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**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION**

PETER JOHNSON, individually and on  
behalf of all other similarly situated,

Plaintiff,

v.

MAKER ECOSYSTEM GROWTH  
HOLDINGS, INC., NKA METRONYM,  
INC., a foreign corporation,

Defendant.

Case No.: 3:20-cv-02569-MMC

Judge: Hon. Maxine M. Chesney

CLASS ACTION

~~PROPOSED~~ ORDER PRELIMINARILY  
APPROVING SETTLEMENT AND  
PROVIDING FOR NOTICE

~~EXHIBIT A~~

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10 *Attorneys for Defendant*

MAKER ECOSYSTEM GROWTH

11 HOLDINGS, INC. NKA METRONYM, INC.

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1 WHEREAS, the parties to the above-captioned action ("Settling Parties") entered  
 2 into a Stipulation of Settlement (hereinafter, "Settlement Agreement"), which together with  
 3 the exhibits thereto, sets forth the terms and conditions for the settlement described  
 4 therein, including the dismissal of the Litigation with prejudice;

5 WHEREAS, all capitalized terms used herein having the meanings defined in the Settlement  
 6 Agreement, unless otherwise defined;

7 WHEREAS, the Settling Parties having consented to the entry of this Order or an order in  
 8 substantially the same form as the order attached to the Settlement Agreement; and

9 WHEREAS, the Court having read and considered the Settlement Agreement and the  
 10 accompanying documents in connection with the proposed settlement;

11 NOW, THEREFORE, IT IS HEREBY ORDERED, this 18 day of August,  
 12 2023, that:

13 1. Pursuant to Rule 23(a) and (b)(3) of the Federal Rules of Civil Procedure and for the  
 14 purposes of the settlement only, the Court preliminarily certifies a Settlement Class in this Litigation,  
 15 consisting of all Persons and entities who had a Collateralized Debt Position ("CDP") or Vault on  
 16 the Maker Protocol and were forced to liquidate their Ethereum ("ETH ") on March 12 or 13,  
 17 2020, and received zero compensation (meaning \$10/ETH or less) as part of any  
 18 related auction. Excluded from the Settlement Class are: (i) Defendant; (ii) present or  
 19 former executive officers of Defendant; (iii) members of the immediate family or  
 20 the legal representatives, heirs, successors-in-interest, or assigns of any of the foregoing; (iv)  
 21 any entity in which any Defendant has, or had, a controlling interest; and (v) any affiliate of  
 22 Defendant. Also excluded from the Settlement Class are any persons and entities who  
 23 exclude themselves by submitting a request for exclusion that is accepted by the Court.

24 2. This Court preliminarily finds, for purposes of this settlement only, that the class  
 25 action prerequisites under Rules 23(a) and (b)(3) of the Federal Rules of Civil Procedure have  
 26 been satisfied in that: (a) the number of Settlement Class Members is so numerous that joinder of all

1 Settlement Class Members is impracticable; (b) there are questions of law and fact common to the  
 2 Settlement Class; (c) the claims of Plaintiff are typical of the claims of the Settlement Class Plaintiff  
 3 seeks to represent; (d) Plaintiff will fairly and adequately represent the interests of the Settlement  
 4 Class; (e) questions of law and fact common to the Settlement Class predominate over any questions  
 5 affecting only individual members of the Settlement Class; and (f) a class action is superior to other  
 6 available methods for the fair and efficient adjudication of the Litigation.

8 3. Pursuant to Rule 23 of the Federal Rules of Civil Procedure, for the purposes of this  
 9 settlement only, (a) Plaintiff is preliminarily certified as the class representative on behalf of the  
 10 Settlement Class; and (b) Plaintiff's Counsel, previously selected by Plaintiff and appointed by the  
 11 Court, are hereby preliminarily certified as Plaintiff's Counsel for the Settlement Class, and are  
 12 authorized to act on behalf of the class representatives and other Settlement Class Members, with  
 13 respect to all acts or consents required by or that may be given pursuant to the Settlement  
 14 Agreement, including all acts that are reasonably necessary to consummate the settlement.

16 4. The Court preliminarily finds that the settlement set forth in the Settlement  
 17 Agreement should be approved in that: (a) the Settlement Agreement results from good faith, arm's  
 18 length negotiations, including a mediation among Plaintiff and Defendant under the direction of  
 19 Robert A. Meyer, Esq., of JAMS; (b) the relief provided to the Settlement Class is adequate; (c)  
 20 the proposed settlement treats Settlement Class members equitably relative to each other; (d) the  
 21 proponents of the settlement are experienced in similar litigation and had sufficient information to  
 22 evaluate the settlement.

