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8 UNITED STATES DISTRICT COURT  
9 NORTHERN DISTRICT OF CALIFORNIA

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12 Plaintiff,  
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14 v.  
15 NUTANIX, INC., RAJIV RAMASWAMI,  
16 DUSTON WILLIAMS, and RUKMINI  
17 SIVARAMAN,  
18 Defendants.

Case No.

CLASS ACTION

COMPLAINT FOR VIOLATIONS OF THE  
FEDERAL SECURITIES LAWS

DEMAND FOR JURY TRIAL

19 Plaintiff individually and on behalf of all others similarly  
20 situated, by Plaintiff's undersigned attorneys, for Plaintiff's complaint against Defendants, alleges  
21 the following based upon personal knowledge as to Plaintiff and Plaintiff's own acts, and  
22 information and belief as to all other matters, based upon, *inter alia*, the investigation conducted  
23 by and through Plaintiff's attorneys, which included, among other things, a review of the  
24 Defendants' public documents, conference calls and announcements made by Defendants, United  
25 States ("U.S.") Securities and Exchange Commission ("SEC") filings, wire and press releases  
26 published by and regarding Nutanix, Inc. ("Nutanix" or the "Company"), analysts' reports and  
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1 advisories about the Company, and information readily obtainable on the Internet. Plaintiff  
2 believes that substantial, additional evidentiary support will exist for the allegations set forth herein  
3 after a reasonable opportunity for discovery.

#### 4 **NATURE OF THE ACTION**

5 1. This is a federal securities class action on behalf of a class consisting of all persons  
6 and entities other than Defendants that purchased or otherwise acquired Nutanix securities between  
7 September 21, 2021 and March 6, 2023, both dates inclusive (the “Class Period”), seeking to  
8 recover damages caused by Defendants’ violations of the federal securities laws and to pursue  
9 remedies under Sections 10(b) and 20(a) of the Securities Exchange Act of 1934 (the “Exchange  
10 Act”) and Rule 10b-5 promulgated thereunder, against the Company and certain of its top officials.  
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12 2. Nutanix purports to provide a leading enterprise cloud platform, the Nutanix Cloud  
13 Platform, that consists of software solutions and cloud services that power its customers’ enterprise  
14 infrastructure.  
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16 3. In operating its cloud platform, Nutanix often utilizes software supplied by third-  
17 party providers. Indeed, the Company has stated that one of its “principal competitive factors” is  
18 “product interoperability with third-party applications, infrastructure software, infrastructure  
19 systems and platforms and public clouds.” Accordingly, Nutanix will pay software vendors a  
20 reduced cost to provide the Company with “evaluation software,” which Nutanix will use only for  
21 internal evaluation purposes in order to determine whether it will ultimately purchase the software  
22 for business use. If the Company elects to purchase the software, the vendor will charge Nutanix  
23 the full cost to implement the product in standard business usage, as opposed to merely a reduced  
24 evaluation cost.  
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1           4.       Throughout the Class Period, Defendants made materially false and misleading  
2 statements regarding the Company’s business, operations, and prospects. Specifically, Defendants  
3 made false and/or misleading statements and/or failed to disclose that: (i) the Company maintained  
4 deficient internal controls relating to its use of licensed software and expense management; (ii) as  
5 a result of these deficiencies, the Company improperly used third-party evaluation software for  
6 business purposes over a multi-year period; (iii) investigation and remediation of the foregoing—  
7 *i.e.*, by paying vendors the full cost to use their software for business purposes—would cause the  
8 Company to incur significant expenses; and (iv) as a result, the Company’s public statements were  
9 materially false and misleading at all relevant times.  
10

11           5.       On March 6, 2023, Nutanix issued a press release reporting selected preliminary  
12 second quarter fiscal 2023 financial results. Among other items, Nutanix reported that “Company  
13 management discovered that certain evaluation software from one of its third-party providers was  
14 instead used for interoperability testing, validation and customer proofs of concept over a multi-  
15 year period[,]” and that “it is likely that additional costs would be incurred to address the additional  
16 use of the software.” Furthermore, due to an ongoing Audit Committee investigation into the  
17 matter, Nutanix stated that “it does not expect to be able to [timely] file its Quarterly Report on  
18 Form 10-Q for the quarter ended January 31, 2023[.]”  
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20           6.       That same day, Nutanix hosted an earnings call with investors and analysts to  
21 discuss the Company’s fiscal Q2 2023 results (the “Q2 2023 Earnings Call”). During the Q&A  
22 portion of the Q2 2023 Earnings Call, when asked to clarify why using evaluation software for  
23 interoperability testing, validation, and customer proofs of concept would incur additional  
24 expenses, Nutanix’s Chief Executive Officer (“CEO”) Defendant Rajiv Ramaswami  
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1 (“Ramaswami”) explained that the Company would be required to pay the cost of using the  
2 software beyond the scope of its intended evaluation usage.

3 7. On this news, Nutanix’s stock price fell \$2.27 per share, or 7.89%, to close at  
4 \$26.50 per share on March 7, 2023.

