C. § 78u-4(a)(4). Furthermore, "Courts in this Circuit routinely award such costs and expenses both to reimburse the named plaintiffs for expenses incurred through their involvement with the action and lost wages, as well as to provide an incentive . . . to remain involved in the litigation and to incur such expenses in the first place." *In re Giant Interactive Grp., Inc. Sec. Litig.*, 279 F.R.D. 151, 165-66 (S.D.N.Y. 2011) (awarding $10,000 each to lead plaintiffs); *In re VEON Ltd. Sec. Litig.*, 2026 WL 1450138, at *2 (S.D.N.Y. May 19, 2026) (awarding lead plaintiff $10,000 plus interest); *In re Waste Mgmt. Sec. Litig.*, 2026 WL 440646, at *3-4 (E.D.N.Y. Feb. 17, 2026) (awarding $10,000 to each lead plaintiff).

5. The Remaining *Grinnell* Factors Support Approval

First, the stage of the proceedings favors approval. This factor assesses "whether the parties had adequate information about their claims such that their counsel can intelligently evaluate the merits of plaintiff's claims, the strengths of the defenses asserted by defendants, and the value of plaintiffs' causes of action for purposes of settlement." *In re Bear Stearns Cos. Sec., Deriv., & ERISA Litig.*, 909 F. Supp. 2d 259, 267 (S.D.N.Y. 2012). Here, Plaintiff and Lead Counsel conducted an extensive investigation into the allegations in the Complaint, briefed a motion to dismiss, conducted additional investigation and legal research related to Defendants' arguments concerning traceability raised after the motion to dismiss was decided,[5] consulted a damages expert on the potential damages, exchanged detailed mediation briefs with Defendants, and conducted a full-day mediation session where the Parties discussed the relative strengths and weaknesses of this Action. Lieberman Decl. ¶¶ 3-4. Thus, Plaintiff and Lead Counsel are well-equipped to evaluate Plaintiff's claims.

Second, the risk of maintaining the class action through trial likewise favors approval. When the Parties agreed to the Settlement, no class had been certified. Even if the Court certified the class, there is always a risk that the certified class could be decertified at a later stage in the proceedings. *See Advanced Battery*, 298 F.R.D. at 178 (finding risk of maintaining class action status through trial weighed in favor of approval where class was not yet certified and even if it had been, class certification could always be reviewed).

Third, Defendants' ability to withstand a greater judgment supports approval or is, at best, neutral. Obtaining a judgment would require litigating through class certification, discovery, summary judgment, trial, and appeals, which could exhaust all applicable insurance

[5] While the Parties had not yet exchanged discovery, "[f]ormal discovery is not a prerequisite; the question is whether the parties had adequate information." *In re Glob. Crossing Sec. & ERISA Litig.*, 225 F.R.D. 436, 458 (S.D.N.Y. 2004).

coverage. Regardless, "Courts have recognized that the defendant's ability to pay is much less important than other factors, especially where the other *Grinnell* factors weigh heavily in favor of settlement approval." *In re Metlife Demutualization Litig.*, 689 F. Supp. 2d 297, 339 (E.D.N.Y. 2010).

Fourth, the Settlement Amount is reasonable relative to the maximum possible recovery. The adequacy of the amount offered in settlement must be judged "not in comparison with the possible recovery in the best of all possible worlds, but rather in light of the strengths and weaknesses of plaintiffs' case." *"Agent Orange"*, 597 F. Supp. at 762. The Settlement provides an all-cash payment of $2,350,000 for the benefit of the Settlement Class. This is a significant recovery in light of the risks of continued litigation described herein. Plaintiff's damages expert estimates that if Plaintiff survived a motion for judgment on the pleadings, the class were certified, Plaintiff prevailed at summary judgment and trial, and the Court and jury accepted Plaintiff's damages theory, then the maximum potential damages would be approximately $12.08 million. *See* Lieberman Decl. ¶ 12. Accordingly, the $2,350,000 Settlement represents a recovery of approximately 19.6% of the maximum recoverable damages, which exceeds what Courts in the Second Circuit regularly hold to be reasonable. *See Grinnell,* 495 F.2d at 455 n.2 ("[T]here is no reason . . . why a satisfactory settlement could not amount to a hundredth or even a thousandth part of a single percent of the potential recovery."); *In re China Sunergy Sec. Litig.*, 2011 WL 1899715, at *5 (S.D.N.Y. May 13, 2011) (noting average settlements of securities class actions recover on average 3% to 7% of damages).[6] Further, it exceeds the averages

