Lucas E. Gilmore, Bar No. 250893
Reed Kathrein, Bar No. 139304
HAGENS BERMAN SOBOL SHAPIRO LLP
715 Hearst Avenue, Suite 300
Berkeley, CA 94710
Telephone: (510) 725-3000
Facsimile: (510) 725-3001
Email: lucasg@hbsslaw.com
reed@hbsslaw.com

Attorneys for Lead Plaintiff George Lang

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

In re LUNA INNOVATIONS INCORPORATED SECURITIES LITIGATION

This Document Relates To:

ALL ACTIONS

Case No. 2:24-cv-02630-CBM-KS

LEAD PLAINTIFF'S NOTICE OF MOTION FOR FINAL APPROVAL OF PROPOSED CLASS ACTION SETTLEMENT

Hearing Date: Tuesday, February 17, 2026
Hearing Time: 10:00 a.m.
Courtroom: Courtroom 8D, 8th Floor
Judge: Hon. Consuelo Marshall

NOTICE OF MOTION AND MOTION

TO: THE COURT, ALL PARTIES, AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that on February 17, 2026, at 10:00 a.m. PST, the Honorable Consuelo B. Marshall presiding, the Court-appointed Lead Plaintiff, George Lang, will and hereby does move for an Order pursuant to Federal Rule of Civil Procedure 23: (1) granting final approval of the proposed settlement (the "Settlement") set forth in the Stipulation and Agreement of Settlement dated May 5, 2025 ("Stipulation"); and (b) approving the proposed Plan of Allocation.[1]

This motion is based upon this Notice of Motion and Motion (together, the "Motion"); the supporting Memorandum that follows; the accompanying declarations, including the Declaration of Lucas E. Gilmore, the Declaration of George Lang; and the Declaration of Eric Blow; the Stipulation; the pleadings and records on file in the Action; the arguments of counsel; and all such other matters as the Court may consider in evaluating the Motion.

Lead Plaintiff is not aware of any opposition to the Motion. A proposed Final Judgment and Order of Dismissal with Prejudice and proposed Order granting approval of the proposed Plan of Allocation will be submitted with Lead Plaintiff's reply submission on February 10, 2026, after the January 27, 2026, deadline for

[1] All capitalized terms not defined herein shall have those meanings as set forth in the Stipulation and Agreement of Settlement dated May 5, 2025 ("Stipulation"), attached as **Exhibit 1** to the Declaration of Lucas E. Gilmore in Support of Lead Plaintiff's (1) Motion for Final Approval of Proposed Class Action Settlement and (2) Motion for an Award of Attorneys' Fees, Litigation Expenses, and Service Award ("Gilmore Decl.").

Emphasis is added and citations are omitted throughout unless otherwise noted. All exhibits referenced herein are attached to the Gilmore Declaration, unless otherwise indicated.

Settlement Class Members to object to the Settlement or Plan of Allocation has passed.

DATED: January 13, 2026

Respectfully submitted,

HAGENS BERMAN SOBOL SHAPIRO LLP

By */s/ Lucas E. Gilmore*

Lucas E. Gilmore, Bar No. 250893
Reed Kathrein, Bar No. 139304
715 Hearst Avenue, Suite 300
Berkeley, CA 94710
Telephone: (510) 725-3000
Facsimile: (510) 725-3001
Email: lucasg@hbsslaw.com
reed@hbsslaw.com

Nathan Emmons (*pro hac vice*)
Cityfront Plaza Drive, Suite 2410
Chicago, IL 60611
Telephone: (708) 628-4949
Facsimile: (708) 628-4950
Email: nathane@hbsslaw.com

Counsel for Lead Plaintiff George Lang

Lucas E. Gilmore, Bar No. 250893
Reed Kathrein, Bar No. 139304
HAGENS BERMAN SOBOL SHAPIRO LLP
715 Hearst Avenue, Suite 300
Berkeley, CA 94710
Telephone: (510) 725-3000
Facsimile: (510) 725-3001
Email: lucasg@hbsslaw.com
reed@hbsslaw.com

Attorneys for Lead Plaintiff George Lang

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MOTION FOR FINAL APPROVAL OF PROPOSED CLASS ACTION SETTLEMENT, AND MEMORANDUM IN SUPPORT THEREOF

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I. PRELIMINARY STATEMENT

Lead Plaintiff, through Lead Counsel, has obtained a Settlement for $7,300,000 in cash in exchange for the dismissal of all claims brought in the Action against the Defendants.[2] The Settlement is an exceptional result for the Settlement Class and falls significantly above the typical range of damages recovered in securities class actions, as it represents approximately 12%-20% of the estimated maximum damages in this case, which is 1.5 to 2.5 times the median percentage recovery for similarly sized cases. *See* Gilmore Decl. ¶ 46 (citing Cornerstone Research, *Securities Class Action Settlements, 2024 Review and Analysis*, https://www.cornerstone.com/wp-content/uploads/2025/03/Securities-Class-Action-Settlements-2024-Review-and-Analysis.pdf, at Figure 5). Indeed, after mailing more than 8,600 settlement notices, to date no Settlement Class Member has objected to the Settlement or Plan of Allocation. *Id.* ¶¶ 52, 64.

The decision to settle the case was informed by an extensive investigation, significant research and briefing on Defendants' motions to dismiss, arm's-length negotiations between the Settling Parties under the supervision of an experienced mediator, Jed D. Melnick, Esq. of JAMS, and the appreciation that now-delisted Luna is teetering on the brink of insolvency.[3] *See id.* ¶¶ 8-27. Lead Plaintiff and Lead Counsel thus possessed a thorough understanding of the relative strengths and weaknesses of the claims and whether the Settlement obtained was fair, reasonable, and adequate. *Id.* ¶ 4. The result is an excellent recovery for the Settlement Class that readily satisfies Rule 23(e)(2)'s standards for final approval.