24 5. A Settlement Hearing is hereby scheduled to be held before the Court on Feb. 9,  
 25 2024 at 9:00 a.m., for the following purposes:

- 26 a. to determine finally whether the proposed settlement on the terms and conditions
  - 27 provided for in the Settlement Agreement is fair, reasonable, and adequate and
  - 28 should be approved by the Court pursuant to Rule 23(e) of the Federal
- Rules of Civil Procedure;

- b. to determine whether the Final Judgment and Order, as provided under the Settlement Agreement and substantially in the form attached as Exhibit B thereto, should be entered, dismissing the Litigation on the merits and with prejudice as provided therein;
- c. to determine whether the proposed Plan of Allocation for the distribution of the Net Settlement Fund should be approved by the Court;
- d. to consider plaintiffs' motion for attorney's fees;
- e. to consider plaintiffs' motion for Class Representative service award;
- f. to consider any objections or Requests for Exclusion received by the Court; and to rule upon such other matters as the Court may deem appropriate.

6. The Court approves the form, substance, and requirements of the Notice of Pendency and Proposed Settlement of Class Action, the Summary Notice of Proposed Settlement of Class Action, and the Proof of Claim and Release, annexed hereto as Exhibits A-1, A-2, and A-3, respectively.

7. The Court approves the appointment of CPT Group as the Claims Administrator to supervise and administer the Notice procedure in connection with the proposed settlement, as well as the processing of Claims as more fully set forth below.

8. Defendant has timely completed service on the appropriate federal and state government officials of all notices required under the Class Action Fairness Act, 28 U.S.C. § 1715 et seq. ("CAFA").

9. No later than August 28, 2023, Defendant shall provide, or direct its transfer agent to provide, the Claims Administrator, at no cost to Plaintiff or the Settlement Class, an electronically searchable document, such as an Excel spreadsheet, containing the identifiable blockchain addresses of any Collateralized Debt Positions ("CDP") or Vaults on the Maker Protocol

1 that were forced to liquidate their ETH on March 12 or 13, 2020, and received Zero Compensation  
2 as part of any related auction.

3 10. The Claims Administrator shall place the Settlement Agreement, Notice, and  
4 Proof of Claim and Release on the website dedicated to administration of this Settlement, on or  
5 before the date that the Notice is effected.  
6

7 11. No later than September 8, 2023, the Claims Administrator shall effectuate Notice  
8 by (1) causing a message to be sent to all affected blockchain addresses, by an ETH blockchain  
9 transaction, containing a link to the website dedicated to administration of this settlement and (2)  
10 publicly posting the link to the settlement administration website on the MakerDAO  
11 community forums, available at <https://start.makerdao.com/>. The Claims Administrator shall  
12 use reasonable efforts to give notice to all Persons and entities forced to liquidate their ETH as  
13 outlined above. No later than November 7, 2023, the Claims Administrator, as to all Settlement  
14 Class Members who have not, by that date, responded to the initial Notice by one of the means set  
15 forth in paragraphs 15 and 17 herein, shall repeat part (1) of the above-described process for  
16 effectuating Notice.  
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18 12. Plaintiff's Counsel may cause to be paid from the Settlement  
19 Fund, without further approval from Defendant and/or order of the Court, Notice and  
20 Administration Expenses of up to \$100,000.  
21

22 13. Plaintiff's Counsel shall, no later than January 26, 2024, file with the  
23 Court and serve on the Settling Parties proof that notice has been effectuated in  
24 accordance with the methods set forth in ¶ 11.  
25

26 14. The form and content of the Notice and the Summary Notice, and the method set  
27 forth herein of notifying the Settlement Class of the settlement and its terms and conditions, meet the  
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1 requirements of the Federal Rules of Civil Procedure, 15 U.S.C. §78u-4(a)(7), due process, and all  
2 other applicable laws and constitute the best notice practicable under the circumstances, and shall  
3 constitute due and sufficient notice to all persons and entities entitled thereto.  
4

5 15. In order to be entitled to participate in the Net Settlement Fund, in the event the  
6 settlement is consummated in accordance with the terms set forth in the Settlement Agreement, each  
7 Settlement Class Member shall take the following actions and be subject to the following  
8 conditions:

- 9 a. No later than December 1, 2023, each Person claiming to be an Authorized  
10 Claimant shall be required to submit to the Claims Administrator a  
11 completed Proof of Claim and Release, substantially in the form contained in  
12 Exhibit A-2 to the Stipulation and as approved by the Court, signed under  
13 penalty of perjury and supported by such documents as specified in the Proof  
14 of Claim. Proofs of Claim shall be timely submitted if they are postmarked (for  
15 U.S. Mail) or received by the private carrier (for FedEx, UPS, etc.), or  
16 electronically by the Claims Administrator, by December 1, 2023.  
17  
18 b. As part of the submission of a Proof of Claim and Release, each Settlement Class  
19 Member shall submit to the jurisdiction of the Court, with respect to the claim  
20 submitted, and shall (subject to effectuation of the settlement) release all Released  
21 Claims as provided in the Settlement Agreement.  
22