[6] This damages estimate reflects statutory damages under the Securities Act for the roughly 34.23 million registered shares issued pursuant to the Merger (excluding roughly 10 million registered shares issued to insiders). Under the proposed Plan of Allocation, former USBTC shareholders who received registered shares pursuant to the Merger are eligible to recover. While, as discussed herein, the commingling of unregistered and registered shares issued pursuant to the Merger posed risks for proving traceability for shareholders who purchased on the open market after the Merger closed on November 30, 2023, the proposed Plan of Allocation also deems those shareholders who

reported in a recent study, which indicated that for Securities Act claims in 2025, the median recovery was 12.9% of total estimated damages and the average recovery was 14.6%. *See* Lieberman Decl. Ex. 4 (Cornerstone Report), at 20. Accordingly, the Settlement Amount is more than reasonable in light of the significant risks Plaintiff and the Settlement Class faced in continuing litigation.

IV. THE PROPOSED SETTLEMENT CLASS SHOULD BE CERTIFIED FOR SETTLEMENT PURPOSES

The Second Circuit has long acknowledged the propriety of certifying a class solely for purposes of settlement. *See Weinberger v. Kendrick*, 698 F.2d 61, 73 (2d Cir. 1982). A settlement class, like other certified classes, must satisfy the requirements of Fed. R. Civ. P. 23(a) and (b). *See Denney v. Deutsche Bank AG*, 443 F.3d 253, 270 (2d Cir. 2006). The manageability concerns of Rule 23(b)(3), however, are not at issue for a settlement class. *See Amchem Prods., Inc. v. Windsor*, 521 U.S. 591, 593 (1997) ("Whether trial would present intractable management problems is not a consideration when settlement-only certification is requested.").

Here, the Parties have stipulated to the certification of the Settlement Class for settlement purposes only. Stipulation ¶ 3. The Settlement Class consists of "all persons and entities that purchased or otherwise acquired Hut 8 securities in the United States or on an exchange based in the United States between February 13, 2023 and January 18, 2024, inclusive," subject to certain exceptions for those related to Defendants, those that exclude themselves from the Settlement, and related derivative claims. *Id.* ¶1(ss). As set forth below, the proposed Settlement Class satisfies all applicable requirements of Rule 23(a) and 23(b)(3). Accordingly, Plaintiff requests that the Court certify the Settlement Class defined in the Stipulation for settlement purposes.

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purchased shares of Hut 8 common stock in the open market in the United States or on a U.S. exchange after the Merger closed during the Settlement Class Period to be eligible for recovery.

A. The Settlement Class Satisfies the Requirements of Rule 23(a)

1. Numerosity

The first element of the class certification standard requires that "the class [be] so numerous that joinder of all members is impracticable." Fed. R. Civ. P. 23(a)(1). In securities fraud class actions relating to publicly traded corporations, numerosity "may be satisfied by a showing that a large number of shares were outstanding and traded during the relevant period." *In re Sadia, S.A. Sec. Litig.*, 269 F.R.D. 298, 304 (S.D.N.Y. 2010). Here, the Settlement Class consists of purchasers or acquirers of Hut 8 common stock, which was traded publicly during the Settlement Class Period on the NASDAQ exchange. While Plaintiffs "do[] not know the 'exact' number of class members, [they] estimate[] that there are 'thousands' of investors residing in geographically disparate areas that would be included in the class, thus rendering joinder impracticable." *Rodriguez v. CPI Aerostructures, Inc.*, 2021 WL 9032223, at *8 (E.D.N.Y. Nov. 10, 2021). Accordingly, numerosity is satisfied.