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[2] The Defendants are Luna Innovations Inc., Scott A. Graeff, Eugene J. Nestro, and George Gomez-Quintero.

[3] Lead Plaintiff respectfully refers the Court to the Gilmore Declaration filed herewith. The Gilmore Declaration contains a detailed description of, among other things, the nature of the claims asserted, the procedural history of the Action, the negotiations leading up to the Settlement, and the terms of the Plan of Allocation.

Lead Plaintiff also requests that the Court approve the proposed Plan of Allocation, which was detailed in the Notice. *See id.* ¶¶ 53-55. The Plan of Allocation governs the calculation of claims and the distribution of Settlement proceeds among Authorized Claimants. *Id.* The Plan of Allocation subjects all Class Members to the same formulas for calculating damages (*i.e.*, the difference between what Class Members paid for their Luna securities during the Class Period and what they would have paid had the alleged misstatements and omissions not been made). *Id.* ¶¶ 56-64.

The Court granted preliminary approval of the Settlement on September 19, 2025. *See* ECF No. 107. In the preliminary approval order, the Court approved the process by which Settlement Class Members would receive notice of the Settlement and submit claims and objections. *See id*. The Court subsequently continued the Fairness Hearing to February 17, 2026, pursuant to the Parties' stipulation, and extended other deadlines accordingly, to allow class members more time to file claims, opt out, or object to the Settlement. *See* ECF No. 109. To date, the Court-authorized Claims Administrator, Epiq Class Action and Claims Solutions, Inc. ("Epiq"), has disseminated over 8,600 copies of the Notice to potential Settlement Class Members and nominees. *See* **Exhibit 3**, Declaration of Eric Blow ("Blow Declaration") ¶ 7. The Notice, Claim Form, and other key Settlement documents have been made available on a dedicated website maintained for the Settlement by Epiq. *Id.* ¶ 17. In addition, the Summary Notice was published in *Investor's Business Weekly* and transmitted once over *PRNewswire*. *Id.* ¶ 12. While the deadline to submit objections from the Settlement Class is not until January 27, 2026, to date no Settlement Class Member has objected to the Settlement or Plan of Allocation.[4] *See*

[4] The Court has previously referred to the Northern District of California's *Procedural Guidance for Class Action Settlements*. § 1 states that the motion for final approval briefing should include information about the number of undeliverable class notices and claim packets, the number of valid claims, the number of opt outs and objections and address any objections. The number of undeliverable notices and current objections to the Settlement is addressed in the Blow and Gilmore

Gilmore Decl. ¶ 52. Moreover, Lead Plaintiff fully supports the Settlement. *See* **Exhibit 2**, Declaration of George Lang ("Lang Decl.") ¶ 6.

For these reasons, Lead Plaintiff submits that the Settlement meets the standards for final approval under Rule 23 and is a fair, reasonable, and adequate result for the Settlement Class. As such, Lead Plaintiff respectfully requests that the Court grant final approval of the Settlement and approve the Plan of Allocation as the method for distributing the Net Settlement Fund to the Settlement Class.

II. THE PROPOSED SETTLEMENT MERITS FINAL APPROVAL

A. Class Certification Remains Appropriate

In granting preliminary approval, the Court certified the Settlement Class and appointed Lead Plaintiff as Class Representative of the Settlement Class and Hagens Berman Sobol Shapiro LLP as Class Counsel for the Settlement Class. *See* ECF No. 107 at 2-4. Class certification for settlement purposes remains appropriate, as nothing has changed since preliminary approval that would undermine the Court's conclusion. *See In re Stable Rd. Acquisition Corp.*, 2024 WL 3643393, at *11 (C.D. Cal. April 23, 2024).

B. The Settlement Warrants Final Approval

The Ninth Circuit recognizes a "strong judicial policy that favors settlements, particularly where complex class action litigation is concerned." *Campbell v. Facebook, Inc.*, 951 F.3d 1106, 1121 (9th Cir. 2020) (quotation omitted). "Deciding whether a settlement is fair is … best left to the district judge." *In re Volkswagen "Clean Diesel" Mktg., Sales Pracs., & Prods. Liab. Litig.*, 895 F.3d 597, 611 (9th Cir. 2018).

Under Rule 23(e)(2), "a district court may approve a class action settlement only after finding that the settlement is 'fair, reasonable, and adequate.'" *Campbell*,

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Declarations. *See* Blow Decl. ¶¶ 8-9; Gilmore Decl. ¶ 52. Lead Counsel will address any objections and detail the number of valid claims received in the reply brief to be filed February 10, 2026. *See* Gilmore Decl. ¶ 52.

951 F.3d at 1120-21. In making that determination, the Court must consider the factors laid out in Rule 23(e)(2)(A)-(D), which will be addressed below. Consistent with the Rule 23(e)(2) considerations, courts in the Ninth Circuit look at the following factors when assessing final approval of a class action settlement:

> (1) the strength of the plaintiffs' case; (2) the risk, expense, complexity, and likely duration of further litigation; (3) the risk of maintaining class action status throughout the trial; (4) the amount offered in settlement; (5) the extent of discovery completed and the stage of the proceedings; (6) the experience and views of counsel; (7) the presence of a governmental participant; and (8) the reaction of the class members to the proposed settlement.[5]

Churchill Vill., L.L.C. v. Gen. Elec., 361 F.3d 566, 576 (9th Cir. 2004).[6]

After a preliminary review, the Court found the Settlement was fair, reasonable, and adequate, subject to further consideration at the Settlement hearing. *See* ECF No. 107. The Court's conclusion on preliminary approval is equally true now, as nothing has changed between September 19, 2025, and the present. Accordingly, the Settlement is fair, reasonable, and adequate and warrants final approval under the Rule 23(e)(2) factors and Ninth Circuit law.