5 8. Then, on March 16, 2023, Nutanix issued a press release announcing that, on March  
6 15, 2023, “the Company received a standard notification letter from Nasdaq stating that, because  
7 the Company has not yet filed its Quarterly Report on Form 10-Q for the quarter ended January  
8 31, 2023, the Company is not in compliance with Nasdaq Listing Rule 5250(c)(1), which requires  
9 timely filing of all required periodic financial reports with the [SEC].”  
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11 9. As a result of Defendants’ wrongful acts and omissions, and the precipitous decline  
12 in the market value of the Company’s securities, Plaintiff and other Class members have suffered  
13 significant losses and damages.  
14

### 15 **JURISDICTION AND VENUE**

16 10. The claims asserted herein arise under and pursuant to Sections 10(b) and 20(a) of  
17 the Exchange Act (15 U.S.C. §§ 78j(b) and 78t(a)) and Rule 10b-5 promulgated thereunder by the  
18 SEC (17 C.F.R. § 240.10b-5).

19 11. This Court has jurisdiction over the subject matter of this action pursuant to 28  
20 U.S.C. § 1331 and Section 27 of the Exchange Act.

21 12. Venue is proper in this Judicial District pursuant to Section 27 of the Exchange Act  
22 (15 U.S.C. § 78aa) and 28 U.S.C. § 1391(b). Nutanix is headquartered in this Judicial District,  
23 Defendants conduct business in this Judicial District, and a significant portion of Defendants’  
24 activities took place within this Judicial District.  
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13. In connection with the acts alleged in this complaint, Defendants, directly or indirectly, used the means and instrumentalities of interstate commerce, including, but not limited to, the mails, interstate telephone communications, and the facilities of the national securities markets.

## PARTIES

14. Plaintiff, as set forth in the attached Certification, acquired Nutanix securities at artificially inflated prices during the Class Period and was damaged upon the revelation of the alleged corrective disclosures.

15. Defendant Nutanix is a Delaware corporation with principal executive offices located at 1740 Technology Drive, Suite 150, San Jose, CA 95110. Nutanix’s common stock trades in an efficient market the Nasdaq Global Select Market (“NASDAQ”) under the ticker symbol “NTNX”.

16. Defendant Ramaswami has served as the Company's CEO and President at all relevant times.

17. Defendant Duston Williams (“Williams”) served as the Company’s Chief Financial Officer (“CFO”) from prior to the start of the Class Period until May 2022.

18. Defendant Rukmini Sivaraman (“Sivaraman”) has served as the Company’s CFO since May 2022.

19. Defendants Ramaswami, Williams, and Sivaraman are sometimes referred to herein as the “Individual Defendants.”

20. The Individual Defendants possessed the power and authority to control the contents of Nutanix's SEC filings, press releases, and other market communications. The Individual Defendants were provided with copies of Nutanix's SEC filings and press releases

1 alleged herein to be misleading prior to or shortly after their issuance and had the ability and  
2 opportunity to prevent their issuance or to cause them to be corrected. Because of their positions  
3 with Nutanix, and their access to material information available to them but not to the public, the  
4 Individual Defendants knew that the adverse facts specified herein had not been disclosed to and  
5 were being concealed from the public, and that the positive representations being made were then  
6 materially false and misleading. The Individual Defendants are liable for the false statements and  
7 omissions pleaded herein.  
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9 21. Nutanix and the Individual Defendants are collectively referred to herein as  
10 “Defendants.”

## 11 **SUBSTANTIVE ALLEGATIONS**

### 12 **Background**

13 22. Nutanix purports to provide a leading enterprise cloud platform, the Nutanix Cloud  
14 Platform, that consists of software solutions and cloud services that power its customers’ enterprise  
15 infrastructure.  
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17 23. In operating its cloud platform, Nutanix often utilizes software supplied by third-  
18 party providers. Indeed, the Company has stated that one of its “principal competitive factors” is  
19 “product interoperability with third-party applications, infrastructure software, infrastructure  
20 systems and platforms and public clouds.” Accordingly, Nutanix will pay software vendors a  
21 reduced cost to provide the Company with “evaluation software,” which Nutanix will use only for  
22 internal evaluation purposes in order to determine whether it will ultimately purchase the software  
23 for business use. If the Company elects to purchase the software, the vendor will charge Nutanix  
24 the full cost to implement the product in standard business usage, as opposed to merely a reduced  
25 evaluation cost.  
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1                    **Materially False and Misleading Statements Issued During the Class Period**

2                    24.      The Class Period begins on September 21, 2021, when Nutanix filed an Annual  
3 Report on Form 10-K with the SEC, reporting the Company’s financial and operational results for  
4 the fiscal year ended July 31, 2021 (the “2021 10-K”). With respect to the Company’s growth  
5 strategy, the 2021 10-K stated, in relevant part:  
6

