

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA**

In re VAXART, INC. SECURITIES LITIGATION

Master Case No. 3:20-cv-05949-VC

This Document Relates to:

ALL ACTIONS

**NOTICE OF: (I) PENDENCY OF CLASS ACTION AND PROPOSED PARTIAL SETTLEMENT; (II) SETTLEMENT FAIRNESS HEARING; AND (III) MOTION FOR AWARD OF ATTORNEYS' FEES AND REIMBURSEMENT OF EXPENSES**

**TO: ALL PERSONS WHO PURCHASED COMMON STOCK OF VAXART, INC. (“VAXART” OR THE “COMPANY”) (ticker symbol: “VXRT”) DURING THE PERIOD FROM JUNE 15, 2020 THROUGH AND INCLUDING AUGUST 19, 2020 (THE “CLASS PERIOD”) AND WERE DAMAGED THEREBY**

**\*\*\*A FEDERAL COURT AUTHORIZED THIS NOTICE\*\*\***

**THIS IS NOT A SOLICITATION FROM A LAWYER.**

PLEASE READ THIS NOTICE CAREFULLY AND IN ITS ENTIRETY. YOUR RIGHTS MAY BE AFFECTED BY PROCEEDINGS IN THIS ACTION. PLEASE NOTE THAT IF YOU ARE A CLASS MEMBER, YOU MAY BE ENTITLED TO SHARE IN THE PROCEEDS OF THE SETTLEMENT DESCRIBED IN THIS NOTICE. TO CLAIM YOUR SHARE OF THE SETTLEMENT PROCEEDS, YOU MUST SUBMIT A VALID PROOF OF CLAIM AND RELEASE FORM (“CLAIM FORM”) **POSTMARKED ON OR BEFORE JANUARY 31, 2023.**

The purpose of this Notice is to inform you of: (i) the pendency of this class action (the “Action”); (ii) the proposed \$12,015,000 partial settlement (the “Settlement”) of the Action reached between (a) all Plaintiffs; and (b) the Settling Defendants (consisting of Vaxart and current or former Vaxart officers and/or directors Andrei Floroiu, Wouter W. Latour, Todd Davis, Michael Finney, Robert Yedid, and Sean Tucker); and (iii) a hearing to be held by the Court to consider the fairness, reasonableness, and adequacy of the Settlement, proposed Plan of Allocation, Plaintiffs’ Counsel’s application for attorney’s fees, costs, and expenses, and the named Plaintiffs’ application for an award (of no more than \$10,000) for their reasonable time and expenses in representing the Class. This Notice also describes what rights you have and what steps you may take in relation to the Settlement and this Action.<sup>1</sup>

<b>YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT</b>	
<b>SUBMIT A CLAIM FORM</b>	The only way to be eligible to receive a payment from the Settlement. Unless otherwise extended by the Court, <b>Claim Forms must be postmarked on or before January 31, 2023.</b>
<b>EXCLUDE YOURSELF</b>	Get no payment. This is the only option that potentially allows you to ever be part of another lawsuit against the Defendants or any other Released Defendant Persons based on the matters being resolved by this Settlement. Unless otherwise extended by the Court, <b>exclusion requests must be received on or before December 13, 2022.</b>
<b>OBJECT</b>	Write to the Court about why you do not like the Settlement, Plan of Allocation, and/or request for attorneys’ fees and expenses. You will still be a member of the Class. Unless otherwise extended by the Court, <b>objections must be received by the Court and counsel for the Settling Parties on or before December 22, 2022.</b>

<sup>1</sup> All capitalized terms used in this Notice that are not otherwise defined herein have the meanings provided in the Stipulation of Settlement dated July 27, 2022 (the “Stipulation”), copies available at [www.VaxartSecuritiesLitigation.com](http://www.VaxartSecuritiesLitigation.com).

<p><b>ATTEND THE HEARING ON JANUARY 12, 2023 AT 10:00 A.M. PT, either in person or remotely (SEE NOTICE AT §§19-21 BELOW).</b></p>	<p>Ask to speak in Court about the fairness of the Settlement. Unless otherwise permitted by the Court, <b>requests to speak must be received by the Court and counsel for the Settling Parties on or before December 22, 2022.</b></p>
<p><b>DO NOTHING</b></p>	<p>Receive no payment. You will, however, still be a member of the Class, which means that you give up your right to ever be part of any other lawsuit against the Defendants or any other Released Defendant Persons about the legal claims being resolved by this Settlement, and that you will be bound by any judgments or orders entered by the Court in the Action.</p>

You may submit a claim or object, or do both, or do nothing. However, if you timely exclude yourself, that is the only thing you can do: you may not object in writing, you may not appear at the Fairness Hearing to state any objections, and you may not submit a claim. The Court presiding over this case must decide whether to approve the Settlement. Payments will be made only if the Court approves the Settlement, and only after resolution of any appeals and the review and processing of all Claim Forms. Please be patient.

***Please Do Not Call the Court or Defendants with Questions About the Settlement.***

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## BASIC INFORMATION

### 1. Why Did I Get This Notice?

The Court has directed that this Notice be sent to you because you or someone in your family may have purchased or acquired Vaxart common stock during the Class Period of June 15, 2020 through August 19, 2020, inclusive. The Court has directed us to send you this Notice because, as a potential Class Member, you have a right to know about the proposed Settlement and all of your options before the Court decides whether to approve the Settlement.

The Court in charge of this Action is the United States District Court for the Northern District of California (the “Court”). The issuance of this Notice is not an expression of any opinion by the Court concerning the merits of any claim or defenses in the Action, and the Court still has to decide whether to approve the Settlement.