23 16. All Settlement Class Members shall be bound by all determinations and judgments in  
24 the Litigation, whether favorable or unfavorable, regardless of whether such Person seeks or obtains  
25 by any means any distribution from the Net Settlement Fund, unless they submit a Request for  
26 Exclusion from the Settlement Class in a timely and proper manner, as hereinafter provided.  
27 No Settlement Class Member will be relieved from the terms and conditions of the settlement,  
28 including the releases provided pursuant thereto, based upon the contention or proof that such

1 Settlement Class Member failed to receive actual or adequate notice or failed to timely submit  
2 a Proof of Claim.

3 17. Any Settlement Class Member who wishes to request exclusion from (*i.e.* “opt-out”  
4 of) the Settlement Class must submit a written Request for Exclusion so that it is postmarked (for  
5 U.S. Mail) or received by the private carrier (for FedEx, UPS, etc.) or by email no later  
6 than December 1, 2023. As provided in the Notice, such Request for  
7  
8 Exclusion shall clearly indicate the name, address, and telephone number of the Person  
9 seeking exclusion, that the sender requests to be excluded from the Settlement Class, and must  
10 be personally signed by the Settlement Class Member. Such Persons requesting exclusion are also  
11 directed to state the amount of ETH they were forced to liquidate on March 12 or 13, 2020 and  
12 to provide copies of documents evidencing the same (such as Blockchain ledger records). The  
13 Request for Exclusion shall not be effective unless it is made in writing within the time stated  
14 above, and the exclusion is accepted by the Court. Any Settlement Class Member that  
15 submits a Request for Exclusion shall have no rights under the Settlement Agreement, shall  
16 not be entitled to receive any payment out of the Net Settlement Fund, and shall not be entitled to  
17 object to the settlement. Unless otherwise ordered by the Court, any Settlement Class Member  
18 who fails to timely and validly request exclusion from the Settlement Class in accordance with  
19 this Paragraph shall be deemed to have waived his, her, their, or its right to be excluded from  
20 the Settlement Class and shall be forever barred from requesting exclusion from the Settlement  
21 Class.  
22  
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24 18. Any Settlement Class Member that submits a Request for Exclusion may thereafter  
25 submit to the Claims Administrator and Plaintiff’s Counsel a written and signed revocation of that  
26 Request for Exclusion, provided that it is received no later than January 2, 2024, in which  
27 event that Person will be included in the Settlement Class.  
28

19. The Court will consider objections to the Settlement Agreement, the Plan of Allocation, and plaintiffs' motion for attorney's fees and Class Representative service award from any Settlement Class Member who does not request exclusion from the Settlement Class. Any such Person wanting to object must do so in writing and may also appear at the Settlement Hearing.

- a. To the extent any Person wants to object in writing, such objections and any supporting papers, accompanied by proof of Settlement Class membership and the amount of ETH they were forced to liquidate on March 12 or 13, 2020, and personally signed by the Person objecting, shall be filed with the Clerk of the Court, United States District Court for the Northern District of California, 450 Golden Gate Avenue, San Francisco, CA 94102 no later than December 1, 2023.
- b. Copies of all such papers must also be served no later than December 1, 2023, to each of the following: Adam S. Heder, JurisLaw LLP, Three Centerpointe Drive, Suite 160, Lake Oswego, OR 97035 on behalf of the Plaintiff and the Settlement Class; Peter B. Morrison, Alexander C. Drylewski, and Michael W. Restey Jr., Skadden, Arps, Slate, Meagher & Flom LLP, One Manhattan West, New York, NY 10001 on behalf of Defendant.
- c. Objections will be deemed timely if they are postmarked (for U.S. Mail) or received by the private carrier (for FedEx, UPS, etc.) or emailed no later than December 1, 2023.
- d. If an objector hires an attorney to represent them for the purposes of making an objection, the attorney must both effect service of a notice of appearance on counsel listed above and file it with the Court by no later than December 1, 2023,.