7                    Key elements of our growth strategy include:

- 8                    • ***Continually innovate and maintain technology leadership.*** Since  
9 inception, we have rapidly innovated from supporting limited applications  
10 and a single hypervisor to a full enterprise cloud platform that is designed  
11 to support a wide variety of workloads across private, public and hybrid  
12 multicloud deployments. We intend to continue to invest heavily in  
developing our enterprise cloud platform with new features, services and  
products to expand our market opportunity in both core and adjacent  
markets.
- 13                    • ***Invest to acquire new end customers.*** Since the completion of our first end  
14 customer sale in October 2011, we have grown to approximately 20,130 end  
15 customers. We intend to grow our base of end customers by continuing to  
16 invest in sales and marketing, leveraging our network of channel partners  
and [original equipment manufacturers (“OEMs”)], furthering our  
international expansion and extending our enterprise cloud platform to  
17 address new customer segments. One area of continued focus is increasing  
our sales to new, and expanding our sales to existing, large enterprise  
18 customers.
- 19                    • ***Continue to drive follow-on sales to existing end customers.*** Our end  
20 customers typically deploy our technology initially for a specific project or  
21 application deployment. Our sales teams and channel partners then seek to  
22 systematically target follow-on sales opportunities to drive additional  
purchases throughout our broader product portfolio, while also focusing on  
customer adoption and customer consumption of their original purchases.  
23 This land and expand strategy enables us to quickly expand our footprint  
within our existing end customer base from follow-on orders that in the  
aggregate are often multiples of the initial order.
- 24                    • ***Enhanced focus on renewals.*** In addition to our land and expand strategy  
25 described above, as part of our transition to a subscription-based model, we  
26 have enhanced our focus on renewals, which are typically associated with  
lower sales costs. While renewals have historically represented a small  
27 portion of our overall business, we expect that they will be a significant  
28

driver of our top-line growth as we continue in our subscription transformation.

- ***Deepen engagement with current channel, OEM, cloud and ecosystem partners and establish additional routes to market to enhance sales leverage.*** We have established meaningful channel partnerships globally and have driven strong engagement and commercial success with several major resellers and distributors. We believe that our OEM relationships can augment our routes to market to accelerate our growth and that there is a significant opportunity to grow our sales with our channel partners and OEMs. We intend to attract and engage new channel and OEM partners around the globe while also selling our standalone software for deployment on qualified hardware or a hosted service to maximize the availability of our solutions for our customers. We will also continue to establish partnerships with cloud and ecosystem partners to provide our customers with freedom of choice.
- ***Invest in rapid growth while remaining focused on our overall financial health.*** We intend to continue investing in our rapid growth, while balancing such growth against our operating expenses. By maintaining this balance, we believe we can drive toward our high growth potential without sacrificing our overall financial health. Key drivers of our path towards profitability include growth in renewals happening at a much lower cost compared to new sales and continuing to leverage sales and marketing efficiencies.

25. Further, in describing the factors affecting the Company's performance, the 2021 10-K stated, in relevant part:

We believe that our future success will depend on many factors, including those described below. While these areas present significant opportunity, they also present risks that we must manage to achieve successful results.

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### ***Leveraging Channel Partners and OEMs***

We plan to continue to strengthen and expand our network of channel partners and OEMs to increase sales to both new and existing end customers. We believe that increasing channel leverage, particularly as we expand our focus on opportunities in commercial accounts, by investing in sales enablement and co-marketing with our partners and OEMs in the long term will extend and improve our engagement with a broad set of end customers. Our business and results of operations will be significantly affected by our success in leveraging and expanding our network of channel partners and OEMs.



1           26. Finally, with respect to the Company’s internal control over financial reporting, the  
2 2021 10-K stated, in relevant part:

3           Our management is responsible for establishing and maintaining adequate  
4 internal control over financial reporting, as defined in Rule 13a-15(f) and Rule 15d-  
5 15(f) of the Exchange Act. Internal control over financial reporting consists of  
6 policies and procedures that: (1) pertain to the maintenance of records that, in  
7 reasonable detail, accurately and fairly reflect the transactions and dispositions of  
8 our assets; (2) are designed and operated to provide reasonable assurance regarding  
9 the reliability of our financial reporting and our process for the preparation of  
10 financial statements for external purposes in accordance with generally accepted  
11 accounting principles and that our receipts and expenditures are being made only  
12 in accordance with authorizations of our management and directors; and (3) provide  
13 reasonable assurance regarding prevention or timely detection of unauthorized  
acquisition, use or disposition of our assets that could have a material effect on the  
financial statements. ***Our management evaluated the effectiveness of our internal  
control over financial reporting using the criteria set forth by the Committee of  
Sponsoring Organizations of the Treadway Commission in Internal Control -  
Integrated Framework (2013). Based on the results of our evaluation, our  
management has concluded that our internal control over financial reporting  
was effective as of July 31, 2021.***<sup>1</sup>

14           27. Appended to the 2021 10-K as exhibits were signed certifications pursuant to the  
15 Sarbanes-Oxley Act of 2002 (“SOX”) by Defendants Ramaswami and Williams, attesting that the  
16 “information contained in [the 2021 10-K] fairly presents, in all material respects, the financial  
17 condition and result of operations of Nutanix, Inc.”

18           28. On November 23, 2021, Nutanix hosted an earnings call with investors and analysts  
19 to discuss the Company’s Q1 2022 results (the “Q1 2022 Earnings Call”). During the scripted  
20 portion of the Q1 2022 Earnings Call, Defendant Ramaswami stated, in relevant part, “[o]nce  
21 again, we saw excellent linearity, ***which combined with diligent expense management***, enabled  
22 us to nearly achieve free cash flow breakeven in the quarter, putting us well on track to achieving  
23 our target of sustainable positive free cash flow by the second half of calendar year 2022. We  
24 achieved these results while continuing to add to our backlog.”