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[5] "[F]actor 7 is neutral because there is no governmental participant." *Perez v. Bodycote Thermal Processing, Inc.*, 2024 WL 4329057, at *9 (C.D. Cal. Aug. 23, 2024).

[6] The 2018 amendments to Rule 23(e)(2) were not meant to "displace" any of the factors historically applied by the Ninth Circuit, "but rather to focus the court and the lawyers on the core concerns of procedure and substance that should guide the decision whether to approve the proposal." *See Campbell*, 951 F.3d at 1121 n.10. The Court should therefore apply the "framework set forth in Rule 23, while continuing to draw guidance from the Ninth Circuit's factors and relevant precedent." *Stable Rd.*, 2024 WL 3643393, at *5 (citation omitted).

C. The Settlement Satisfies The Requirements Of Rule 23(e)(2)

1. Lead Plaintiff and Lead Counsel have adequately represented the class.

When determining final approval of a class action settlement, the Court should consider whether Lead Plaintiff and Lead Counsel "have adequately represented the class." *See* Fed. R. Civ. P. 23(e)(2)(A). In evaluating adequacy, courts consider (1) whether "the named plaintiffs and their counsel have any conflicts of interest with other class members" and (2) whether "the named plaintiffs and their counsel [will] prosecute the action vigorously on behalf of the class." *See, e.g.*, *In re Hyundai & Kia Fuel Econ. Litig.*, 926 F.3d 539, 566 (9th Cir. 2019).

The Court held at the preliminary approval stage that Lead Plaintiff would "fairly and adequately represent and protect the interests of the Settlement Class," and nothing has changed since then. *See* ECF No. 107. Lead Plaintiff has no interests antagonistic to those of other Class Members, as their claims are based on a common course of alleged wrongdoing by Defendants. *See Ellis v. Costco Wholesale Corp.*, 657 F.3d 970, 985 (9th Cir. 2011) (adequacy of representation depends on "an absence of antagonism" and "a sharing of interest" between representatives and absent class members). In addition, Lead Plaintiff and all Settlement Class Members share the same interest in obtaining the largest possible recovery from Defendants. *See Mild v. PPG Indus., Inc.*, 2019 WL 3345714, at *3 (C.D. Cal. July 25, 2019).

As detailed in the accompanying declaration, Lead Plaintiff has also adequately represented the interests of the Settlement Class in his vigorous prosecution of the Action. *See* Lang Decl. ¶¶ 5, 10. Likewise, Lead Counsel is highly qualified and experienced in securities litigation, actively pursued the claims of Luna investors in this Court, and zealously advocated for the Class's best interests throughout the litigation and during settlement negotiations. *See* Gilmore Decl. ¶¶ 8-27, 75-76. Rule 23(e)(2)(A)'s adequacy factor therefore clearly weighs in favor of the Settlement.

2. The Settlement was negotiated at arm's length after mediation with an experienced mediator.

Rule 23(e)(2)(B) asks whether "the proposal was negotiated at arm's length." Fed. R. Civ. P. 23(e)(2)(B); *see also Edwards v. Nat'l Milk Producers Fed'n*, 2017 WL 3623734, at *5 (N.D. Cal. June 26, 2017), *aff'd sub nom. Edwards v. Andrews*, 846 F. App'x 538 (9th Cir. 2021) (noting that the Ninth Circuit "put[s] a good deal of stock in the product of an arms-length, non-collusive, negotiated resolution"). In assessing whether a settlement was negotiated at arm's length, the Court can look at circumstances supporting procedural fairness, including the involvement of a mediator. *See In re Immune Response Sec. Litig.*, 497 F. Supp. 2d 1166, 1172 (S.D. Cal. 2007).

Here, the proposed Settlement was achieved only after a formal mediation with Mr. Melnick, "an experienced complex business litigation mediator who has resolved over 1,000 disputes in his career." *Farrar v. Workhorse Grp., Inc.*, 2023 WL 5505981, at *5 (C.D. Cal. July 24, 2023) (citation omitted); *see also* Gilmore Decl. ¶ 20. Prior to and during the mediation session, Lead Counsel and Defendants' Counsel prepared and presented submissions to Mr. Melnick concerning their respective views on the merits of the Action. *Id*. ¶¶ 20-23. The negotiations under the supervision of a neutral mediator like Mr. Melnick are evidence that the Settlement was reached at arm's length. *Cf. Farrar*, 2023 WL 5505981, at *13 (granting final approval of putative securities class action settlement); *Lusk v. Five Guys Enters. LLC*, 2022 WL 4791923, at *9 (E.D. Cal. Sept. 30, 2022) ("The fact … that the Settlement is based on a mediator's proposal further supports a finding that the settlement agreement is not the product of collusion.").

Finally, there is no indicia of possible collusion identified by the Ninth Circuit, as neither Lead Plaintiff nor Lead Counsel is receiving a "disproportionate distribution of the settlement" and there are no provisions in the Stipulation allowing settlement proceeds to revert to Defendants or preventing Defendants from

challenging Lead Counsel's request for attorneys' fees.[7] *See In re Bluetooth Headset Prods. Liab. Litig.*, 654 F.3d 935, 947 (9th Cir. 2011).

In sum, these facts demonstrate that the Settlement is the result of arm's-length negotiations and readily satisfy Rule 23(e)(2)(B).