### 2. What Is This Lawsuit About?

Defendant Vaxart is a vaccine development company that has a “proprietary oral vaccine platform” that is designed to allow vaccines to be delivered by tablet. In late 2019, Armistice, a hedge fund with an investment focus on the healthcare industry, acquired control of a majority of Vaxart’s outstanding shares, and two of Armistice’s senior officers and/or managing directors, Non-Settling Defendants Stephen J. Boyd (“Boyd”) and Keith Maher (“Maher”), joined Vaxart’s board.

As COVID-19 began to spread internationally in early 2020, Vaxart announced that it would focus its business on developing a COVID-19 vaccine. Thereafter, beginning on June 15, 2020, Plaintiffs allege that Vaxart issued various allegedly false and misleading public statements about the Company’s vaccine development efforts. These statements, among other things, represented (on June 25) that Vaxart had “enable[d] production of a billion or more” doses of its vaccine candidate through a manufacturing partner, and represented (on June 26) that Vaxart’s COVID-19 vaccine candidate had been “selected for the U.S. Government’s Operation Warp Speed [‘OWS’]” – the then-recently announced federal program to identify the most promising COVID-19 vaccine candidates for “fast-track” development and potential federal funding.

Plaintiffs allege that these statements were materially false or misleadingly incomplete and made in violation of §10(b) of the Exchange Act, and caused Vaxart’s stock price to be artificially inflated during the Class Period. For example, Plaintiffs allege that, in fact, Vaxart’s vaccine candidate had *not* been “selected for” OWS, and that Vaxart’s manufacturing partner lacked viable capabilities to enable bulk manufacturing of its vaccine candidate. Plaintiffs further allege that Defendants’ allegedly false and misleading statements enabled Armistice to reap roughly \$250 million in insider profits by selling over 27.4 million Vaxart shares at inflated prices -- while in possession of materially adverse non-public information and thus in violation of §20A of the Exchange Act -- during the Class Period

The Settling Defendants deny all allegations of wrongdoing and liability, and have maintained that all statements made by or on behalf of Vaxart during the Class Period were accurate or at least reasonably believed by them to be true and/or not materially misleading when made. In addition, the Settling Defendants deny any liability by Armistice (or by Boyd and Maher in their capacities as officers, directors or agents of Armistice) premised on allegations that Armistice (or Boyd and Maher) possessed material adverse information or that Vaxart’s statements were false or misleading in any way. *See also* §5 below (“Why Is There a Settlement?”).

On August 9, 2021, following the filing of earlier complaints, Plaintiffs filed their Corrected First Amended Consolidated Complaint, which (*inter alia*) asserted claims for violations of § 10(b) and/or related §20(a) “control person” liability claims against all Defendants, plus §20A claims against Armistice (and related “control person” liability claims against Boyd and Maher) under the Exchange Act. All Defendants filed motions to dismiss the claims asserted against them. After full briefing and oral argument, by Order dated December 22, 2021, the Court sustained Plaintiffs’ claims against the Settling Defendants (plus Boyd and Maher) to the extent that they were based on allegations that Vaxart and certain of its officers and/or directors had made certain materially false or misleading statements in violation of §10(b), but dismissed Plaintiffs’ “scheme liability” claims against all Defendants under SEC Rule 10b-5(a) and (c), as well as all “control person” claims against Armistice (and, by implication, all control claims against Boyd and Maher in their capacities as officers or directors of Armistice).

In early 2022, the Settling Parties agreed to pursue a mediation under the auspices of a highly experienced mediator, the Hon. Layn R. Phillips (U.S.D.J., ret.) (the “Mediator”). Thereafter, counsel for all Plaintiffs and the Settling Defendants proceeded with the preparation of mediation briefs and accompanying materials, and participated in a full day, arms-length mediation session on April 11, 2022 under the auspices of the Mediator. Although the Settling Parties were unable to reach an agreement at the April 11, 2022 mediation session, following further discussions the Mediator made a proposal for a partial settlement (the “Mediator’s Proposal”) under which, *inter alia*, all of Plaintiffs’ claims that were or could have been asserted in the Action against the Settling Defendants (as well as all claims that were or could have been asserted against Non-Settling Defendants Boyd and Maher in their capacities as former directors of Vaxart) would be settled for \$12 million in cash (with the possibility of certain additional, but relatively small, sums being payable under certain conditions, which ultimately totaled \$15,000), although the Settling Defendants would remain subject to discovery in connection with Plaintiffs’ litigation of any unsettled claims against Armistice, Boyd and Maher.

The Settling Parties were ultimately able to reach an agreement, subject to approval by the Court, to settle all claims against the Settling Defendants (and the claims asserted against Non-Settling Defendants Boyd and Maher in their capacities as former directors of Vaxart) consistent with the Mediator’s Proposal. The Settling Parties signed the Stipulation of Settlement (“Stipulation”) on July 27, 2022, and notified the Court of the proposed Settlement immediately thereafter.

The Settlement, if approved, would dispose of all currently pending claims in this action, including all currently pending claims against Defendants Boyd and Maher. Plaintiffs, however, intend to prepare and submit a Second Amended Consolidated Complaint, which, if permitted by the Court, would allow them to re-plead claims against Non-Settling Defendant Armistice, as well as Boyd and Maher (in their Armistice capacities), under sections 10(b), 20(a) and 20A of the Exchange Act. Although the amended claims against the Non-Settling Defendants will *not* (in Plaintiffs' Counsel's view) be barred under the Settlement, the Court has not yet ruled on whether any such amended claims should be allowed to proceed. If there should be a further settlement of those claims (as to which there can be no assurance), Class Members will receive a separate notice.