27           <sup>1</sup> All emphases herein have been added unless otherwise indicated.  
28

1           29.     On December 2, 2021, Nutanix filed a Quarterly Report on Form 10-Q with the  
2 SEC, reporting the Company’s financial and operating results for the quarter ended October 31,  
3 2021 (the “Q1 2022 10-Q”). With respect to the Company’s controls and procedures, the Q1 2022  
4 10-Q stated, in relevant part:

5                     Under the supervision and with the participation of our management,  
6 including our principal executive officer and principal financial officer, we  
7 conducted an evaluation of the effectiveness of the design and operation of our  
8 disclosure controls and procedures, as defined in Rules 13a-15(e) and 15d-15(e)  
9 under the Exchange Act, as of the end of the period covered by this report. ***Based***  
10 ***on management’s evaluation, our principal executive officer and principal***  
***financial officer concluded that our disclosure controls and procedures are***  
***effective at a reasonable assurance level.***

11           30.     Appended to the Q1 2022 10-Q as exhibits were substantively similar certifications  
12 as discussed, *supra*, in ¶ 27, signed pursuant to SOX by Defendants Ramaswami and Williams.

13           31.     On March 2, 2022, Nutanix hosted an earnings call with investors and analysts to  
14 discuss the Company’s Q2 2022 results (the “Q2 2022 Earnings Call”). During the scripted portion  
15 of the Q2 2022 Earnings Call, Defendant Ramaswami stated, in relevant part:

16                     Taking a closer look, our second quarter reflected continued execution on our  
17 subscription model and was marked by strong top and bottom line performance.  
18 We delivered record [annual contract value (“ACV”)] billings, which grew 37%  
19 year-over-year, our highest growth rate in 3 years. Our revenue also grew 19% year-  
20 over-year despite seeing expected term competition. ***Once again, we saw good***  
21 ***linearity, which combined with diligent expense management, enabled us to***  
22 ***generate positive free cash flow for the first time since we started our transition***  
***to subscription, approximately 3 years ago, putting us well on track to achieving***  
***our target of sustainable positive free cash flow by the second half of calendar***  
***year 2022.***

23           32.     On March 10, 2022, Nutanix filed a Quarterly Report on Form 10-Q with the SEC,  
24 reporting the Company’s financial and operating results for the quarter ended January 31, 2022  
25 (the “Q2 2022 10-Q”). With respect to the Company’s controls and procedures, the Q2 2022 10-  
26 Q stated, in relevant part:

1 Under the supervision and with the participation of our management,  
2 including our principal executive officer and principal financial officer, we  
3 conducted an evaluation of the effectiveness of the design and operation of our  
4 disclosure controls and procedures, as defined in Rules 13a-15(e) and 15d-15(e)  
5 under the Exchange Act, as of the end of the period covered by this report. ***Based  
on management's evaluation, our principal executive officer and principal  
financial officer concluded that our disclosure controls and procedures are  
effective at a reasonable assurance level.***

6 33. Appended to the Q2 2022 10-Q as exhibits were substantively similar certifications  
7 as discussed, *supra*, in ¶ 27, signed pursuant to SOX by Defendants Ramaswami and Williams.

8 34. On May 25, 2022, Nutanix hosted an earnings call with investors and analysts to  
9 discuss the Company's Q3 2022 results (the "Q3 2022 Earnings Call"). During the scripted portion  
10 of the Q3 2022 Earnings Call, Defendant Ramaswami stated, in relevant part, "[o]ur revenue,  
11 which continues to be affected by term compression grew 17%. Topline growth, ***combined with  
12 diligent expense management and leverage from renewals drove a sharp year-over-year  
13 improvement in non-GAAP operating income.*** While timing of collections adversely impacted  
14 our free cash flow performance for the quarter. We continue to prioritize working towards  
15 sustainable free cash flow generation in FY '23."

16 35. On June 2, 2022, Nutanix filed a Quarterly Report on Form 10-Q with the SEC,  
17 reporting the Company's financial and operating results for the quarter ended April 30, 2022 (the  
18 "Q3 2022 10-Q"). With respect to the Company's controls and procedures, the Q3 2022 10-Q  
19 stated, in relevant part:

20 Under the supervision and with the participation of our management,  
21 including our principal executive officer and principal financial officer, we  
22 conducted an evaluation of the effectiveness of the design and operation of our  
23 disclosure controls and procedures, as defined in Rules 13a-15(e) and 15d-15(e)  
24 under the Exchange Act, as of the end of the period covered by this report. ***Based  
25 on management's evaluation, our principal executive officer and principal  
26 financial officer concluded, as of the end of the period covered by this report, that  
27 our disclosure controls and procedures are effective at a reasonable assurance  
28 level.***

36. Appended to the Q3 2022 10-Q as exhibits were substantively similar certifications as discussed, *supra*, in ¶ 27, signed pursuant to SOX by Defendants Ramaswami and Sivaraman.