3. The Settlement provides the Settlement Class adequate relief, considering the costs, risks, and delay of litigation and the other Ninth Circuit factors addressing whether a settlement is fair, reasonable, and adequate.

The issue considered under Rule 23(e)(2)(C)—whether the "relief provided for the class is adequate"—overlaps considerably with the additional Ninth Circuit factors used to assess final approval of a settlement, and all entail "a 'substantive' review of the terms of the proposed settlement" that evaluate the fairness of the "relief that the settlement is expected to provide." *See* Fed. R. Civ. P. 23(e)(2) Advisory Comm. Notes to 2018 Amendment; *see also Churchill*, 361 F.3d at 575-77. As will be demonstrated below, these considerations weigh in favor of the Settlement.

a. The amount offered in the settlement.

In evaluating the adequacy of a recovery coming from a settlement, "courts primarily consider [the] expected recovery against the value of the settlement offer." *See Stable Rd.*, 2024 WL 3643393, at *8.

As previously described in support of preliminary approval, the $7.3 million Settlement constitutes an exceptional result for the Settlement Class. Lead Plaintiff estimated that in the best-case scenario, the total maximum aggregate damages would be approximately $35.3-$58.1 million. *See* Gilmore Decl. ¶ 46. Critically, this estimate represents a theoretical ceiling and does not account for the significant downward pressure that would inevitably result from Defendants' challenges to both liability and damages—including their likely efforts to disaggregate non-fraud-

[7] *See* Stipulation ¶ 2.3 ("The Settlement is non-recapture, *i.e.* it is not a claims-made settlement."); *id.* ¶¶ 7.1-7.6 (reflecting no agreement that Defendants will not challenge Lead Counsel's fee application).

related exogenous factors from the stock price declines and to scale back the alleged artificial inflation. *Id.* Therefore, the Settlement recovers approximately 12.6%-20.7% of the total maximum damages potentially recoverable in this case. *Id.* Such a recovery is approximately 1.5 to 2.5 times the median percentage recovery for cases settled with estimated damages between $25–$74 million. It also exceeds the median recovery in cases with larger estimated damages in each of the past four years—8.4% in 2024, 8.8% in 2023, 8.5% in 2022, and 7.2% in 2021—representing approximately 1.4 to 3 times those medians.[8] *Id.*

Accordingly, the relief provided by the Settlement supports approval.

b. The strength of Lead Plaintiff's case.

To determine whether the Settlement is fair, reasonable, and adequate, the Court must consider the costs, risks, and delay posed by continued litigation. While Lead Plaintiff at all times remained confident in his ability to ultimately prove his claims at trial, he would be required to prove all elements of his claims to prevail, while Defendants needed to succeed on only one defense to potentially defeat the entire action.

Defendants' Vigorous Challenges to Falsity and Materiality. Over the course of the litigation, including through motion practice and the mediation session,

[8] *See* Cornerstone Research, *Securities Class Action Settlements, 2024 Review and Analysis*, https://www.cornerstone.com/wp-content/uploads/2025/03/Securities-Class-Action-Settlements-2024-Review-and-Analysis.pdf, at Figure 5 (last accessed January 7, 2026); Cornerstone Research, *Securities Class Action Settlements, 2023 Review and Analysis*, https://www.cornerstone.com/wp-content/uploads/2024/03/Securities-Class-Action-Settlements-2023-Review-and-Analysis.pdf, at Figure 5 (last accessed January 7, 2026); Cornerstone Research, *Securities Class Action Settlements, 2022 Review and Analysis*, https://www.cornerstone.com/wp-content/uploads/2023/03/Securities-Class-Action-Settlements-2022-Review-and-Analysis.pdf, at Figure 5 (last accessed January 7, 2026); Cornerstone Research, *Securities Class Action Settlements, 2021 Review and Analysis*, https://www.cornerstone.com/wp-content/uploads/2022/03/Securities-Class-Action-Settlements-2021-Review-and-Analysis.pdf, at Figure 5 (last accessed January 7, 2026).

Defendants disputed the falsity and materiality of their alleged misstatements and vigorously challenged scienter. *See* Gilmore Decl. ¶¶ 30-32; *see also In re Immune Response Sec. Litig.*, 497 F. Supp. 2d at 1172 (noting that scienter is "complex and difficult to establish at trial"). Specifically, Defendants argued that the Complaint failed to plead falsity because it relied on a pending restatement without identifying specific GAAP violations or false statements and challenged the actionability of non-financial statements, SOX certifications, and alleged puffery, including statements attributed to Gomez-Quintero. *Id.* ¶ 30. Defendants contended that the Complaint did not plead materiality with particularity and improperly relied on hindsight and a stock price decline, which they argued is insufficient under the PSLRA. *Id.* ¶ 31.

The Significant Risks of Establishing Scienter. Defendants also asserted that the Complaint failed to plead scienter because it relied on speculative inferences rather than confidential witnesses, insider trading, or internal documents, and lacked individualized allegations showing that the executives knew or recklessly disregarded the alleged falsity of their statements. *Id.* ¶ 32.

Disputes Regarding Scheme Liability. Defendants argued that the scheme liability claim failed because it merely repackaged the same alleged misstatements and omissions without alleging any independent manipulative or deceptive conduct. *Id.* ¶ 33.