## WHO IS IN THE SETTLEMENT

### 3. How Do I Know If I Am Part Of The Settlement?

If you are a member of the Class you are subject to the Settlement, unless you timely request to be excluded. The Class consists of: all Persons who purchased or otherwise acquired shares of Vaxart common stock (NASDAQ ticker: VXRT) between June 15, 2020 and August 19, 2020, inclusive, and were damaged thereby. Excluded from the Class are all Defendants and all Armistice Entities; their respective successors and assigns; the past and current officers, directors, partners and managing partners of Vaxart, Armistice, and any Armistice Entity; the members of the immediate families of the Individual Defendants; the legal representatives, heirs, parents, wholly-owned subsidiaries, successors, and assigns of any excluded Person; and any entity in which any excluded Persons have or had a majority ownership interest, or that is or was controlled by any excluded Persons.

### 4. What If I Am Still Unsure If I Am Included?

If you are still not sure whether you are included in the Class, you can ask for free help by calling the Claims Administrator at 1-877-388-1723. You can also fill out and return the Claim Form described at §9 to see if you qualify or go to [www.VaxartSecuritiesLitigation.com](http://www.VaxartSecuritiesLitigation.com) for more information.

## THE SETTLEMENT AND WHAT YOU MAY GET

### 5. Why Is There A Settlement?

The Court did not decide in favor of the Plaintiffs or the Settling Defendants. Instead, the Plaintiffs and the Settling Defendants agreed to a Settlement. If approved, the Settlement will avoid the cost and uncertainties of further litigation, trial, and likely appeals against the Settling Defendants (and certain of their Related Persons in their capacities as such), while (a) allowing eligible Class Members who submit valid Claim Forms to receive compensation on their claims against the Settling Defendants, and simultaneously (b) preserving the ability of the Class and all Class Members to continue to pursue certain *non-released* claims against Armistice and Armistice's Related Persons (including Non-Settling Defendants Boyd and Maher in their Armistice capacities).

Plaintiffs and their counsel believe that the claims that will be released under the Settlement have merit. They recognize, however, that continuing the litigation of the Released Claims through trial and likely appeals would be expensive and likely require additional years to resolve, and would involve a very substantial risk that Plaintiffs would be unable to prove (i) that the Settling Defendants were liable, or (ii) that the Settling Defendants (even if they were liable) had caused the Class to suffer legally recoverable damages. For example, the Settling Defendants argued that their statements regarding their COVID-19 efforts were inactionable "puffery" or "opinion" statements; that any statements were reasonably believed by them to be true and not materially misleading and/or were literally true when read in context; and that certain "forward-looking" statements were not actionable because they were accompanied by adequate cautionary language and risk warnings. The Settling Defendants also argued that none of the alleged misstatements or omissions caused any Class Members to suffer any damages, on the grounds that the "corrective disclosures" that caused Vaxart's stock price to decline did not relate to the Settling Defendants' alleged misstatements (or that, at worst for Settling Defendants, their liability would be limited to just a fraction of the losses allegedly suffered on the alleged "corrective disclosure" dates). To obtain any recovery against the Settling Defendants, Plaintiffs would also have to prevail at class certification, summary judgment and trial – and even then they would still face the risk of winning on the appeals that would likely follow any successful result at trial. Further litigation would therefore involve significant risks and likely years of further proceedings.

### 6. What Does The Settlement Provide?

The Settlement will result in a fund of \$12,015,000 in cash in exchange for a release of the Released Claims (defined below) and the dismissal of the Action as against the Settling Defendants (and as against non-Settling Defendants Boyd and Maher, but only in their capacities as former directors of Vaxart). After deductions for taxes, Court-approved attorneys' fees and expenses, Plaintiff service awards and the costs of claims administration, the balance of the fund (the "Net Settlement Fund"), will be distributed *pro rata* in accord with a "Plan of Allocation" to Class Members who submit valid Claim Forms. The proposed Plan of Allocation, which is subject to approval by Court, is described in more detail at the end of this Notice.

### 7. How Much Will My Payment Be?

Your share of the Net Settlement Fund will depend on the number of valid Claim Forms that Class Members send in, the number of Vaxart common shares you purchased during the relevant period, the timing of your purchases and sales, and the amount in fees and

expenses approved by the Court. You will not receive a payment, however, if your proportionate share of the Net Settlement Fund is less than \$10.00.

## 8. What Is The Proposed Plan Of Allocation?

You can calculate your Recognized Claim under the formulas set forth below in the Plan of Allocation. The payment you receive will reflect your Recognized Claim in relation to the Recognized Claims of all persons submitting valid Claim Forms. Because the total of all recognized claims is expected to exceed the amount of the Net Settlement Fund, your Recognized Claim is not the amount of the payment that you can expect, but is used to determine how the Net Settlement Fund will be allocated among all persons submitting claims.

### HOW TO OBTAIN A PAYMENT – SUBMITTING A CLAIM FORM

## 9. How Can I Obtain A Payment?

To be eligible for a payment from the proceeds of the Settlement, you must be an eligible Class Member and must submit a valid Claim Form. A Claim Form is enclosed with this Notice. You may also download a Claim Form from [www.VaxartSecuritiesLitigation.com](http://www.VaxartSecuritiesLitigation.com), or request one from the Claims Administrator by calling 1-877-388-1723 toll free. Please read the Claim Form instructions carefully, provide all required information, include copies of the required supporting documents, sign the form, **and mail it so that it is postmarked no later than January 31, 2023**, or electronically submit it via the above website **no later than January 31, 2023**.

## 10. When Will I Receive My Payment?

The Court will hold its Fairness Hearing on January 12, 2023, at 10:00 a.m. Pacific Time, to decide whether to approve the Settlement and Plan of Allocation. Please note that the Fairness Hearing date is subject to change without further notice; *see* § 19 below. If the Court approves the Settlement and Plan of Allocation, there may be appeals. It is always uncertain when appeals will be resolved, and even if no appeals are filed it also takes time for the Claims Administrator to process all Claim Forms and make payments. Please be patient.