37. On August 31, 2022, Nutanix hosted an earnings call with investors and analysts to discuss the Company's Q4 2022 results (the "Q4 2022 Earnings Call"). During the scripted portion of the Q4 2022 Earnings Call, Defendant Ramaswami stated, in relevant part:

Beyond these financial accomplishments, we had other important achievements, including launching our simplified product portfolio, enhancing our leadership team, making progress with our partners and continuing to delight our customers as reflected in our high [net promoter scores] and strong renewal performance. Overall, I'm pleased with our progress and financial performance in FY '22.

As I noted, our fourth quarter was bolstered by a number of large expansion deals, including customers, both increasing their use of our Nutanix Cloud Platform and broadening their adoption of adjacent solutions in areas such as storage, Database as a Service and cloud management.

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***Finally, we see the business achieving positive non-GAAP operating income and continuing to be free cash flow positive in FY23. We plan to do this through a combination of strong continued top line growth and diligent expense management.*** We remain confident about the opportunity ahead of us and enter FY23 with a sense of excitement and cautious optimism.

38. On September 21, 2022, Nutanix filed an Annual Report on Form 10-K with the SEC, reporting the Company’s financial and operating results for the fiscal year ended July 31, 2022 (the “2022 10-K”). The 2022 10-K contained substantively similar descriptions of the Company’s growth strategies, factors affecting performance, and controls and procedures as discussed, *supra*, in ¶¶ 24-26.

39. Appended to the 2022 10-K as exhibits were substantively similar certifications as discussed, *supra*, in ¶ 27, signed pursuant to SOX by Defendants Ramaswami and Sivaraman.

40. On November 30, 2022, Nutanix hosted an earnings call with investors and analysts to discuss the Company's Q1 2023 results (the "Q1 2023 Earnings Call"). During the scripted portion of the Q1 2023 Earnings Call, Defendant Ramaswami stated, in relevant part:

Taking a closer look at the first quarter, we delivered ACV billings and revenue above our guidance, driven by strong continued performance of our renewals business. ***We again demonstrated good expense management coming in slightly below our [operating expense] targets.*** Top line outperformance, combined with diligent expense management, enabled us to achieve positive non-GAAP operating income for the first time, another milestone in our drive towards sustainable, profitable growth. Finally, strong billings linearity and collections contributed to generation of \$46 million of free cash flow, meaningfully exceeding our breakeven target and continuing our strong recent free cash flow performance.

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In closing, I'd like to provide some thoughts on our priorities and outlook. ***First, our overarching priority remains driving towards sustainable profitable growth through judicious investment in the business, execution on a growing base of renewals, and diligent expense management.*** Our achievement of positive non-GAAP operating income in the first quarter represents tangible progress towards this goal. The strength of our business model is underpinned by a growing base of renewals and the strong value proposition of our platform in an uncertain macro landscape. I remain confident in our ability to continue to capitalize on the vast opportunity in front of us while driving towards sustainable, profitable growth.

41. On December 7, 2022, Nutanix filed a Quarterly Report on Form 10-Q, reporting the Company’s financial and operating results for the quarter ended October 31, 2022 (the “Q1 2023 10-Q”). With respect to the Company’s controls and procedures, the Q1 2023 10-Q stated, in relevant part:

Under the supervision and with the participation of our management, including our principal executive officer and principal financial officer, we conducted an evaluation of the effectiveness of the design and operation of our disclosure controls and procedures, as defined in Rules 13a-15(e) and 15d-15(e) under the Exchange Act, as of the end of the period covered by this report. ***Based on management’s evaluation, our principal executive officer and principal financial officer concluded, as of the end of the period covered by this report, that our disclosure controls and procedures are effective at a reasonable assurance level.***

42. Appended to the Q1 2023 10-Q as exhibits were substantively similar certifications as discussed, *supra*, in ¶ 27, signed pursuant to SOX by Defendants Ramaswami and Sivaraman.

43. The statements referenced in ¶¶ 24-42 were materially false and misleading because Defendants made false and/or misleading statements, as well as failed to disclose material adverse facts about the Company's business, operations, and prospects. Specifically, Defendants made false and/or misleading statements and/or failed to disclose that: (i) the Company maintained deficient internal controls relating to its use of licensed software and expense management; (ii) as a result of these deficiencies, the Company improperly used third-party evaluation software for business purposes over a multi-year period; (iii) investigation and remediation of the foregoing—*i.e.*, by paying vendors the full cost to use their software for business purposes—would cause the Company to incur significant expenses; and (iv) as a result, the Company's public statements were materially false and misleading at all relevant times.

## The Truth Emerges

44. On March 6, 2023, Nutanix issued a press release reporting selected preliminary second quarter fiscal 2023 financial results. The press release stated, in relevant part:

Nutanix [. . .] today announced selected preliminary financial results for its second quarter ended January 31, 2023. All financial results for the second quarter ended January 31, 2023, and related comparisons to prior periods included in this release have not been reviewed or audited, are based on the Company’s estimates, and were prepared prior to the completion of the Company’s financial statement close process.