The Complexity of Overcoming Defendants' Defenses Regarding Loss Causation and Damages. Even if Lead Plaintiff overcame Defendants' arguments regarding falsity and scienter, at the merits stage Defendants likely would have challenged his ability to establish loss causation and class-wide damages. *See* Gilmore Decl. ¶¶ 35-37. Addressing these challenges would require extensive and costly expert discovery, resulting in an inevitable "battle of the experts" at the summary judgment stage and at trial. *Id.* Specifically, Defendants likely would have argued that the alleged corrective disclosures were not actually "corrective" or were obscured by other market-moving news, requiring a sophisticated and expensive

econometric analysis to isolate the impact of the alleged fraud. *Id*. Navigating these issues involves "complex analysis, requiring [a] jury to parse divergent positions of expert witnesses in a complex area of the law," rendering "the outcome of that analysis … inherently difficult to predict and risky." *Vinh Nguyen v. Radient Pharms. Corp.*, 2014 WL 1802293, at *2 (C.D. Cal. May 6, 2014). The high cost of retaining top-tier damages experts to perform these disaggregation analyses—and the risk that a jury might credit Defendants' experts over Lead Plaintiff's—weighs heavily in favor of the Settlement.

Defendants' Challenges to Control Person Liability. Finally, Defendants argued that the Section 20(a) control person liability claims failed because the Complaint did not adequately plead a primary Section 10(b) violation or facts showing that Gomez-Quintero and Nestro exercised actual power or control over the alleged misconduct. Gilmore Decl. ¶ 34.

Lead Counsel carefully analyzed all these and other risks prior to reaching the Settlement and recognized that had Defendants succeeded on only one of their defenses, there would have been no recovery for the Settlement Class. *See* Gilmore Decl. ¶¶ 40-41. In contrast, the resolution of the litigation through the Settlement guarantees the Settlement Class a recovery of $7.3 million. This factor strongly warrants final approval of the Settlement.

c. The complexity, expense, and duration of continued litigation.

In evaluating the fairness of the Settlement, the Court should also account for the "expense, complexity, and likely duration of further litigation," *Churchill*, 361 F.3d at 576, or "delay of trial and appeal," Fed. R. Civ. P. 23(e)(2)(C)(i). In general, "unless the settlement is clearly inadequate, its acceptance and approval are preferable to lengthy and expensive litigation with uncertain results." *See Nat'l Rural Telecomm. Coop. v. DIRECTV, Inc.*, 221 F.R.D. 523, 526 (C.D. Cal. 2004); *see also Hefler v. Wells Fargo & Co.*, 2018 WL 6619983, at *13 (N.D. Cal. Dec. 18, 2018),

aff'd sub nom. Hefler v. Pekoc, 802 F.App'x 285 (9th Cir. 2020) ("inherent uncertainties of trying securities fraud cases and the demanding pleading standards of the PLSRA" support settlement approval).

Barring the Settlement, the continued litigation of the Action would require the expenditure of substantial additional sums of time and money through discovery, trial, and beyond, with no guarantee that any additional benefit would be provided to the Settlement Class. Even if Lead Plaintiff prevailed on Defendants' motions to dismiss, at class certification, *Daubert*, summary judgment, and trial, and met its burdens in establishing falsity, materiality, class-wide reliance under the "fraud on the market" presumption, loss causation, the measure of per-share damages (if any), and control person liability, the case would still be far from over. *See* Gilmore Decl. ¶ 39. For example, Defendants would have had the opportunity to challenge an individual Settlement Class Member's membership in the Class, the presumption of reliance for any Class Member, and the amount of damages due each Settlement Class Member. *Id*. Moreover, Defendants would have certainly filed an appeal, which would further delay (and risk entirely) any additional benefit received via trial. *Id.* ¶ 40; *see also Hsu v. Puma Biotech., Inc.*, No. 15-cv-00865, ECF No. 913 (C.D. Cal. Aug. 3, 2022) (granting final approval of securities class action settlement 3.5 years after a February 4, 2019 jury verdict in plaintiff's favor following trial).

Luna's Deteriorating Financial Condition and Delisting Threatened the Class's Ability to Secure any Recovery. There is another practical risk in this case beyond typical merits issues: following the disclosure of the conduct at issue, Luna's market capitalization collapsed, the company was delisted from NASDAQ, and it ceased issuing public financial disclosures. Gilmore Decl. ¶¶ 7, 42-44, 79. In light of Luna's precarious financial condition and dependence on financing from its largest investor, continued litigation carried a material risk that the Class would recover nothing if Luna became insolvent. The Settlement avoids that risk for the Class. *Cf. Torrisi v. Tucson Elec. Power Co.*, 8 F.3d 1370, 1376 (9th Cir. 1993) ("Here[,] one

factor predominates to make clear that the district court acted within its discretion [in approving the settlement]. That factor is [the defendant's] financial condition."). Luna's precarious finances further support the Settlement's reasonableness.

As opposed to continued litigation, with its risk, expense, and potential delay, the Settlement provides a certain, near-term recovery for the Settlement Class. *See Hartless v. Clorox Co.*, 273 F.R.D. 630, 640 (S.D. Cal. 2011), *aff'd in part*, 473 F. App'x 716 (9th Cir. 2012) ("Considering these risks, expenses and delays, an immediate and certain recovery for class members … favors settlement of this action."). This factor favors the Court granting final approval of the Settlement.

d. The risk of maintaining class action status.

At the time the parties reached the Settlement, there was a pending motion to dismiss hearing. *See* Gilmore Decl. ¶ 19. Because of the stage of the case, Defendants would have had multiple opportunities to challenge its class action status. *Id.* ¶¶ 35-39. Pursuant to *Basic Inc. v. Levinson*, 485 U.S. 224 (1988), to show their entitlement to the presumption of class-wide reliance, Lead Plaintiff would need to prove that Luna's common stock traded in an efficient market throughout the entire Class Period, which would require expert analysis. Even if the Court certified a class, Rule 23(c)(1) allows a class certification order to be altered or amended at any time prior to a decision on the merits. Gilmore Decl. ¶¶ 36, 39. In other words, Defendants still could have moved to decertify the Settlement Class or shorten the Class Period up until the time the jury reached a verdict. *See In re OmniVision Techs., Inc.*, 559 F. Supp. 2d 1036, 1041 (N.D. Cal 2008) ("[T]here is no guarantee the certification would survive through trial, as Defendants might have sought decertification or modification of the class."). And, while rare, a change in the law or facts might upset certification. *See, e.g.*, *Arkansas Tchr. Ret. Sys. v. Goldman Sachs Grp., Inc.*, 77 F.4th 74 (2d Cir. 2023) (decertifying a class of investors after 12 years of litigation). Thus, the complexity and cost of class certification proceedings, along with the risk of failing to obtain and maintain certification, supports approval of the Settlement.

e. The extent of discovery completed and the stage of the proceedings.

Although the settlement was reached at the pleading stage and prior to discovery, the Parties engaged in extensive briefing on Defendants' motions to dismiss and in advance of the mediation; thus, the Parties had a thorough understanding of the legal arguments that could have disposed of this case. *See* Gilmore Decl. ¶¶ 8-27; *see also In re: Volkswagen "Clean Diesel" Mktg., Sales Practices, & Prod. Liab. Litig.*, 2016 WL 6248426, at *13-14 (N.D. Cal. Oct. 25, 2016) (extensive discovery is "not a necessary ticket to the bargaining table where the parties have sufficient information to make an informed decision about settlement"). And as discussed above, Lead Plaintiff's decision to enter into the Settlement was based on his understanding of the strengths and potential weaknesses of its claims and Defendants' defenses, together with the practical risks. *See supra* § II.C.3.(a)-(d); *see also Rodriguez v. W. Publg. Corp.*, 563 F.3d 948, 965 (9th Cir. 2009)) (The Ninth Circuit "put(s) a good deal of stock in the product of an arms-length, non-collusive, negotiated resolution.").

f. The experience and views of counsel.

The opinion of experienced counsel as to the merits of a class settlement after arm's-length negotiation is entitled to considerable weight. *See Radient Pharms. Corp.*, 2014 WL 1802293, at *3 ("the fact that experienced counsel involved in the case approved the settlement after hard-fought negotiations is entitled to considerable weight").

Lead Counsel has significant experience in securities and other complex class action litigation and has negotiated numerous other substantial class action settlements throughout the country. *See* Gilmore Decl. ¶¶ 75-76; **Exhibit 6**, Hagens Berman's firm resume. Since being appointed by this Court, Lead Counsel investigated and drafted an amended consolidated complaint; opposed Defendants' three individually filed motions to dismiss; prepared a detailed mediation statement

and participated in a full day mediation; and reached a settlement after an arms'-length negotiation in front of an experienced mediator. Gilmore Decl. ¶¶ 8-27. Based on this work, Lead Counsel possessed a firm understanding of Lead Plaintiff's claims by the time the Settlement was reached, and accordingly, Lead Counsel concluded that the Settlement is an outstanding result for the Class. *Id.* Therefore, in this case, "Lead Counsel's conclusion that the Settlement is fair and reasonable and in the best interests of the Settlement Class likewise supports the Settlement's approval." *Stable Rd.*, 2024 WL 3643393, at *9.

g. The reaction of Settlement Class Members to date.

In assessing the fairness of a class action settlement, "the absence of a large number of objections to a proposed class action settlement raises a strong presumption that the terms of a proposed class action settlement are favorable to class members." *Id.* at *9 (cleaned up). While the deadline to object to the Settlement is January 27, 2026, to date, no objections have been received. *See* Gilmore Decl. ¶ 52. Lead Plaintiff supports the Settlement as well. *See* Lang Decl. ¶ 6. To date, there have been 1,048 submitted claims, a number that will increase up until the claims filing deadline on January 16, 2026. Blow Decl. ¶ 10. The lack of objections from Settlement Class Members favors approval of the Settlement.[9]

4. The remaining Rule 23(e)(2) factors also support final approval.

Under Rule 23(e)(2), the Court should consider the remaining factors in evaluating the Settlement: (i) the effectiveness of the proposed method of distributing the relief provided to the class, including the method of processing class member claims; (ii) the terms of any proposed award of attorneys' fees, including the timing of payment; (iii) any agreement made in connection with the proposed settlement; and (iv) whether class members are treated equitably relative to each other. *See* Fed.

[9] Lead Plaintiff will update the Court regarding claims filing, objections, and requests for exclusion in his reply brief and at the Final Fairness Hearing.

R. Civ. P. 23(e)(2)(C)(ii)-(iv), (e)(2)(D). These additional Rule 23(e)(2) factors also support the Court's approval of the Settlement.

To start, the proposed method of distribution and claims processing ensures equitable treatment of Settlement Class Members, as their claims will be processed and the Net Settlement Fund distributed pursuant to a standard method routinely approved in securities class actions. *See* Fed. R. Civ. P. 23(e)(2)(C)(ii), (e)(2)(D); *see infra* § III. The Court-authorized Claims Administrator, Epiq, will review and process all the received Claims, provide each Claimant an opportunity to cure any deficiency in a Claim or request judicial review of a denied Claim, if applicable, and if the Settlement is approved, will distribute Authorized Claimants their *pro rata* share of the Net Settlement Fund, as calculated under the Plan of Allocation. *See* Gilmore Decl. ¶¶ 53-64; *infra* § III.