## 11. What Am I Giving Up To Receive A Payment?

Unless you timely and validly exclude yourself from the Class by the December 13, 2022 deadline (*see* §§12-14 below), if you fit within the definition of the Class you will continue to be a Class Member, which means that you cannot sue or be part of any other lawsuit that brings any of the Released Claims (including the claims asserted in this Action) against any of the Settling Defendants or the other Released Defendant Persons. It also means that all of the Court's orders will apply to you and legally bind you. If you remain a Class Member, and if the Settlement is approved, you and each of your "Related Persons" (as defined below) will give up all "Released Claims" (as defined below), including "Unknown Claims" (as defined below), against the "Released Defendant Persons" (as defined below):

- "Released Claims" means any and all claims, rights, demands, obligations, damages, actions or causes of action, or liabilities whatsoever, of every nature and description, including both known claims and Unknown Claims, whether arising under federal, state, common or foreign law or regulation, that have or could have been asserted in the Action against any of the Released Defendant Persons by Plaintiffs or any Class Member that (a) arise out of or relate in any way to the purchase or acquisition of Vaxart common stock during the Class Period and (b) arise out of or relate in any way to the acts, facts, events, occurrences, statements, representations or omissions that were or could have been alleged or asserted by Plaintiffs or any member of the Class in the Action, or which could have been alleged in the Action, provided, however, that the following are expressly excluded from the definition of Released Claims: (i) all claims asserted in the Derivative Actions<sup>2</sup>; (ii) all claims that have been or may in the future be brought against Armistice; (iii) all claims that have been or may in the future be brought against Boyd, except to the extent that such claims are or may be brought against Boyd in his capacity as a former director of Vaxart; and (iv) all claims that have been or may in the future be brought against Maher, except to the extent that such claims are or may be brought against Maher in his capacity as a former director of Vaxart. In addition, "Released Claims" does not include any claims to enforce any of the terms of this Stipulation.
- "Released Defendant Persons" means (i) Vaxart, (ii) Floroiu, Latour, Davis, Finney, Yedid, Tucker, Boyd and Maher, in their respective capacities as current or former officers or directors of Vaxart; (iii) each of Vaxart's, Floroiu's, Latour's, Davis's, Finney's, Yedid's, Tucker's, Boyd's and Maher's respective Related Persons. Notwithstanding any other term or provision to the contrary contained in this Notice, however, "Released Defendant Persons" does not include, and instead specifically excludes: (a)

<sup>2</sup> "Derivative Actions" means and includes (i) *Ennis v. Latour, et al.*, Case No. 20-civ-03253 (Cal. Super. Ct. San Mateo Cty.); (ii) *In re Vaxart, Inc. Stockholder Litigation*, Case No. 2020-0767-PAF (Del. Ct. of Chancery); and (iii) *Roth v. Armistice LLC*, 1:20-cv-08872 (S.D.N.Y).

Armistice; (b) the Armistice Entities; (c) Armistice's and the Armistice Entities' respective Related Persons in their capacities as such (including Boyd and Maher in their Armistice capacities); and (d) Floroiu's, Latour's, Davis's, Finney's, Yedid's, Tucker's, Boyd's and Maher's respective Related Persons insofar as such Related Person's liability to any Class Member derives from or is based upon acts or omissions of Floroiu, Latour, Davis, Finney, Yedid, Tucker, Boyd or Maher that were made in any capacity other than their respective capacities as a former Vaxart officer or director.

- "Related Persons", with respect to a Person, means (a) their immediate family members and any trust that such Person is the settlor of or which is for their benefit and/or the benefit of their family; (b) their subsidiaries, parent entities, divisions, and departments; and (c), for any of the entities or Persons listed at (a) or (b) above, their respective past and present officers, directors, managing directors, partners, employees, auditors, accountants, representatives, insurers, trustees, trustors, agents, attorneys, professionals, predecessors, successors, assigns, heirs, executors, and administrators, in their capacities as such.
- "Unknown Claims" means (i) any claims that the Plaintiffs or any Class Member does not know or suspect to exist in his, her, or its favor at the time of the release of the Released Defendant Persons, which if known by him, her, or it, might have affected his, her, or its decision(s) with respect to the Settlement, including, but not limited to, the decision not to object to the Settlement, provided such claim arises out of or relates to the purchase or acquisition of Vaxart common stock; and (ii) any Released Defendant's Claims that any Settling Defendant does not know or expect to exist in his, her, or its favor, which if known by him, her, or it might have affected his, her, or its decision(s) with respect to the Settlement. With respect to any and all Released Claims and Released Defendants' Claims, the Settling Parties stipulate and agree that upon the Effective Date, the Settling Parties shall expressly waive, and each of the Class Members shall be deemed to have waived and by operation of the Judgment shall have waived, any and all provisions, rights, and benefits conferred by any law of any state or territory of the United States, or principle of common law that is similar, comparable, or equivalent to Cal. Civ. Code § 1542, which provides: "A general release does not extend to claims which the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if known by him or her, would have materially affected his or her settlement with the debtor or releasing party." The Plaintiffs acknowledge, and the Class Members shall be deemed by operation of the Judgment to have acknowledged, that the inclusion of "Unknown Claims" in the definitions of Released Claims and Released Defendants' Claims was separately bargained for and a key element of the Settlement of which this release is a part.

In addition, if the Settlement is approved, each of the Settling Defendants and each of their Related Persons will give up all "Released Defendants' Claims" against Class Members and the other Released Plaintiff Persons (as defined below):

- "Released Defendants' Claims" means all claims, demands, rights, remedies, liabilities, and causes of action of every nature and description whatsoever, whether based on federal, state, local, statutory, or common law, or any other law, rule, or regulation, including both known and Unknown Claims, by any of the Released Defendant Persons (or any of their successors or assigns) against any of the Plaintiffs or any of Plaintiffs' attorneys which arise out of or relate in any way to the institution, prosecution, assertion, settlement, or resolution of this Action or the Released Claims, except for claims to enforce any of the terms of the Stipulation.
- "Released Plaintiff Persons" means (i) the Plaintiffs and all Class Members; and (ii) each of their Related Persons.