- 1 e. A Settlement Class Member who files a written objection does not have to appear  
2 at the Settlement Hearing for the Court to consider the objection. If the Settlement  
3 Class Member intends to appear at the Settlement Hearing, the Settlement Class  
4 Member must state in writing in the objection the intent to appear in person, and  
5 shall identify any witnesses they may seek to call and exhibits they intend to offer  
6 at the Settlement Hearing, and shall include copies of any such exhibits, in the  
7 papers served, as set forth above, no later than December 1, 2023.  
8  
9 f. Any Settlement Class Member who does not make their objection in the manner  
10 provided shall be deemed to have waived such objection and shall forever be  
11 foreclosed from making any objection to the fairness or adequacy of the  
12 Settlement Agreement, the Plan of Allocation, and motion for attorney's fees  
13 and Class Representative service award, unless otherwise ordered by the  
14 Court.  
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16 g. The Settling Parties may take discovery of any Settlement Class Member who  
17 objects concerning membership in the Settlement Class.  
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19 20. The Claims Administrator, Defendant's Counsel, and Plaintiff's Counsel shall  
20 promptly furnish each other with copies of any and all objections that come into their possession.

21 21. Plaintiff's motion for attorney's fees and Class Representative service award shall be filed,  
22 served, and posted on the settlement administration website, no later than September 8, 2023.  
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24 22. Plaintiffs' motion for final settlement approval shall be filed and served no later than  
25 January 5, 2024.  
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1           23. All funds held by an Escrow Agent shall be deemed and considered to be *in*  
2 *custodia legis* of the Court, and shall remain subject to the jurisdiction of the Court, until such  
3 time as such funds shall be distributed pursuant to the Settlement Agreement and/or further order(s)  
4 of the Court.

5           24. Pending final determination of whether the settlement should be approved,  
6 Plaintiff, all Settlement Class Members, and each of them, and anyone who acts or purports to  
7 act on their behalf, shall not institute, commence, maintain, or prosecute, and are hereby barred  
8 and enjoined from instituting, continuing, commencing, maintaining, or prosecuting, any action  
9 in any court or tribunal that asserts Released Claims against any of the Released Defendant Parties.  
10 Unless and until the Settlement Agreement is canceled and terminated pursuant to its terms, all  
11 proceedings in this Litigation, other than such proceedings as may be necessary to carry  
12 out the terms and conditions of the settlement, are hereby stayed and suspended until further  
13 order of the Court.

14           25. All reasonable expenses incurred in identifying and notifying Settlement  
15 Class Members, as well as administering the Settlement Fund, shall be paid as set forth in the  
16 Settlement Agreement and herein. In the event that (i) any such payments have been  
17 made from the Settlement Fund consistent with the Settlement Agreement and (ii) the settlement  
18 is not approved by the Court or otherwise fails to become effective, neither Plaintiff nor Plaintiff's  
19 Counsel shall have any obligation to repay any amounts actually and properly disbursed from  
20 the Settlement Fund, except as provided for in the Settlement Agreement.

21           26. The Court reserves the right to approve the Settlement Agreement  
22 without modification, or with such modifications as may be agreed to by the Settling Parties,  
23 and with or without further notice, and may adjourn or continue the Settlement Hearing  
24 or hold the Settlement Hearing via videoconference or telephone conference without  
25 further notice to the Settlement Class. The Court may approve the Settlement Agreement  
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1 regardless of whether it has approved the Plan of Allocation, or plaintiff's motion for attorney's fees  
2 and Class Representative award. The Claims Administrator and Plaintiff's Counsel shall cause  
3 any change to the date, time, or manner of the Settlement Hearing to be posted on the  
4 website established by the Class Administrator.

5  
6 27. If any specified condition to the settlement set forth in the Settlement Agreement  
7 is not satisfied and Plaintiff or Defendant elect to terminate the settlement pursuant to its terms,  
8 then, in any such event, the Settlement Agreement, including any amendment(s) thereof, shall be  
9 null and void and of no further force or effect (except to the extent otherwise expressly  
10 provided in the Settlement Agreement), without prejudice to any Settling Party, and may not  
11 be introduced as evidence or referred to in the Litigation, or in any action or proceeding by any  
12 Person for any purpose, and each Settling Party shall be restored to his or its respective position as  
13 it existed on April 19, 2023.

14  
15 28. Neither the Settlement Agreement nor the terms of the settlement, nor any of the  
16 negotiations or proceedings connected with it, nor this Order, shall be construed as an admission or  
17 concession by Defendant of the truth of any of the allegations in the Litigation or of any  
18 liability, fault, or wrongdoing of any kind. Nor shall they be construed as an admission or  
19 concession by Defendant that any damages potentially recoverable in the Litigation would have  
20 exceeded the Settlement Amount, or that class certification is appropriate in this Litigation,  
21 except for purposes of the Settlement.

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IT IS SO ORDERED.

  
THE HONORABLE MAXINE M. CHESNEY  
UNITED STATES DISTRICT JUDGE