Furthermore, the Settlement relief remains adequate when considering the proposed award of attorneys' fees and litigation expenses incurred in prosecuting the Action, including the timing of any such Court-approved payments. *See* Fed. R. Civ. P. 23(e)(2)(C)(iii). As detailed in the fee and expense papers accompanying this Motion, the requested attorneys' fees of 30% of the Settlement Fund, to be paid upon the Court's approval, are reasonable based on Lead Counsel's efforts and the risks undertaken in obtaining the exceptional result of a $7.3 million cash recovery, and are in line with fee awards granted in the Ninth Circuit.[10] Any fee award is also separate from approval of the Settlement, and no Party may terminate the Settlement based on this Court's or any appellate court's ruling with respect to attorneys' fees. *See* Stipulation ¶¶ 7.6, 10.9. In addition, the proposal that any attorneys' fees be paid upon the entry of the Court's order is reasonable and consistent with common practice in similar cases, as the Stipulation states that if the Settlement is terminated

[10] In connection with the fee request, Lead Counsel also seeks payment from the Settlement Fund of their expenses in the total amount of $40,494.65.

or any fee award is subsequently modified, Lead Counsel must repay the subject amount with interest.[11] *See* Stipulation ¶ 7.3.

As previously disclosed, the only agreement Lead Plaintiff and Defendants entered into in addition to the Term Sheet and the Stipulation was a confidential Supplemental Agreement regarding requests for exclusion. *Id.* Pursuant to the Court's request, the Parties submitted the Supplemental Agreement under seal prior to the Court granting preliminary approval. *See* ECF Nos. 103–04.

For the reasons set forth above and in the accompanying declarations, the Settlement is fair, reasonable, and adequate when evaluated under the Rule 23(e) and Ninth Circuit standards, and therefore, warrants the Court's final approval.

III. THE PLAN OF ALLOCATION IS FAIR, REASONABLE, AND ADEQUATE AND WARRANTS FINAL APPROVAL

In the Preliminary Approval Order, the Court preliminarily approved the Plan of Allocation, which was detailed in the Notice. *See* ECF No. 107. Lead Plaintiff now requests that the Court grant final approval of the Plan for the purpose of administering the Settlement. Per Rules 23(e)(2)(C)(ii) and (e)(2)(D), the Plan of Allocation must "treat[] class members equitably relative to each other" and be "effective[]." Assessment of the Plan of Allocation "is governed by the same standards of review applicable to approval of the settlement as a whole: the plan must be fair, reasonable and adequate." *Stable Rd.*, 2024 WL 3643393, at *9 (quotation omitted); *see also Class Plaintiffs v. City of Seattle*, 955 F.2d 1268, 1284 (9th Cir. 1992).

The proposed Plan has a reasonable, rational basis. It distributes the settlement proceeds on a *pro rata* basis, calculating a claimant's relative loss proximately caused by Defendants' alleged misrepresentations and omissions, based on factors such as when and at what prices the claimant purchased and sold Luna securities. Lead

[11] Courts approve these "quick pay" provisions routinely. *See, e.g., Brown v. Hain Celestial Grp., Inc.*, 2016 WL 631880, at *10 (N.D. Cal. Feb. 17, 2016).

Plaintiff engaged a damages consultant to assist in developing the Plan to allocate the Settlement proceeds among Claimants with the goal of reimbursing Settlement Class Members in a fair and reasonable manner. Gilmore Decl. ¶¶ 53-64.

Under the Plan of Allocation, a "Recognized Loss Amount" will be calculated for each share of Common Stock, Call Option, or Put Option purchased or otherwise acquired and for each Put Option sold during the Settlement Class Period that is listed in the Claim Form and for which adequate documentation is provided. Blow Decl., Ex. D, ¶ 21. The calculation of each Settlement Class Member's Recognized Loss Amount will be based on several factors, including when the security was purchased and sold, the type of security purchased and sold, the purchase and sale price of the security, the estimated artificial inflation in the price of the security at the time of the purchase or sale, and the number of claims submitted. *Id.* ¶¶ 21-29. The Net Settlement Fund will be allocated to Authorized Claimants – including Lead Plaintiff – on a *pro rata* basis based on the type of security (*i.e.*, Common Stock, Call Option, or Put Option) and the relative size of their Recognized Loss(es) based on the factors described above. *Id.* ¶¶ 11, 36-37. One hundred percent of the Net Settlement Fund will be distributed to Authorized Claimants, with a maximum of 6.68% of the Net Settlement Fund available for Option-based claims. Gilmore Decl. ¶ 61. If any funds remain after an initial distribution to Authorized Claimants, subsequent cost-effective distributions will be conducted. *Id.* ¶ 62. Any distribution via *cy pres* to a 501(c)(3) organization identified by the Court will only be made when the residual amount left for re-distribution to Authorized Claimants is so small that a further re-distribution would not be cost effective. *Id.*

Lead Counsel believes that the Plan of Allocation provides a fair and reasonable method to equitably allocate the Net Settlement Fund among Settlement Class Members who suffered losses because of the conduct alleged in the Action. In fact, similar plans addressing holders of common stock and/or options have been approved by courts in class action securities settlements. *See*, *e.g. In re Apple Inc.*

Sec. Litig., 2024 WL 4246282, at *4 (N.D. Cal. Sept. 18, 2024) (approving plan of allocation involving common stock and options); *In re BofI Holding, Inc. Sec. Litig.*, 2022 WL 9497235, at *12 (S.D. Cal. Oct. 14, 2022) (same).

And critically, more than 8,600 notice packets advising Settlement Class Members of the Plan of Allocation and their right to object to the Plan of Allocation have been mailed to potential Settlement Class Members and Nominees. Blow Decl. ¶ 7. To date, there have been no objections to the Plan of Allocation. *See* Gilmore Decl. ¶ 64.