#### EXCLUDING YOURSELF FROM THE CLASS ACTION SETTLEMENT

If you do not want a payment from the Settlement and want to keep the right to sue on your own the Settling Defendants or the other Released Defendant Persons to recover anything on the claims being released by the Settlement, then you must take steps to remove yourself from the Class. This process is called excluding yourself from the Class – and is sometimes referred to as "opting out."

#### 12. How Do I Exclude Myself ("Opt-Out") Of The Class?

To exclude yourself from the Class and the Settlement, you must send a letter by First Class Mail stating that you "request to be excluded from the Settlement Class in *In re Vaxart, Inc. Securities Litigation*." To be valid, your request must include your name, address, telephone number, your signature, the number of shares of Vaxart common stock that you purchased and/or sold during the Class Period (*i.e.* between June 15, 2020 and August 19, 2020 inclusive), together with the number of shares, dates, and prices for each such purchase or sale transaction. A Person that requests exclusion from the Class must also include copies of documents sufficient to show how many shares of Vaxart common stock he, she, or it purchased and sold during the Class Period, including the dates of purchase or sale, the number of shares purchased and/or sold, and the price paid or received per share for each such purchase or sale. Unless the deadline is otherwise extended by the Court, you must mail your exclusion request so that it is **received no later than December 13, 2022**, to the following:

Vaxart Securities Litigation  
EXCLUSIONS  
c/o A.B. Data, Ltd.  
P.O. Box 173001  
Milwaukee, WI 53217

Unless otherwise ordered by the Court, your exclusion request must comply with the above requirements in order to be valid. **Please note that you cannot exclude yourself on the phone or by e-mail.** If you ask to be excluded, you will not be eligible to receive any payment from the Settlement and you cannot object to the class action Settlement, but you will not be legally bound by anything that

happens in this Action, and you may be able to sue on your own the Settling Defendants and the other Released Defendant Persons on the Released Claims in the future.

### 13. If I Do Not Exclude Myself, Can I Sue the Settling Defendants For the Same Thing Later?

No. Unless you exclude yourself from the Class, you give up any right to sue the Settling Defendants and the other Released Defendant Persons on any and all Released Claims. If you have a pending lawsuit against any of the Released Defendant Persons, speak to your lawyer in that case immediately, as you may need to exclude yourself from this Action to continue your own lawsuit. Remember, the exclusion deadline is **December 13, 2022**.

### 14. If I Exclude Myself, Can I Receive Money From The Settlement?

No. If you exclude yourself, do not send in a Claim Form.

## THE LAWYERS REPRESENTING YOU

### 15. Do I Have A Lawyer In This Case?

The Court appointed the law firm of Hagens Berman Sobol Shapiro LLP to represent you and other Class Members. These lawyers are called Lead Counsel. You will not be personally liable for the fees and expenses incurred by these lawyers or any other lawyers working with or assisting them. If you want to be represented by your own lawyer, you may hire one at your own expense.

### 16. How Will The Lawyers Be Paid?

Lead Counsel and the other Plaintiffs' Counsel will submit a Fee and Expense Application asking the Court for an award of attorneys' fees of up to 30% of the Settlement Fund and for reimbursement of expenses up to \$150,000 in connection with litigating the claims asserted in this Action that are being settled. As part of that Application, the individual named Plaintiffs will also request an award for their reasonable time and expenses incurred in representing the Class, in an aggregate amount not to exceed \$10,000. Such sums as may be approved by the Court will be paid from the Settlement Fund. Class Members are not personally liable for any such fees, awards or expenses.

The attorneys' fees and expenses requested will be the only payment to Lead Counsel and the other Plaintiffs' Counsel for their efforts in achieving this Settlement and for their risk in undertaking, on a wholly-contingent basis, to represent Plaintiffs and the Class Members in litigating the claims that are being settled. To date, none of Plaintiffs' Counsel have been paid anything for their services in conducting this Action on behalf of Plaintiffs and the Class, nor for their expenses. Plaintiffs' Counsel collectively have expended a significant number of hours of attorney time to date in connection with litigating and settling the Settled Claims, and will ask the Court for reimbursement of actual expenses in an amount not to exceed \$10,000. If Plaintiffs' Counsel succeed in later obtaining additional recoveries in the future from one or more of the Non-Settling Defendants on any claims that are not being settled under the Settlement, Plaintiffs' Counsel may thereafter seek an additional award of fees and expenses, but any such award will be payable only from the amount (if any) of such future additional recoveries.

Lead Counsel will file a motion in support of Plaintiffs' Counsels' Fee and Expense Application not later than thirty-five (35) days prior to the Fairness Hearing, which Application will be posted on the settlement website at [www.VaxartSecuritiesLitigation.com](http://www.VaxartSecuritiesLitigation.com). The motion will argue that the requested fees are within the range of fees awarded to class counsel in other cases of this type. The Court will decide what Plaintiffs' Counsel should receive from the Settlement Fund for fees and expenses, and may award less than what is requested.

## OBJECTING TO THE SETTLEMENT

You can tell the Court that you do not agree with the Settlement or any part of it.