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***Additionally, Company management discovered that certain evaluation software from one of its third-party providers was instead used for interoperability testing, validation and customer proofs of concept over a multi-year period.*** The Audit Committee commenced an investigation into this matter, which is still ongoing, with the assistance of outside counsel. The Company does not believe that this will have a significant impact on the fundamentals of its business and overall prospects.

1        ***The Company is in the process of assessing the financial reporting impact of this***  
2        ***matter and it is likely that additional costs would be incurred to address the***  
3        ***additional use of the software.*** As a result, the Company has not provided financial  
4        information regarding expenses in its second quarter fiscal 2023 preliminary  
5        results, or in its outlook for the third quarter or full fiscal year 2023.

6        While the Company is working to complete its review of this matter as soon as  
7        possible, it does not expect to be able to file its Quarterly Report on Form 10-Q for  
8        the quarter ended January 31, 2023, on time or following the 5-day prescribed  
9        extension period allowed under 12b-25.

10       (Emphasis added.)

11       45.       That same day, Nutanix hosted the Q2 2023 Earnings Call. During the Q&A  
12       portion of the Q2 2023 Earnings Call, when asked to clarify why using evaluation software for  
13       interoperability testing, validation, and customer proofs of concept would incur additional  
14       expenses, Defendant Ramaswami explained that “[w]hat we found was, in some cases, we were  
15       using the [evaluation] software for doing interoperability testing or customer proof of concepts,  
16       validating. So that goes beyond the scope of what the eval software was being used for.” Further,  
17       when asked “[s]o the eval[uation] software, were you paying a very small amount because it was  
18       just eval[uation] software, and therefore, now you’re going to have to pay a lot more because you  
19       were using it for things that it wasn’t meant for. Is that the idea?” Defendant Ramaswami  
20       responded “Yes. So we haven’t quantified how much, right? But we can’t get into that kind of  
21       detail here, but yes, you’re right, right? I mean, therefore, there is some additional expense required  
22       likely to -- for the usage and use cases that we were looking at.”

23       46.       On this news, Nutanix’s stock price fell \$2.27 per share, or 7.89%, to close at  
24       \$26.50 per share on March 7, 2023.

25       47.       Then, on March 16, 2023, Nutanix issued a press release announcing that, on March  
26       15, 2023, “the Company received a standard notification letter from Nasdaq stating that, because  
27       the Company has not yet filed its Quarterly Report on Form 10-Q for the quarter ended January  
28

1 31, 2023, the Company is not in compliance with Nasdaq Listing Rule 5250(c)(1), which requires  
2 timely filing of all required periodic financial reports with the [SEC].”

3 48. As a result of Defendants’ wrongful acts and omissions, and the precipitous decline  
4 in the market value of the Company’s securities, Plaintiff and other Class members have suffered  
5 significant losses and damages.  
6

7 **PLAINTIFF’S CLASS ACTION ALLEGATIONS**

8 49. Plaintiff brings this action as a class action pursuant to Federal Rule of Civil  
9 Procedure 23(a) and (b)(3) on behalf of a Class, consisting of all those who purchased or otherwise  
10 acquired Nutanix securities during the Class Period (the “Class”); and were damaged upon the  
11 revelation of the alleged corrective disclosures. Excluded from the Class are Defendants herein,  
12 the officers and directors of the Company, at all relevant times, members of their immediate  
13 families and their legal representatives, heirs, successors or assigns and any entity in which  
14 Defendants have or had a controlling interest.  
15

16 50. The members of the Class are so numerous that joinder of all members is  
17 impracticable. Throughout the Class Period, Nutanix securities were actively traded on the  
18 NASDAQ. While the exact number of Class members is unknown to Plaintiff at this time and can  
19 be ascertained only through appropriate discovery, Plaintiff believes that there are hundreds or  
20 thousands of members in the proposed Class. Record owners and other members of the Class may  
21 be identified from records maintained by Nutanix or its transfer agent and may be notified of the  
22 pendency of this action by mail, using the form of notice similar to that customarily used in  
23 securities class actions.  
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1           51. Plaintiff's claims are typical of the claims of the members of the Class as all  
2 members of the Class are similarly affected by Defendants' wrongful conduct in violation of  
3 federal law that is complained of herein.

4           52. Plaintiff will fairly and adequately protect the interests of the members of the Class  
5 and has retained counsel competent and experienced in class and securities litigation. Plaintiff has  
6 no interests antagonistic to or in conflict with those of the Class.

7           53. Common questions of law and fact exist as to all members of the Class and  
8 predominate over any questions solely affecting individual members of the Class. Among the  
9 questions of law and fact common to the Class are:  
10

- 11           • whether the federal securities laws were violated by Defendants' acts as alleged  
12           herein;
- 13           • whether statements made by Defendants to the investing public during the Class  
14           Period misrepresented material facts about the business, operations and  
15           management of Nutanix;
- 16           • whether the Individual Defendants caused Nutanix to issue false and misleading  
17           financial statements during the Class Period;
- 18           • whether Defendants acted knowingly or recklessly in issuing false and misleading  
19           financial statements;
- 20           • whether the prices of Nutanix securities during the Class Period were artificially  
21           inflated because of the Defendants' conduct complained of herein; and
- 22           • whether the members of the Class have sustained damages and, if so, what is the  
23           proper measure of damages.