Based on the foregoing, the Plan of Allocation is fair, reasonable, and adequate, and it should be approved. *See Stable Road*, 2024 WL 3643393, at *8 (approving substantially similar plan of allocation); *BofI Holding,* 2022 WL 9497235, at *8 ("no indication that the distribution and allocation methods proposed … will result in unequitable treatment of Class Members" where the "Claims Administrator will determine each Authorized Claimant's share of the Net Settlement Fund based upon the information submitted in the Proof of Claim Form and based on the calculation of recognized loss, distributed on a pro rata basis").

IV. NOTICE OF THE SETTLEMENT SATISFIED THE REQUIREMENTS OF RULE 23, DUE PROCESS, AND THE PSLRA

A district court "must direct notice in a reasonable manner to all class members who would be bound by the proposal," Fed. R. Civ. P. 23(e)(1)(B), and "must direct to class members the best notice that is practicable under the circumstances, including individual notice to all members who can be identified through reasonable effort," Fed. R. Civ. P. 23(c)(2)(B). The notice also must describe "the terms of the settlement in sufficient detail to alert those with adverse viewpoints to investigate and to come forward and be heard." *Young v. LG Chem Ltd.*, 783 F. App'x 727, 736 (9th Cir. 2019). The PSLRA further requires that the settlement notice include a statement explaining a plaintiff's recovery "to allow class members to evaluate a proposed

settlement." *In re Veritas Software Corp. Sec. Litig.*, 496 F.3d 962, 969 (9th Cir. 2007).

The substance of the Notice, which the Court preliminarily approved, satisfies Rule 23 and due process. 8,600 potential Class Members received notice of the Settlement. *See* Blow Decl. ¶ 7. In addition, the Court-approved Summary Notice was published in *Investor's Business Weekly* and transmitted once over *PRNewswire*. *Id.* ¶ 12. The Claims Administrator also provided all information regarding the Settlement online through the Settlement website, which also provided access to downloadable copies of the Notice, Claim Form, and other Settlement related documents. *Id.* ¶ 17. Pursuant to the Stipulation, Defendants issued notice pursuant to CAFA. *See* ECF No. 91.

The notice program provides the necessary information for Class Members to make an informed decision regarding the proposed Settlement, as required by the PSLRA. Specifically, the Notice and Summary Notice apprise Settlement Class Members of, *inter alia*: (i) the Settlement amount; (ii) the reasons why the Parties are proposing the Settlement; (iii) the estimated average recovery per affected share of Luna security; (iv) the maximum amount of attorneys' fees and expenses that will be sought; (v) the identity and contact information for a representative from Lead Counsel to answer questions concerning the Settlement; (vi) the right of Settlement Class Members to object to or opt out of the Settlement; (vii) the binding effect of a judgment on Settlement Class Members; (viii) the dates and deadlines for certain Settlement-related events; and (ix) the opportunity to obtain additional information about the Action and the Settlement by contacting Lead Counsel, the Claims Administrator, or visiting the Settlement website. *See* Gilmore Decl. ¶ 48; *see also* Fed. R. Civ. P. 23(c)(2)(B); 15 U.S.C. § 78u-4(a)(7). The Notice also details the Plan of Allocation and further explains that the Net Settlement Fund will be distributed to eligible Class Members who submit valid and timely Proofs of Claim under the Plan of Allocation. *See* Gilmore Decl. ¶ 48. Prior to disseminating notice, Lead Plaintiff

obtained an extension of the claims and response deadlines, providing Settlement Class Members with additional time to submit claims, object to the Settlement, or request exclusion. ECF No. 109.

Based on the foregoing, the notice program fairly apprises Class Members of their rights with respect to the Settlement, is the best notice practicable under the circumstances, and complies with the Court's Preliminary Approval order, Rule 23, the PSLRA, and due process. *See, e.g.*, *Cheng Jiangchen v. Rentech, Inc.*, 2019 WL 5173771, at *8 (C.D. Cal. Oct. 10, 2019) (approving substantially similar postcard notice program); *Sanders v. LoanCare, LLC*, 2020 WL 8365241, at *5 (C.D. Cal. Dec. 4, 2020) (similar notice program "satisfied the requirements of due process and Rule 23(e)"); *Baker v. SeaWorld Ent., Inc.*, 2020 WL 818893, at *2-*3 (S.D. Cal. Feb. 19, 2020) (approving similar notice program).

V. CONCLUSION

Lead Plaintiff and Lead Counsel achieved an outstanding settlement for the Class. Lead Plaintiff therefore respectfully requests that the Court certify the Settlement Class and approve the Settlement and Plan of Allocation.

DATED: January 13, 2026

Respectfully submitted,

HAGENS BERMAN SOBOL SHAPIRO LLP

By */s/ Lucas E. Gilmore*

Lucas E. Gilmore, Bar No. 250893
Reed Kathrein, Bar No. 139304
715 Hearst Avenue, Suite 300
Berkeley, CA 94710
Telephone: (510) 725-3000
Facsimile: (510) 725-3001
Email: lucasg@hbsslaw.com
reed@hbsslaw.com

Nathan Emmons (*pro hac vice*)
Cityfront Plaza Drive, Suite 2410
Chicago, IL 60611
Telephone: (708) 628-4949
Facsimile: (708) 628-4950
Email: nathane@hbsslaw.com

Counsel for Lead Plaintiff George Lang

CERTIFICATE OF COMPLIANCE

The undersigned, counsel of record for Lead Plaintiff George Lang and Proposed Class, certifies that this brief contains 20 pages, which complies with the page limit of the Court's Standing Order.

DATED: January 13, 2026

/s/ Lucas E. Gilmore
Lucas E. Gilmore