### 17. How Do I Tell The Court If I Do Not Like The Settlement?

If you are a Class Member, you can object to the proposed Settlement, the proposed Plan of Allocation, Plaintiffs' Counsel's request for attorney's fees and expenses, and/or the named Plaintiffs' request for an award for their time and expenses, and the Court will consider your views. To object, you must send a signed letter saying that you wish to file an objection to the proposed Settlement, Plan of Allocation and/or fee or expense awards in *In re Vaxart, Inc. Securities Litigation*, Case No. 3:20-CV-05949-VC. Include your name, address, telephone number, and your signature, and set forth the date(s), price(s), and number of shares of Vaxart common stock you purchased and sold during the Class Period, and state the reasons why you object to the proposed Settlement, Plan of Allocation and/or the application for attorneys' fees, expenses or service awards. Unless otherwise permitted by the Court, your comments or objection must be mailed or delivered to each of the following addressees listed below such that it is **received** no later than **December 22, 2022**:

## **THE COURT**

Clerk of the Court  
U.S. District Court for the Northern  
District of California  
San Francisco Courthouse  
Courtroom 4, 17<sup>th</sup> Floor  
450 Golden Gate Ave  
San Francisco, CA 94102

## **PLAINTIFFS' LEAD COUNSEL**

Reed R. Kathrein  
Hagens Berman Sobol Shapiro LLP  
715 Hearst Avenue, Suite 202  
Berkeley, CA 94710

## **VAXART'S COUNSEL**

Riccardo M. DeBari  
Thompson Hine LLP  
335 Madison Ave, 12<sup>th</sup> Fl.  
New York, NY 10017-4611

The Court has stated that it will consider any written objection, as long as it substantially complies with the above requirements.

### **18. What Is The Difference Between Objecting And Excluding?**

Objecting is simply telling the Court that you do not like something about the Settlement. You can object only if you stay in (and do not exclude yourself from) the Class. If you object, but the Court approves the Settlement, you will be bound by the Settlement's terms in the same way as Class Members who do not object.

Excluding yourself is telling the Court that you do not want to be paid and do not want to release any claims you think you may have against the Settling Defendants and the other Released Defendant Persons. If you exclude yourself, you cannot object to the Settlement because it will no longer affect you.

### **THE COURT'S FAIRNESS HEARING**

The Court will hold a hearing to decide whether to approve the Settlement. You may attend and you may ask to speak, but you do not have to.

### **19. When And Where Will The Court Decide Whether to Approve The Settlement?**

The Court will hold a Fairness Hearing on January 12, 2023, at 10:00 a.m. PT, before the Hon. Vincent Chhabria, of the United States District Court for the Northern District of California. *Please note that the Court has ordered that the hearing be held remotely by video and/or telephone conferencing*, using the link referenced below. At this hearing, the Court will consider whether the Settlement is fair, reasonable, and adequate. If there are objections, the Court will consider them, even if you do not ask to speak at the hearing. The Court will also consider how much to pay to Plaintiffs' Counsel and whether the Plan of Allocation is fair, reasonable, and adequate. The Court may decide these issues at the hearing or take them under consideration for a later decision. If you want to attend the hearing, you can attend remotely by accessing the following link: <https://www.cand.uscourts.gov/vc>. *Please note that the Court may change the date, time, location and/or manner of the Fairness Hearing, without another notice being sent to you.* You should check with Lead Counsel or the Settlement website, [www.VaxartSecuritiesLitigation.com](http://www.VaxartSecuritiesLitigation.com), beforehand to be sure that the date, time and/or location/method of the hearing have not changed.

### **20. Do I Have To Attend The Fairness Hearing?**

No. Lead Counsel will answer questions the Court may have. However, you are welcome to attend at your own expense. If you send an objection, you do not have to come to Court to talk about it. As long as you mailed your written objection on time, the Court will consider it. You may also ask your own lawyer to attend or participate (at your own expense), but it is not necessary. Class Members do not need to appear at the hearing or take any other action to indicate their approval.

### **21. May I Speak At The Hearing?**

You may ask the Court for permission to speak at the Fairness Hearing. To do so, you must send a letter saying that it is your "intention to appear in *In re Vaxart, Inc. Securities Litigation*, No. 3:20-CV-05949-VC." Be sure to include your name, address, telephone number, your signature, the number of shares of Vaxart common stock you purchased and/or sold during the Class Period (*i.e.* from June 15, 2020 through August 19, 2020, inclusive), and copies of documents evidencing those purchases and/or sales. Persons who intend to object to the Settlement, the Plan of Allocation, any award of attorneys' fees and expense to Plaintiffs' Counsel, and/or any award to Plaintiffs for their time and expenses representing the Class, and who desire to present evidence at the Fairness Hearing, must include in their written objections the identity of any witnesses they may call to testify and copies of any exhibits they intend to introduce into evidence at the Fairness Hearing. Your notice of intention to appear must be sent to (a) the Clerk of the Court, (b) Lead Plaintiffs' Counsel designee, and (c) Defendant Vaxart's counsel designee, respectively, at each of the three addresses listed in the response to question 17 above so that it is **received no later than December 22, 2022**. However, if you wish to appear at the Settlement and object without having first submitted a written objection and a request to appear as set forth in this paragraph (or in item 17 above), the Court may excuse your failure to do so *if* you can provide the Court with a "good cause" explanation of why you were unable to substantially comply with the requirements set forth above.



## IF YOU DO NOTHING

### 22. What Happens If I Do Nothing?

If you do nothing, all of your Released Claims against the Released Defendant Persons will be released, and you will also not receive any money from the Settlement (because it is necessary to submit a valid and timely Claim Form to be eligible for a payment).