2. Commonality

Securities fraud cases easily meet the commonality requirement, which is satisfied where "putative class members have been injured by similar material misrepresentations and omissions." *In re Pfizer Inc. Sec. Litig.*, 282 F.R.D. 38, 44 (S.D.N.Y. 2012). Here, questions of law and fact regarding Plaintiff's claims are common to the Settlement Class, including whether Defendants' representations were materially misleading. These questions are susceptible to common answers because their resolution does not differ based on the Plaintiff's or class member's identity. Commonality is therefore met. *In re MF Glob. Holdings Ltd. Inv. Litig.*, 310 F.R.D. 230, 236 (S.D.N.Y. 2015) (Marrero, J.).

3. Typicality

Typicality is established where "each class member's claim arises from the same course of events, and each class member makes similar legal arguments to prove the defendant's liability." *Cent. States Se. & Sw. Areas Health & Welfare Fund v. Merck-Medco Managed Care, L.L.C.*, 504 F.3d 229, 245 (2d Cir. 2007). Plaintiff's claims are typical of the Settlement Class because they are based on the same set of alleged misrepresentations and omissions that apply to the Settlement Class as a whole. *See In re Twinlab Corp. Sec. Litig.*, 187 F. Supp. 2d 80, 83 (E.D.N.Y. 2002). Accordingly, typicality is satisfied.

4. Adequacy

As explained *supra* Section III.B.1, Plaintiff and Lead Counsel are adequate representatives. *First*, Plaintiff and the Settlement Class purchased or otherwise acquired Hut 8 common stock during the Settlement Class Period, and they were all injured by the Defendants' alleged materially false or misleading statements and omissions. Plaintiff is highly motivated to recover as much as possible in damages for the Settlement Class in light of his significant losses. *Patriot Nat'l*, 828 F. App'x at 764. Plaintiff's interests do not conflict with the class "given that the class was injured by the same allegedly materially false and misleading statements as [ ] Plaintiff[s]." *Rodriguez*, 2021 WL 9032223, at *9. *Second*, Plaintiff has demonstrated his commitment to this litigation by retaining qualified counsel. *Advanced Battery*, 298 F.R.D. at 181 ("Pomerantz LLP has extensive experience and a stellar reputation in the field of class action and securities litigation."). Thus, adequacy is met.

B. The Settlement Class Satisfies the Requirements of Rule 23(b)(3)

Rule 23(b)(3) authorizes class certification if "the court finds that the questions of law or fact common to class members predominate over any questions affecting only individual members, and that a class action is superior to other available methods for fairly and efficiently

adjudicating the controversy." Fed. R. Civ. P. 23(b)(3). The Settlement Class satisfies these requirements.

1. Common Questions Predominate

Predominance exists where questions capable of common proof are "more substantial than the issues subject only to individualized proof." *Roach v. T.L. Cannon Corp.*, 778 F.3d 401, 405 (2d Cir. 2015). The Supreme Court has explained that predominance is a "test readily met in certain cases alleging . . . securities fraud." *Amchem*, 521 U.S. at 625. Here, there are common questions of law and fact involving violations of the securities laws based on a common course of conduct directed at the entire Settlement Class. These questions predominate over any individualized questions that may exist. *See In re Vivendi Universal, S.A.*, 242 F.R.D. 76, 90 (S.D.N.Y. 2007), *aff'd*, 838 F.3d 223 (2d Cir. 2016).

Furthermore, "manageability concerns" relevant to the predominance inquiry "do not stand in the way of certifying a settlement class." *In re Am. Int'l Grp., Inc. Sec. Litig.*, 689 F.3d 229, 242 (2d Cir. 2012) (*AIG*). That is because "the predominance requirement differs between trial and settlement" in that "with a settlement class, the manageability concerns posed by numerous individual questions [] disappear." *In re Petrobras Sec. Litig.*, 317 F. Supp. 3d 858, 870 (S.D.N.Y. 2018) (quoting *AIG*, 689 F.3d at 241), *aff'd*, 784 F. App'x 10 (2d Cir. 2019); *see also Amchem*, 521 U.S. at 593 (whether trial would present management problems is not a consideration when settlement-only certification is requested "for the proposal is that there be no trial").

2. A Class Action is Superior

Rule 23(b)(3) sets forth non-exhaustive factors to be considered in determining whether class certification is the superior method of litigation: "(A) the class members' interests in individually controlling the prosecution . . . of separate actions; (B) the extent and nature of any

litigation concerning the controversy already begun by . . . class members; (C) the desirability or undesirability of concentrating the litigation of the claims in the particular forum; and (D) the likely difficulties in managing a class action." *See* Fed. R. Civ. P. 23(b)(3). Securities class actions easily satisfy the superiority requirement, because "the alternatives are either no recourse for thousands of stockholders" or "a multiplicity and scattering of suits with the inefficient administration of litigation which follows in its wake." *MF Glob.*, 310 F.R.D. at 239.

Investors who have been defrauded by securities law violations, but whose losses do not run into several millions of dollars, "would have no realistic day in court if a class action were not available." *Phillips Petrol. Co. v. Shutts*, 472 U.S. 797, 809 (1985). It is also desirable to concentrate claims in this Court as it is already familiar with the issues in the case. Finally, because this request for class certification is for settlement purposes only, the Court need not inquire as to whether the case, if tried, would present management problems. *AIG*, 689 F.3d at 242.

C. Lead Counsel Should Be Appointed Counsel for the Settlement Class

A court that certifies a class must also appoint class counsel. *See* Fed. R. Civ. P. 23(g). The Rule directs the Court to consider: "(i) the work counsel has done in identifying or investigating potential claims in the action; (ii) counsel's experience in handling class actions, other complex litigation, and the types of claims asserted in the action; (iii) counsel's knowledge of the applicable law; and (iv) the resources that counsel will commit to representing the class." Fed. R. Civ. P. 23(g)(1)(A). Pomerantz was appointed to serve as Lead Counsel on April 19, 2024 (ECF No. 34) and has vigorously prosecuted the Action on behalf of Plaintiff and the Settlement Class, devoting substantial time, effort, and resources to identifying, investigating, litigating, and settling the claims in this matter. Lieberman Decl. ¶¶ 3-4. Moreover, Lead

Counsel is highly experienced in securities litigation. *Id*. Ex. 2 (Pomerantz firm resume). Lead Counsel's extensive efforts and knowledge of the applicable law weigh strongly in favor of appointment under Rule 23(g).

V. THE COURT SHOULD APPROVE THE PROPOSED FORM AND METHOD OF NOTICE

Class notice of a settlement must meet the requirements of Rules 23(c)(2) and 23(e), the PSLRA, and due process. Under Rule 23(c)(2), the Court "must direct to class members the best notice that is practicable under the circumstances." *Vargas v. Cap. One Fin. Advisors*, 559 F. App'x 22, 26 (2d Cir. 2014). In addition to how it is delivered, the notice "must fairly apprise the prospective members of the class of the terms of the proposed settlement and of the options that are open to them in connection with the proceedings," including the opportunity to opt out of or object to the settlement. *Id.* at 27; *see also Shapiro v. JPMorgan Chase & Co.*, 2014 WL 1224666, at *17 (S.D.N.Y. Mar. 24, 2014). The PSLRA and the Due Process Clause of the United States Constitution impose similar requirements. *See* 15 U.S.C. § 77z-1(a)(7); 15 U.S.C. § 78u-4(a)(7); *Consol. Edison, Inc. v. Ne. Utils.*, 332 F. Supp. 2d 639, 652 (S.D.N.Y. 2004).

Here, the proposed Notice provides detailed information concerning: (1) the proposed Settlement; (2) the rights of Settlement Class Members, including the manner in which objections can be lodged; (3) the nature, history, and progress of the litigation; (4) how to file a Claim Form; (5) the Plan of Allocation; (6) the fees and litigation expenses to be sought by Lead Counsel; and (7) necessary information to examine Court records. Notice at 4-18.

The proposed Notice also informs Settlement Class Members how to request exclusion from the Settlement and clearly states that all those who do not exclude themselves will be bound by the Settlement and Final Judgment. *Id.* at 12, 14-15. Furthermore, the PSLRA-mandated disclosures are satisfied as the Notice: (1) states the amount of the Settlement on both an

aggregate and average per share basis; (2) provides a brief statement explaining the reasons why the Parties are proposing the Settlement, including the Parties' disagreement as to the merits of Plaintiff's claims and the amount of damages; (3) states the amount of attorneys' fees and maximum amount of litigation expenses (both on an aggregate and average per share basis) that counsel will seek; and (4) provides the contact information for the Claims Administrator and Lead Counsel to answer questions from Settlement Class Members. *Id.*; 15 U.S.C. § 77z-1(a)(7); 15 U.S.C. § 78u-4(a)(7).

The Proposed Preliminary Approval Order mandates that Lead Counsel provide Settlement Class Members with notice of the Settlement by mailing the Postcard Notice by first-class mail to Settlement Class Members who can be identified with reasonable effort and publishing the Summary Notice in *PR Newswire*. Preliminary Approval Order ¶¶ 13, 17. The Postcard Notice describes key information about the Settlement and directs Settlement Class Members to the Settlement Website, where potential Settlement Class Members can find the Notice, the Stipulation and exhibits, the Preliminary Approval Order, and the Claim Form, as well as a description of other ways Settlement Class Members can obtain Settlement documents. Stipulation Ex. A-4.

This notice process is standard for securities class action settlements and has been previously approved by Courts both in this District and in others. *See Advanced Battery*, 298 F.R.D. 171 at 182 n.3 ("The use of a combination of a mailed post card directing class members to a more detailed online notice, has been approved by courts."); *Schering-Plough*, 2009 WL 5218066, at *1, *6 (finding that a settlement notice with a mailing to all class members who could be identified with reasonable effort and publication of a summary notice and over *PR Newswire*, satisfied the requirements of Rule 23 and due process). Accordingly, this proposed

program for dissemination of notice to potential Settlement Class Members is "reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections," *Mullane v. Cent. Hanover Bank & Tr. Co.*, 339 U.S. 306, 314 (1950), and the form and manner of providing notice to Settlement Class Members are therefore the best practicable under the circumstances and satisfy due process, Rule 23, and the PSLRA.

VI. PROPOSED SCHEDULE OF EVENTS

Plaintiff proposes the following schedule of events in connection with the Settlement Hearing, as set forth in the Amended Proposed Preliminary Approval Order filed herewith:

Event	Deadline for Compliance
Deadline to mail Postcard Notice and post Notice and Claim Form on Settlement website ("Notice Date")	30 calendar days after entry of Preliminary Approval Order (Preliminary Approval Order ¶¶ 13-14)
Deadline to publish Summary Notice	14 calendar days after Notice Date (Preliminary Approval Order ¶ 17)
Deadline to file papers in support of Settlement, Plan of Allocation, and Lead Counsel's Fee and Expense Application	35 calendar days before the Settlement Hearing (Preliminary Approval Order ¶ 29)
Deadline to request exclusion from the Settlement Class or object to the Settlement	21 calendar days before the Settlement Hearing (Preliminary Approval Order ¶¶ 21, 25)
Deadline to submit Claim Form	120 days after the Notice Date (Preliminary Approval Order ¶ 18(a))
Deadline to file response to any objections or in further support of Settlement, Plan of Allocation, and/or Lead Counsel's Fee and Expense Application	7 calendar days before Settlement Hearing (Preliminary Approval Order ¶ 29)
Deadline to File Proof of Mailing of Postcard Notice and/or emailing of links to the Notice and Claim Form	7 calendar days before Settlement Hearing (Preliminary Approval Order ¶ 16)
Date for Settlement Hearing	No earlier than one hundred (100) calendar days after the Court preliminarily approves the Settlement. (Preliminary Approval Order ¶ 6)

VII. CONCLUSION

For the forgoing reasons, Plaintiff respectfully requests that the Court preliminarily approve the proposed Settlement and enter the Preliminary Approval Order.

Dated: June 22, 2026

Respectfully submitted,

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WORD COUNT CERTIFICATE

Pursuant to Local Civil Rule 7.1(c), I certify that the foregoing document contains 7,617 words, excluding the exempted portions, and that it complies with the applicable word count limitation.

/s/ Jeremy A. Lieberman