24           54. A class action is superior to all other available methods for the fair and efficient  
25 adjudication of this controversy since joinder of all members is impracticable. Furthermore, as the  
26 damages suffered by individual Class members may be relatively small, the expense and burden  
27 of individual litigation make it impossible for members of the Class to individually redress the  
28 wrongs done to them. There will be no difficulty in the management of this action as a class action.

1           55. Plaintiff will rely, in part, upon the presumption of reliance established by the fraud-  
2 on-the-market doctrine in that:

- 3           • Defendants made public misrepresentations or failed to disclose material facts  
4 during the Class Period;
- 5           • the omissions and misrepresentations were material;
- 6           • Nutanix securities are traded in an efficient market;
- 7           • the Company's shares were liquid and traded with moderate to heavy volume  
8 during the Class Period;
- 9           • the Company traded on the NASDAQ and was covered by multiple analysts;
- 10          • the misrepresentations and omissions alleged would tend to induce a reasonable  
11 investor to misjudge the value of the Company's securities; and
- 12          • Plaintiff and members of the Class purchased, acquired and/or sold Nutanix  
13 securities between the time the Defendants failed to disclose or misrepresented  
14 material facts and the time the true facts were disclosed, without knowledge of  
the omitted or misrepresented facts.

15           56. Based upon the foregoing, Plaintiff and the members of the Class are entitled to a  
16 presumption of reliance upon the integrity of the market.

17           57. Alternatively, Plaintiff and the members of the Class are entitled to the presumption  
18 of reliance established by the Supreme Court in *Affiliated Ute Citizens of the State of Utah v.*  
19 *United States*, 406 U.S. 128, 92 S. Ct. 2430 (1972), as Defendants omitted material information in  
20 their Class Period statements in violation of a duty to disclose such information, as detailed above.  
21

## 22           COUNT I

### 23           **(Violations of Section 10(b) of the Exchange Act and Rule 10b-5 Promulgated Thereunder** 24           **Against All Defendants)**

25           58. Plaintiff repeats and re-alleges each and every allegation contained above as if fully  
26 set forth herein.

1           59.     This Count is asserted against Defendants and is based upon Section 10(b) of the  
2 Exchange Act, 15 U.S.C. § 78j(b), and Rule 10b-5 promulgated thereunder by the SEC.

3           60.     During the Class Period, Defendants engaged in a plan, scheme, conspiracy and  
4 course of conduct, pursuant to which they knowingly or recklessly engaged in acts, transactions,  
5 practices and courses of business which operated as a fraud and deceit upon Plaintiff and the other  
6 members of the Class; made various untrue statements of material facts and omitted to state  
7 material facts necessary in order to make the statements made, in light of the circumstances under  
8 which they were made, not misleading; and employed devices, schemes and artifices to defraud in  
9 connection with the purchase and sale of securities. Such scheme was intended to, and, throughout  
10 the Class Period, did: (i) deceive the investing public, including Plaintiff and other Class members,  
11 as alleged herein; (ii) artificially inflate and maintain the market price of Nutanix securities; and  
12 (iii) cause Plaintiff and other members of the Class to purchase or otherwise acquire Nutanix  
13 securities and options at artificially inflated prices. In furtherance of this unlawful scheme, plan  
14 and course of conduct, Defendants, and each of them, took the actions set forth herein.  
15

16           61.     Pursuant to the above plan, scheme, conspiracy and course of conduct, each of the  
17 Defendants participated directly or indirectly in the preparation and/or issuance of the quarterly  
18 and annual reports, SEC filings, press releases and other statements and documents described  
19 above, including statements made to securities analysts and the media that were designed to  
20 influence the market for Nutanix securities. Such reports, filings, releases and statements were  
21 materially false and misleading in that they failed to disclose material adverse information and  
22 misrepresented the truth about Nutanix's finances and business prospects.  
23

24           62.     By virtue of their positions at Nutanix, Defendants had actual knowledge of the  
25 materially false and misleading statements and material omissions alleged herein and intended  
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28

1 thereby to deceive Plaintiff and the other members of the Class, or, in the alternative, Defendants  
2 acted with reckless disregard for the truth in that they failed or refused to ascertain and disclose  
3 such facts as would reveal the materially false and misleading nature of the statements made,  
4 although such facts were readily available to Defendants. Said acts and omissions of Defendants  
5 were committed willfully or with reckless disregard for the truth. In addition, each Defendant  
6 knew or recklessly disregarded that material facts were being misrepresented or omitted as  
7 described above.  
8

9         63. Information showing that Defendants acted knowingly or with reckless disregard  
10 for the truth is peculiarly within Defendants' knowledge and control. As the senior managers  
11 and/or directors of Nutanix, the Individual Defendants had knowledge of the details of Nutanix's  
12 internal affairs.  
13

14         64. The Individual Defendants are liable both directly and indirectly for the wrongs  
15 complained of herein. Because of their positions of control and authority, the Individual  
16 Defendants were able to and did, directly or indirectly, control the content of the statements of  
17 Nutanix. As officers and/or directors of a publicly-held company, the Individual Defendants had  
18 a duty to disseminate timely, accurate, and truthful information with respect to Nutanix's  
19 businesses, operations, future financial condition and future prospects. As a result of the  
20 dissemination of the aforementioned false and misleading reports, releases and public statements,  
21 the market price of Nutanix securities was artificially inflated throughout the Class Period. In  
22 ignorance of the adverse facts concerning Nutanix's business and financial condition which were  
23 concealed by Defendants, Plaintiff and the other members of the Class purchased or otherwise  
24 acquired Nutanix securities at artificially inflated prices and relied upon the price of the securities,  
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1 the integrity of the market for the securities and/or upon statements disseminated by Defendants,  
2 and were damaged thereby.

3 65. During the Class Period, Nutanix securities were traded on an active and efficient  
4 market. Plaintiff and the other members of the Class, relying on the materially false and misleading  
5 statements described herein, which the Defendants made, issued or caused to be disseminated, or  
6 relying upon the integrity of the market, purchased or otherwise acquired shares of Nutanix  
7 securities at prices artificially inflated by Defendants' wrongful conduct. Had Plaintiff and the  
8 other members of the Class known the truth, they would not have purchased or otherwise acquired  
9 said securities, or would not have purchased or otherwise acquired them at the inflated prices that  
10 were paid. At the time of the purchases and/or acquisitions by Plaintiff and the Class, the true  
11 value of Nutanix securities was substantially lower than the prices paid by Plaintiff and the other  
12 members of the Class. The market price of Nutanix securities declined sharply upon public  
13 disclosure of the facts alleged herein to the injury of Plaintiff and Class members.  
14

15 66. By reason of the conduct alleged herein, Defendants knowingly or recklessly,  
16 directly or indirectly, have violated Section 10(b) of the Exchange Act and Rule 10b-5  
17 promulgated thereunder.  
18

19 67. As a direct and proximate result of Defendants' wrongful conduct, Plaintiff and the  
20 other members of the Class suffered damages in connection with their respective purchases,  
21 acquisitions and sales of the Company's securities during the Class Period, upon the disclosure  
22 that the Company had been disseminating misrepresented financial statements to the investing  
23 public.  
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1 **COUNT II**

2 **(Violations of Section 20(a) of the Exchange Act Against the Individual Defendants)**

3 68. Plaintiff repeats and re-alleges each and every allegation contained in the foregoing  
4 paragraphs as if fully set forth herein.

5 69. During the Class Period, the Individual Defendants participated in the operation  
6 and management of Nutanix, and conducted and participated, directly and indirectly, in the  
7 conduct of Nutanix's business affairs. Because of their senior positions, they knew the adverse  
8 non-public information about Nutanix's misstatement of income and expenses and false financial  
9 statements.  
10

11 70. As officers and/or directors of a publicly owned company, the Individual  
12 Defendants had a duty to disseminate accurate and truthful information with respect to Nutanix's  
13 financial condition and results of operations, and to correct promptly any public statements issued  
14 by Nutanix which had become materially false or misleading.  
15

16 71. Because of their positions of control and authority as senior officers, the Individual  
17 Defendants were able to, and did, control the contents of the various reports, press releases and  
18 public filings which Nutanix disseminated in the marketplace during the Class Period concerning  
19 Nutanix's results of operations. Throughout the Class Period, the Individual Defendants exercised  
20 their power and authority to cause Nutanix to engage in the wrongful acts complained of herein.  
21 The Individual Defendants, therefore, were "controlling persons" of Nutanix within the meaning  
22 of Section 20(a) of the Exchange Act. In this capacity, they participated in the unlawful conduct  
23 alleged which artificially inflated the market price of Nutanix securities.  
24

25 72. Each of the Individual Defendants, therefore, acted as a controlling person of  
26 Nutanix. By reason of their senior management positions and/or being directors of Nutanix, each  
27  
28

1 of the Individual Defendants had the power to direct the actions of, and exercised the same to  
2 cause, Nutanix to engage in the unlawful acts and conduct complained of herein. Each of the  
3 Individual Defendants exercised control over the general operations of Nutanix and possessed the  
4 power to control the specific activities which comprise the primary violations about which Plaintiff  
5 and the other members of the Class complain.  
6

7 73. By reason of the above conduct, the Individual Defendants are liable pursuant to  
8 Section 20(a) of the Exchange Act for the violations committed by Nutanix.

9 **PRAYER FOR RELIEF**

10 **WHEREFORE**, Plaintiff demands judgment against Defendants as follows:

11 A. Determining that the instant action may be maintained as a class action under Rule  
12 23 of the Federal Rules of Civil Procedure, and certifying Plaintiff as the Class representative;  
13

14 B. Requiring Defendants to pay damages sustained by Plaintiff and the Class by reason  
15 of the acts and transactions alleged herein;

16 C. Awarding Plaintiff and the other members of the Class prejudgment and post-  
17 judgment interest, as well as their reasonable attorneys' fees, expert fees and other costs; and

18 D. Awarding such other and further relief as this Court may deem just and proper.  
19

20 **DEMAND FOR TRIAL BY JURY**

21 Plaintiff hereby demands a trial by jury.

22 Dated: April 14, 2023  
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