## GETTING MORE INFORMATION

### 23. How Can I Get More Information?

This Notice summarizes the proposed Settlement. For even more detailed information concerning the matters involved in this litigation, you can also obtain answers to common questions regarding the proposed Settlement by contacting the Claims Administrator toll-free at 1-877-388-1723, and you can also review (i) copies of the Stipulation (which sets forth all the terms of the proposed Settlement), (ii) the pleadings in support of the Settlement, and (iii) other settlement-related papers, which have been posted on the Settlement website at [www.VaxartSecuritiesLitigation.com](http://www.VaxartSecuritiesLitigation.com). Copies of the foregoing materials may also be inspected at the Office of the Clerk of the United States District Court for the Northern District of California, U.S. Courthouse, San Francisco Courthouse, Courtroom 4, 450 Golden Gate Avenue, San Francisco, CA, 94102 during regular business hours. For a fee, all papers filed in this Action are also available at [www.pacer.gov](http://www.pacer.gov). You may also contact a representative of Plaintiffs' Lead Counsel with any questions c/o:

Reed R. Kathrein  
Hagens Berman Sobol Shapiro LLP  
715 Hearst Avenue, Suite 202  
Berkeley, CA 94710  
844-916-0895  
[VXRT@hbsslaw.com](mailto:VXRT@hbsslaw.com)

**PLEASE DO NOT CALL OR WRITE THE COURT, DEFENDANTS OR THEIR COUNSEL REGARDING THIS NOTICE.**

## PROPOSED PLAN OF ALLOCATION OF NET SETTLEMENT FUND AMONG CLASS MEMBERS

Publicly tradable Vaxart, Inc. common shares purchased on or after June 25, 2020, and on or before August 19, 2020, (collectively, the "Eligible Shares") are potentially eligible for damages under the Exchange Act. The damages for each Eligible Share purchased by a Settlement Class Member who timely submits a valid Proof of Claim (an "Authorized Claimant") will be based on the Recognized Loss for that share as calculated below, and resulting total value of each Authorized Claimant's Recognized Losses (as a percentage of the Aggregate Recognized Losses of all Authorized Claimants) will be used to calculate each Authorized Claimant's pro rata share of the Net Settlement Fund, as set forth below. Due to loss limitation rules under the Exchange Act, shares deemed purchased and sold on the same day, as well as any shares purchased between June 15 and June 24, 2020, inclusive, are not "Eligible Shares," and are not eligible for damages. The total number of damaged Eligible Shares is estimated to be no more than 95 million.

### A. Calculation of Recognized Losses on Eligible Shares

For each Eligible Share	Beginning Date	Ending Date	Inflation per Eligible Share
1	6/15/2020	6/24/2020	\$0.00
2	6/25/2020	6/25/2020	Transaction Price minus \$4.57, if positive; otherwise zero
3	6/26/2020	6/28/2020	Lesser of (a) Transaction Price minus \$4.61; or (b) \$4.95
4	6/29/2020	6/29/2020	Lesser of (a) Transaction Price minus \$4.52, or (b) \$4.95
5	6/30/2020	6/30/2020	\$4.33
6	7/1/2020	7/1/2020	Lesser of (a) Transaction Price minus \$4.37, or (b) \$4.33
7	7/2/2020	7/2/2020	Lesser of (a) Transaction Price minus \$4.45, or (b) \$3.63
8	7/6/2020	7/6/2020	Lesser of (a) Transaction Price minus \$4.39, or (b) \$2.92
9	7/7/2020	7/7/2020	Lesser of (a) Transaction Price minus \$4.96, or (b) \$3.91
8	7/8/2020	7/26/2020	\$3.91
9	7/27/2020	7/27/2020	\$2.26
10	7/28/2020	8/19/2020	\$2.26
11	8/20/2020	8/20/2020	\$1.90
12	8/21/2020	8/23/2020	\$1.48
13	8/24/2020	10/13/2020	\$1.07
14	10/14/2020	10/14/2020	\$0.58 plus (Transaction Price minus \$6.90)
15	10/15/2020	10/15/2020	Transaction Price minus \$6.30
16	10/16/2020	present	\$0.00

1. If sold on or after June 26, 2020, but on or before October 14, 2020, the Recognized Loss for each Eligible Share will be the lesser of: (a) the Inflation per Share at the time of Purchase minus the Inflation per Share at the time of Sale as set forth in Table A; or (b) the lesser of the Purchase Price minus the Sales Price.
2. If sold after October 14, 2020, but on or before January 11, 2021, the Recognized Loss will be the lesser of: (a) the Inflation per Share at the time of Purchase minus the Inflation per Share at the time of Sale as set forth in Table A; or (b) the lesser of the Purchase Price minus the greater of (i) the Sales Price or (ii) the Lookback Price in Table B<sup>3</sup>).
3. If sold after January 11, 2021 (or that continue to be held after that date), the Recognized Loss will be the lesser of: (a) the Inflation per Share at the time of Purchase as set forth in Table A; or (b) the Purchase Price minus \$6.27.<sup>4</sup>

**Table B: Lookback Price Table for Loss Limitations**

Date	Lookback Price	Date	Lookback Price	Date	Lookback Price
10/15/2020	6.60	11/12/2020	5.26	12/11/2020	6.02
10/16/2020	6.43	11/13/2020	5.25	12/14/2020	6.06
10/19/2020	6.24	11/16/2020	5.27	12/15/2020	6.10
10/20/2020	6.06	11/17/2020	5.28	12/16/2020	6.13
10/21/2020	5.92	11/18/2020	5.30	12/17/2020	6.16
10/22/2020	5.85	11/19/2020	5.32	12/18/2020	6.19
10/23/2020	5.82	11/20/2020	5.36	12/21/2020	6.22
10/26/2020	5.76	11/23/2020	5.42	12/22/2020	6.24
10/27/2020	5.73	11/24/2020	5.45	12/23/2020	6.26
10/28/2020	5.66	11/25/2020	5.48	12/24/2020	6.27
10/29/2020	5.63	11/27/2020	5.53	12/28/2020	6.27
10/30/2020	5.58	11/30/2020	5.60	12/29/2020	6.26
11/2/2020	5.53	12/1/2020	5.66	12/30/2020	6.25
11/3/2020	5.52	12/2/2020	5.71	12/31/2020	6.24
11/4/2020	5.50	12/3/2020	5.76	1/4/2021	6.24
11/5/2020	5.49	12/4/2020	5.82	1/5/2021	6.25
11/6/2020	5.47	12/7/2020	5.87	1/6/2021	6.25
11/9/2020	5.36	12/8/2020	5.92	1/7/2021	6.26
11/10/2020	5.29	12/9/2020	5.95	1/8/2021	6.27
11/11/2020	5.26	12/10/2020	5.99	1/11/2021	6.27

**B. Additional Provisions Relating to the Calculation of Recognized Losses**

For Class Members who made multiple purchases, acquisitions, or sales between June 25, 2020, and August 19, 2020, the first-in, first-out (“FIFO”) method will be applied to those purchases, acquisitions, and sales for purposes of calculating Recognized Losses. Under the FIFO method, all purchases of Vaxart common shares will be matched, in chronological order, starting with common shares purchased prior to June 25, 2020.

The date of purchase or date of sale is the “contract” or “trade” date as distinguished from the “settlement” date. All purchase, acquisition, and sale prices shall exclude any fees and commissions. The receipt or grant by gift, devise or operation of law of Vaxart common shares during the Relevant Period shall not be deemed a purchase or sale of Vaxart common shares for the calculation of a claimant’s Recognized Losses, nor shall it be deemed an assignment of any claim relating to the purchase of such shares unless specifically provided in the instrument of gift or assignment.

For short sales, the date of covering a “short sale” is deemed to be the date of purchase of the Vaxart common share. The date of a “short sale” is deemed to be the date of sale of the Vaxart common share.

Option contracts are not securities eligible to participate in the Settlement. With respect to Vaxart common shares purchased or sold through the exercise of an option, the purchase/sale date of the Vaxart common share is the exercise date of the option and the purchase/sale price of the Vaxart common share is the exercise price of the option.

**C. Allocation of Net Settlement Proceeds Based on Recognized Losses**

A Claimant’s “Recognized Claim” under the Plan of Allocation shall be the sum of his, her, or its Recognized Loss amounts for their Eligible Shares, as determined in accordance with §§ A and B above. •

To the extent a Claimant had a market gain with respect to his, her, or its overall transactions in Vaxart common shares during the Class Period, the value of the Claimant’s Recognized Claim shall be zero, but such Claimants shall in any event be bound by the

<sup>3</sup> This is a loss limitation pursuant to the Private Securities Litigation Reform Act of 1995.

<sup>4</sup> This \$6.27 value is equal to the 90-day Lookback Price in Table B as of January 11, 2021.

Settlement. To the extent that a Claimant suffered an overall market loss with respect to his, her, or its overall transactions in Vaxart common shares purchased during the Class Period, but that market loss was less than the total Recognized Claim calculated above, then the Claimant's Recognized Claim shall be limited to the amount of the actual market loss.

The Net Settlement Fund will be distributed to Authorized Claimants on a pro rata basis based on the relative size of their Recognized Claims. Specifically, a "Distribution Amount" will be calculated for each Authorized Claimant, which shall be the Authorized Claimant's Recognized Claim divided by the aggregate Recognized Claims of all Authorized Claimants, multiplied by the total amount in the Net Settlement Fund. If any Authorized Claimant's Distribution Amount calculates to less than \$10.00, it will not be included in the calculation and no distribution will be made to such Authorized Claimant.

The Net Settlement Fund will not be distributed to Authorized Claimants unless and until the Court has (a) approved the Settlement and either this plan of allocation or a modified plan; and (b) the time for any petition for rehearing, appeal, or review, whether by certiorari or otherwise, has expired. Approval of the Settlement is separate from approval of a plan of allocation. Any determination with respect to a plan of allocation will not affect the Settlement, if approved.

Each Claimant shall be deemed to have submitted to the jurisdiction of the Court with respect to his, her, or its Proof of Claim (or "Claim Form"). Payment pursuant to the Plan of Allocation set forth above shall be conclusive against all Authorized Claimants.

You should contact the Claims Administrator or Lead Counsel if you disagree with any determinations that may be made by the Claims Administrator regarding your Claim Form. If you are unsatisfied with the determinations, you may ask the Court, which retains jurisdiction over all Settlement Class Members and the claims administration process, to decide the issue by submitting a written request. Distributions will not be made to Authorized Claimants until after all claims have been processed and until after the Court has finally approved the Settlement.

### **SPECIAL NOTICE TO SECURITIES BROKERS AND OTHER NOMINEES**

The Court has ordered that if you held any Vaxart common stock purchased or acquired between June 15, 2020 through August 19, 2020, inclusive, as nominee for a beneficial owner, then, within twenty (20) days after you receive this Notice, you must either: (1) send a copy of this Notice and Claim Form ("the Notice Package") by first class mail to all such beneficial owners; or (2) provide a list of the names and addresses of such beneficial owners to the Claims Administrator. If you choose to mail the Notice Package yourself, you may obtain from the Claims Administrator (without cost to you) as many additional copies of these documents as you will need to complete the mailing. Regardless of whether you choose to complete the mailing yourself or elect to have the mailing performed for you, you may obtain reimbursement for reasonable administrative costs actually incurred in connection with forwarding the Notice Package that would not have been incurred but for the obligation to forward it, upon submission of appropriate documentation to the Claims Administrator and subject to approval by the Court. All communications concerning the foregoing should be directed to the Claims Administrator by email to [info@VaxartSecuritiesLitigation.com](mailto:info@VaxartSecuritiesLitigation.com) or by mail to:

Vaxart Securities Litigation  
c/o A.B. Data, Ltd  
P.O.Box 173133  
Milwaukee, WI 53217  
[www.VaxartSecuritiesLitigation.com](http://www.VaxartSecuritiesLitigation.com)

Dated: OCTOBER 24, 2022

BY ORDER OF THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA