**UNITED STATES**
**SECURITIES AND EXCHANGE COMMISSION**
Washington, D.C. 20549

# FORM 10-Q

(Mark One)
☑ QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

**For the quarterly period ended September 30, 2020**

OR

☐ TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

For the transition period from _____ to _____

**Commission file number: 001-35285**

## Vaxart, Inc.

(Exact Name of Registrant as Specified in its Charter)

| **Delaware** | **59-1212264** |
|---|---|
| (State or other jurisdiction of incorporation or organization) | (IRS Employer Identification No.) |
| **385 Oyster Point Boulevard, Suite 9A, South San Francisco, CA 94080** | **(650) 550-3500** |
| (Address of principal executive offices, including zip code) | (Registrant's telephone number, including area code) |

Securities registered pursuant to Section 12(b) of the Act:

| Title of each class | Trading symbol | Name of each exchange on which registered |
|---|---|---|
| **Common stock, $0.0001 par value** | **VXRT** | **The Nasdaq Capital Market** |

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes ☑ No ☐

Indicate by check mark whether the registrant has submitted electronically every Interactive Data File required to be submitted pursuant to Rule 405 of Regulation S-T during the preceding 12 months (or for such shorter period that the registrant was required to submit such files). Yes ☑ No ☐

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, or a smaller reporting company, or an emerging growth company. See the definitions of "large accelerated filer," "accelerated filer" and "smaller reporting company" and "emerging growth company" in Rule 12b-2 of the Exchange Act.

Large accelerated filer ☐
Non-accelerated filer ☑
Emerging growth company ☐

Accelerated filer ☐
Smaller reporting company ☑

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act. ☐

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act). Yes ☐ No ☑

The Registrant had 109,468,945 shares of common stock, $0.0001 par value, outstanding as of November 11, 2020.

**FORM 10-Q**
**FOR THE QUARTER ENDED SEPTEMBER 30, 2020**
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## PART I FINANCIAL INFORMATION

**Item 1. Financial Statements**

### VAXART, INC. AND SUBSIDIARIES

**Condensed Consolidated Balance Sheets**
**(In thousands, except share and per share amounts)**
**(Unaudited)**

| | September 30, 2020 | December 31, 2019 |
|---|---|---|
| **Assets** | | |
| Current assets: | | |
| Cash and cash equivalents | $ 133,438 | $ 13,526 |
| Accounts receivable | 250 | 3,619 |
| Prepaid expenses and other current assets | 1,903 | 453 |
| Total current assets | 135,591 | 17,598 |
| Property and equipment, net | 662 | 210 |
| Right-of-use assets, net | 2,591 | 1,990 |
| Intangible assets, net | 15,794 | 17,093 |
| Other long-term assets | 72 | 141 |
| Total assets | $ 154,710 | $ 37,032 |
| **Liabilities and Stockholders' Equity** | | |
| Current liabilities: | | |
| Accounts payable | $ 1,871 | $ 852 |
| Current portion of operating lease liability | 1,699 | 841 |
| Liability related to sale of future royalties, current portion | 3,008 | 2,916 |
| Other accrued liabilities | 3,724 | 4,565 |
| Total current liabilities | 10,302 | 9,174 |
| Operating lease liability, net of current portion | 1,032 | 1,472 |
| Liability related to sale of future royalties, net of current portion | 11,698 | 13,416 |
| Other long-term liabilities | — | 18 |
| Total liabilities | 23,032 | 24,080 |
| Commitments and contingencies (Note 9) | | |
| Stockholders' equity: | | |
| Preferred stock: $0.0001 par value; 5,000,000 shares authorized; none issued and outstanding as of September 30, 2020 and December 31, 2019 | — | — |
| Common stock: $0.0001 par value; 150,000,000 shares authorized; 109,468,945 and 48,254,994 shares issued and outstanding as of September 30, 2020 and December 31, 2019, respectively | 11 | 5 |
| Additional paid-in capital | 266,687 | 129,608 |
| Accumulated deficit | (135,020) | (116,661) |
| Total stockholders' equity | 131,678 | 12,952 |
| Total liabilities and stockholders' equity | $ 154,710 | $ 37,032 |

The accompanying notes are an integral part of these unaudited condensed consolidated financial statements.

**VAXART, INC. AND SUBSIDIARIES**

**Condensed Consolidated Statements of Operations and Comprehensive Loss**
**(In thousands, except share and per share amounts)**
**(Unaudited)**

| | Three Months Ended September 30, | | Nine Months Ended September 30, | |
|---|---|---|---|---|
| | 2020 | 2019 | 2020 | 2019 |
| Revenue: | | | | |
| Revenue from customer service contracts | $ 2 | $ 94 | $ 193 | $ 94 |
| Royalty revenue | — | 8 | 2,962 | 3,736 |
| Non-cash royalty revenue related to sale of future royalties | 263 | 352 | 535 | 2,116 |
| Total revenue | 265 | 454 | 3,690 | 5,946 |
| Operating expenses: | | | | |
| Research and development | 4,616 | 3,713 | 11,272 | 11,249 |
| General and administrative | 4,190 | 1,455 | 10,076 | 4,856 |
| Restructuring costs | (952) | — | (849) | — |
| Total operating expenses | 7,854 | 5,168 | 20,499 | 16,105 |
| Operating loss | (7,589) | (4,714) | (16,809) | (10,159) |
| Other income and (expenses): | | | | |
| Interest income | 5 | 58 | 69 | 97 |
| Interest expense | — | (84) | — | (288) |
| Non-cash interest expense related to sale of future royalties | (464) | (500) | (1,401) | (1,560) |
| Foreign exchange gain (loss), net | (11) | 11 | (13) | (32) |
| Total other income and (expenses) | (470) | (515) | (1,345) | (1,783) |
| Net loss before income taxes | (8,059) | (5,229) | (18,154) | (11,942) |
| Provision for income taxes | 26 | 31 | 205 | 294 |
| Net loss | $ (8,085) | $ (5,260) | $ (18,359) | $ (12,236) |
| Net loss per share - basic and diluted | $ (0.08) | $ (0.32) | $ (0.23) | $ (0.96) |
| Shares used to compute net loss per share - basic and diluted | 107,718,578 | 16,249,032 | 81,121,045 | 12,748,665 |

The accompanying notes are an integral part of these unaudited condensed consolidated financial statements.

**VAXART, INC. AND SUBSIDIARIES**

**Condensed Consolidated Statements of Stockholders' Equity**
**For the Three and Nine Months Ended September 30, 2020**
**(In thousands, except share amounts)**
**(Unaudited)**

| | Common Stock | | Additional Paid-in Capital | Accumulated Deficit | Total Stockholders' Equity |
|---|---|---|---|---|---|
| | Shares | Amount | | | |
| **Three Months Ended September 30, 2020** | | | | | |
| Balances as of June 30, 2020 | 96,140,661 | $ 10 | $ 167,160 | $ (126,935) | $ 40,235 |
| Issuance of common stock in July 2020, net of offering costs of $2,966 | 12,503,806 | 1 | 97,033 | — | 97,034 |
| Issuance of common stock upon exercise of common stock warrants | 697,680 | — | 1,293 | — | 1,293 |
| Issuance of common stock upon exercise of stock options | 126,798 | — | 286 | — | 286 |
| Stock-based compensation | — | — | 915 | — | 915 |
| Net loss | — | — | — | (8,085) | (8,085) |
| Balances as of September 30, 2020 | 109,468,945 | $ 11 | $ 266,687 | $ (135,020) | $ 131,678 |
| **Nine Months Ended September 30, 2020** | | | | | |
| Balances as of December 31, 2019 | 48,254,994 | $ 5 | $ 129,608 | $ (116,661) | 12,952 |
| Issuance of common stock and common stock warrants in March 2020, net of offering costs of $1,278 | 4,000,000 | — | 8,722 | — | 8,722 |
| Issuance of common stock warrants to placement agents' designees | — | — | 453 | — | 453 |
| Issuance of common stock in July 2020, net of offering costs of $2,966 | 12,503,806 | 1 | 97,033 | — | 97,034 |
| Issuance of common stock upon exercise of common stock warrants | 44,404,966 | 5 | 25,946 | — | 25,951 |
| Issuance of common stock upon exercise of stock options | 305,179 | — | 402 | — | 402 |
| Disgorgement of short-swing profits, net of costs | — | — | 652 | — | 652 |
| Stock-based compensation | — | — | 3,871 | — | 3,871 |
| Net loss | — | — | — | (18,359) | (18,359) |
| Balances as of September 30, 2020 | 109,468,945 | $ 11 | $ 266,687 | $ (135,020) | $ 131,678 |

The accompanying notes are an integral part of these unaudited condensed consolidated financial statements.

**VAXART, INC. AND SUBSIDIARIES**

**Condensed Consolidated Statements of Stockholders' Equity**
**For the Three and Nine Months Ended September 30, 2019**
**(In thousands, except share amounts)**
**(Unaudited)**

| | Common Stock | | Additional Paid-in Capital | Accumulated Deficit | Total Stockholders' Equity |
|---|---|---|---|---|---|
| | Shares | Amount | | | |
| **Three Months Ended September 30, 2019** | | | | | |
| Balances as of June 30, 2019 | 15,785,735 | $ 2 | $ 120,835 | $ (104,992) | $ 15,845 |
| Issuance of common stock, pre-funded warrants and common stock warrants in September 2019, net of offering costs of $1,457 | 26,124,828 | 3 | 7,241 | — | 7,244 |
| Issuance of common stock warrants to underwriters' designees in September 2019 | — | — | 497 | — | 497 |
| Issuance of common stock upon exercise of pre-funded warrants | 4,313,031 | — | 431 | — | 431 |
| Stock-based compensation | — | — | 146 | — | 146 |
| Net loss | — | — | — | (5,260) | (5,260) |
| Balances as of September 30, 2019 | 46,223,594 | $ 5 | $ 129,150 | $ (110,252) | $ 18,903 |
| **Nine Months Ended September 30, 2019** | | | | | |
| Balances as of December 31, 2018 | 7,141,189 | $ 1 | $ 109,226 | $ (97,989) | $ 11,238 |
| Cumulative effect of adoption of new leases standard | — | — | — | (27) | (27) |
| Balances as of January 1, 2019, as adjusted | 7,141,189 | $ 1 | $ 109,226 | $ (98,016) | $ 11,211 |
| Issuance of common stock in March 2019, net of offering costs of $560 | 1,200,000 | — | 2,440 | — | 2,440 |
| Issuance of common stock warrants to placement agents' designees in March 2019 | — | — | 100 | — | 100 |
| Issuance of common stock, pre-funded warrants and common stock warrants in April 2019, net of offering costs of $1,579 | 925,455 | — | 7,741 | — | 7,741 |
| Issuance of common stock warrants to underwriters' designees in April 2019 | — | — | 333 | — | 333 |
| Issuance of common stock, pre-funded warrants and common stock warrants in September 2019, net of offering costs of $1,457 | 26,124,828 | 3 | 7,241 | — | 7,244 |
| Issuance of common stock warrants to underwriters' designees in September 2019 | — | — | 497 | — | 497 |
| Issuance of common stock upon exercise of pre-funded warrants | 10,832,122 | 1 | 1,082 | — | 1,083 |
| Stock-based compensation | — | — | 490 | — | 490 |
| Net loss | — | — | — | (12,236) | (12,236) |
| Balances as of September 30, 2019 | 46,223,594 | $ 5 | $ 129,150 | $ (110,252) | $ 18,903 |

The accompanying notes are an integral part of these unaudited condensed consolidated financial statements.

**VAXART, INC. AND SUBSIDIARIES**

**Condensed Consolidated Statements of Cash Flows**
**(In thousands)**
**(Unaudited)**

| | Nine Months Ended September 30, | |
|---|---|---|
| | **2020** | **2019** |
| Cash flows from operating activities: | | |
| Net loss | $ (18,359) | $ (12,236) |
| Adjustments to reconcile net loss to net cash used in operating activities: | | |
| Depreciation and amortization | 1,846 | 2,854 |
| Stock-based compensation | 3,871 | 490 |
| Non-cash interest expense | — | 93 |
| Non-cash interest expense related to sale of future royalties | 1,401 | 1,560 |
| Non-cash revenue related to sale of future royalties | (3,027) | (3,147) |
| Change in operating assets and liabilities: | | |
| Accounts receivable | 3,369 | 1,237 |
| Prepaid expenses and other assets | (1,384) | 164 |
| Accounts payable | 810 | 136 |
| Other accrued liabilities | (1,511) | (449) |
| Net cash used in operating activities | (12,984) | (9,298) |
| Cash flows from investing activities: | | |
| Purchase of property and equipment | (321) | (838) |
| Proceeds from sale of equipment | 3 | — |
| Net cash used in investing activities | (318) | (838) |
| Cash flows from financing activities: | | |
| Net proceeds from issuance of securities in registered direct offering | 9,175 | 2,540 |
| Net proceeds from issuance of common stock through at-the-market facility | 97,034 | — |
| Net proceeds from issuance of securities in April 2019 underwritten offering | — | 8,074 |
| Net proceeds from issuance of securities in September 2019 underwritten offering | — | 7,741 |
| Proceeds from issuance of common stock upon exercise of pre-funded warrants | — | 1,083 |
| Proceeds from issuance of common stock upon exercise of common stock warrants | 25,951 | — |
| Proceeds from issuance of common stock upon exercise of stock options | 402 | — |
| Disgorgement of short-swing profits, net of costs | 652 | — |
| Repayment of principal on secured promissory note payable to Oxford Finance | — | (1,250) |
| Net cash provided by financing activities | 133,214 | 18,188 |
| Net increase in cash and cash equivalents | 119,912 | 8,052 |
| Cash, cash equivalents and restricted cash at beginning of the period | 13,526 | 11,506 |
| Cash, cash equivalents and restricted cash at end of the period | $ 133,438 | $ 19,558 |

The accompanying notes are an integral part of these unaudited condensed consolidated financial statements.

**VAXART, INC. AND SUBSIDIARIES**

**Condensed Consolidated Statements of Cash Flows**
**(In thousands)**
**(Unaudited)**

| | Nine Months Ended September 30, | |
|---|---|---|
| | **2020** | **2019** |
| **Supplemental disclosure of cash flow information:** | | |
| Interest paid | $ — | $ 195 |
| | | |
| **Supplemental disclosure of non-cash financing activity:** | | |
| Issuance of warrants to placement agent's representatives | $ 453 | $ 100 |
| Issuance of warrants to underwriters' designees | $ — | $ 830 |
| Operating lease liabilities arising from obtaining right-of-use assets | $ 1,022 | $ 1,929 |
| Acquisition of property and equipment included in accounts payable | $ 213 | $ 3 |

The accompanying notes are an integral part of these unaudited condensed consolidated financial statements.

**VAXART, INC. AND SUBSIDIARIES**

**Notes to the Condensed Consolidated Financial Statements (Unaudited)**

## NOTE 1. Organization and Basis of Presentation

*General*

Vaxart Biosciences, Inc. was originally incorporated in California in March 2004, under the name West Coast Biologicals, Inc. The Company changed its name to Vaxart, Inc. ("Private Vaxart") in July 2007, and reincorporated in the state of Delaware.

On February 13, 2018, Private Vaxart completed a business combination with Aviragen Therapeutics, Inc. ("Aviragen"), pursuant to which Aviragen merged with Private Vaxart, with Private Vaxart surviving as a wholly owned subsidiary of Aviragen (the "Merger"). Pursuant to the terms of the Merger, Aviragen changed its name to Vaxart, Inc. (together with its subsidiaries, the "Company" or "Vaxart") and Private Vaxart changed its name to Vaxart Biosciences, Inc. All of Private Vaxart's convertible promissory notes and convertible preferred stock was converted into common stock, following which each share of common stock was converted into approximately 0.22148 shares of the Company's common stock (the "Conversion").

On March 2, 2020, the Company completed a registered direct offering (the "March 2020 Offering") of 4,000,000 shares of the Company's common stock and warrants to purchase 2,000,000 shares of common stock. Each common stock warrant entitles the holder to purchase one share of common stock for $2.50, is exercisable immediately, subject to certain ownership limitations, and will expire five years from the date of issuance. The total gross proceeds from the offering to the Company were $10.0 million. After deducting placement agent fees and offering expenses payable by the Company, the aggregate net proceeds received by the Company totaled $9.2 million. Pursuant to the terms of the engagement letter with the placement agents, the Company paid the placement agents aggregate fees and reimbursable costs of $775,000. In addition, the Company issued the placement agents' designees 280,000 common stock warrants at the closing of the March 2020 Offering, each warrant entitling the holder to purchase one share of common stock for $3.125 at any time within five years of the effective date of the March 2020 Offering. The aggregate fair value of these warrants at issuance was estimated to be $453,000 (see Note 10), which was recorded in offering costs.

On June 8, 2020, the Company's shareholders approved an amendment to the Company's certificate of incorporation to change the par value of its common and preferred stock from $0.10 per share to $0.0001 per share and to increase the number of authorized shares of common stock from 100,000,000 to 150,000,000. Except as otherwise noted in these condensed consolidated financial statements, all share, equity security and per share amounts are presented to give retroactive effect to these changes.

On July 13, 2020, the Company completed the sale of 12,503,806 shares for gross proceeds of approximately $100 million from an at-the-market facility (the "ATM Program") under a sales prospectus agreement dated July 8, 2020. After deducting sales commissions and expenses, net cash proceeds under the ATM Program were approximately $97 million.

The Company's principal operations are based in South San Francisco, California, and it operates in one reportable segment, which is the discovery and development of oral recombinant protein vaccines, based on its proprietary oral vaccine platform.

## NOTE 2. Summary of Significant Accounting Policies

**Basis of Presentation** – The Company has prepared the accompanying condensed consolidated financial statements pursuant to the rules and regulations of the U.S. Securities and Exchange Commission ("SEC"). Certain information and footnote disclosures normally included in consolidated financial statements prepared in accordance with accounting principles generally accepted in the United States of America ("U.S. GAAP") have been condensed or omitted pursuant to these rules and regulations. These condensed consolidated financial statements should be read in conjunction with the Company's audited financial statements and footnotes related thereto for the year ended December 31, 2019, included in the Company's Annual Report on Form 10-K filed with the SEC on March 19, 2020 (the "Annual Report"). Except as noted below, there have been no material changes to the Company's significant accounting policies described in Note 2 to the consolidated financial statements included in the Annual Report. In the opinion of management, the unaudited condensed consolidated financial statements include all adjustments (consisting only of normal recurring adjustments) necessary to present fairly the Company's financial position and the results of its operations and cash flows. The results of operations for such interim periods are not necessarily indicative of the results to be expected for the full year.

**VAXART, INC. AND SUBSIDIARIES**

**Notes to the Condensed Consolidated Financial Statements (Unaudited)**

**Basis of Consolidation** – The condensed consolidated financial statements include the financial statements of Vaxart, Inc. and its subsidiaries. All significant transactions and balances between Vaxart, Inc. and its subsidiaries have been eliminated in consolidation.

**Use of Estimates** – The preparation of financial statements in conformity with U.S. GAAP requires management to make estimates and assumptions that affect the reported amounts of assets, liabilities, revenues and expenses and disclosure of contingent assets and liabilities in the financial statements and accompanying notes. Actual results and outcomes could differ from these estimates and assumptions.

**Concentration of Credit Risk** – Financial instruments that potentially subject the Company to significant concentrations of credit risk consist principally of cash, cash equivalents and accounts receivable. The Company places its cash and cash equivalents at financial institutions that management believes are of high credit quality. The Company is exposed to credit risk in the event of default by the financial institutions holding the cash and cash equivalents to the extent such amounts are in excess of the federally insured limits. The Company has not experienced any losses on its deposits since inception.

The primary focus of the Company's investment strategy is to preserve capital and meet liquidity requirements. The Company's investment policy addresses the level of credit exposure by limiting the concentration in any one corporate issuer or sector and establishing a minimum allowable credit rating. The Company generally requires no collateral from its customers.

**Recent Accounting Pronouncements**

In August 2020, the FASB issued Accounting Standards Update (ASU) 2020-06, *Debt - Debt with Conversion and Other Options (Subtopic 470-20) and Derivatives and Hedging - Contracts in an Entity's Own Equity (Subtopic 815-40).* In addition to simplifying the accounting for certain debt and equity instruments, none of which the Company presently has outstanding, this standard update provides guidance on how certain instruments should be treated in the computation of earnings per share. The Company plans to adopt the new guidance effective January 1, 2021. Its adoption will have an immaterial impact on the number of shares used in the computation of year-to-date basic and diluted earnings per share.

The Company has reviewed all other significant newly-issued accounting pronouncements that are not yet effective and concluded that they are either not applicable to its operations or their adoption will not have a material impact on its financial position or results of operations.

## NOTE 3. Fair Value of Financial Instruments

Fair value accounting is applied for all financial assets and liabilities and nonfinancial assets and liabilities that are recognized or disclosed at fair value in the financial statements on a recurring basis (at least annually). Financial instruments include cash and cash equivalents, accounts receivable, accounts payable and accrued liabilities that approximate fair value due to their relatively short maturities.

Assets and liabilities recorded at fair value on a recurring basis in the balance sheets are categorized based upon the level of judgment associated with inputs used to measure their fair values. The accounting guidance for fair value provides a framework for measuring fair value and requires certain disclosures about how fair value is determined. Fair value is defined as the price that would be received to sell an asset or paid to transfer a liability (an exit price) in an orderly transaction between market participants at the reporting date. The accounting guidance also establishes a three-level valuation hierarchy that prioritizes the inputs to valuation techniques used to measure fair value based upon whether such inputs are observable or unobservable. Observable inputs reflect market data obtained from independent sources, while unobservable inputs reflect market assumptions made by the reporting entity.

The three-level hierarchy for the inputs to valuation techniques is briefly summarized as follows:

Level 1 – Inputs are unadjusted, quoted prices in active markets for identical assets or liabilities at the measurement date;

Level 2 – Inputs are observable, unadjusted quoted prices in active markets for similar assets or liabilities, unadjusted quoted prices for identical or similar assets or liabilities in markets that are not active, or other inputs that are observable or can be corroborated by observable market data for substantially the full term of the related assets or liabilities; and

Level 3 – Unobservable inputs that are significant to the measurement of the fair value of the assets or liabilities that are supported by little or no market data.

The Company's money market funds are classified within Level 1 of the fair value hierarchy and are valued based on quoted prices in active markets for identical securities. The Company held no recurring financial assets that are measured at fair value as of September 30, 2020. The Company held $100,002,000 and $15,000 in money market funds, classified as cash equivalents, as of September 30, 2020 and December 31, 2019, respectively. The Company held no recurring financial liabilities at either date or in the nine months ended September 30, 2020 or 2019.

## NOTE 4. Balance Sheet Components

### *(a) Cash and Cash Equivalents*

Cash and cash equivalents comprises the following:

| | September 30, 2020 | December 31, 2019 |
|---|---|---|
| | *(in thousands)* | |
| Cash at banks | $ 33,436 | $ 13,511 |
| Money market funds | 100,002 | 15 |
| Total cash and cash equivalents | $ 133,438 | $ 13,526 |

**VAXART, INC. AND SUBSIDIARIES**

**Notes to the Condensed Consolidated Financial Statements (Unaudited)**

***(b) Accounts Receivable***

Accounts receivable comprises the following:

| | September 30, 2020 | December 31, 2019 |
|---|---|---|
| | *(in thousands)* | |
| Royalties receivable | $ 250 | $ 3,438 |
| Customer service contracts - billed | — | 181 |
| Accounts receivable | $ 250 | $ 3,619 |

The Company has provided no allowance for uncollectible accounts as of September 30, 2020 and December 31, 2019.

***(c) Property and Equipment, Net***

Property and equipment, net consists of the following:

| | September 30, 2020 | December 31, 2019 |
|---|---|---|
| | *(in thousands)* | |
| Laboratory equipment | $ 1,036 | $ 537 |
| Office and computer equipment | 163 | 132 |
| Total property and equipment | 1,199 | 669 |
| Less: accumulated depreciation | (537) | (459) |
| Property and equipment, net | $ 662 | $ 210 |

Depreciation expense was $34,000 and $131,000 for the three months ended September 30, 2020 and 2019, respectively, and $78,000 and $386,000 for the nine months ended September 30, 2020 and 2019, respectively. There were no impairments of the Company's property and equipment recorded in the nine months ended September 30, 2020 or 2019.

***(d) Right-of-Use Assets, Net***

Right-of-use assets, net consists of the following:

| | September 30, 2020 | December 31, 2019 |
|---|---|---|
| | *(in thousands)* | |
| Facilities | $ 2,588 | $ 1,985 |
| Office equipment | 3 | 5 |
| Right-of-use assets, net | $ 2,591 | $ 1,990 |

***(e) Intangible Assets, Net***

Intangible assets comprise developed technology and intellectual property. Intangible assets are carried at cost less accumulated amortization. Amortization is computed using the straight-line method over useful lives ranging from 1.3 to 11.75 years for developed technology and 20 years for intellectual property. As of September 30, 2020, developed technology and intellectual property had remaining lives of 9.1 and 7.25 years, respectively. Intangible assets consist of the following:

| | September 30, 2020 | December 31, 2019 |
|---|---|---|
| | *(in thousands)* | |
| Purchased technology | $ 22,100 | $ 22,100 |
| Intellectual property | 80 | 80 |
| Total cost | 22,180 | 22,180 |
| Less: accumulated amortization | (6,386) | (5,087) |
| Intangible assets, net | $ 15,794 | $ 17,093 |

Total amortization expense for the three months ended September 30, 2020 and 2019, was $433,000 and $433,000, respectively, and for the nine months ended September 30, 2020 and 2019, was $1,299,000 and $1,887,000, respectively.

As of September 30, 2020, the estimated future amortization expense by year is as follows (in thousands):

| Year Ending December 31, | Amount |
|---|---|
| 2020 (three months remaining) | $ 433 |
| 2021 | 1,732 |
| 2022 | 1,731 |
| 2023 | 1,732 |
| 2024 | 1,732 |
| Thereafter | 8,434 |
| Total | $ 15,794 |

***(f) Other Accrued Liabilities***

Other accrued liabilities consist of the following:

| | September 30, 2020 | December 31, 2019 |
|---|---|---|
| | *(in thousands)* | |
| Accrued compensation | $ 1,132 | $ 903 |
| Accrued clinical and manufacturing expenses | 1,386 | 3,228 |
| Accrued professional and consulting services | 677 | 2 |
| Reserve for return of royalties | — | 178 |
| Other liabilities, current portion | 529 | 254 |
| Total | $ 3,724 | $ 4,565 |

**NOTE 5. Revenue**

*Service Contracts with Customers*

Contract Balances. Accounts receivable related to service contracts with customers as of September 30, 2020 and December 31, 2019, was nil and $181,000, respectively. Contract assets, representing unbilled receivables where revenue has been recognized in advance of customer billings, as of September 30, 2020 and December 31, 2019, was $214,000 and $21,000, respectively, which is included in prepaid expenses and other current assets.

Remaining Performance Obligations. Remaining Performance Obligations (“RPO”) comprise deferred revenue plus unbilled contract revenue. As of September 30, 2020 and December 31, 2019, there was no deferred revenue and the aggregate amount of RPO was $18,000 and $211,000, respectively, all of which was unbilled contract revenue which is not recorded on the balance sheet. We expect, subject to stay-at-home restrictions, that 100% of this amount will be recognized as revenue within the next three months. Unbilled contract revenue represents non-cancelable contracts under which the Company has an obligation to perform, for which revenue has not yet been recognized in the financial statements and the fixed amounts billable have not yet been invoiced.

*Royalty Agreements*

Aviragen entered into a royalty-generating research and license agreement with GlaxoSmithKline, plc (“GSK”) in 1990 for the development and commercialization of zanamivir, a neuraminidase inhibitor marketed by GSK as Relenza, to treat influenza. Under the agreement, all Relenza patents owned by the Company were exclusively licensed to GSK. All of the Company’s Relenza patents have expired, with the last remaining patent expiring in July 2019 in Japan, at which time royalty revenue ceased, although until April 30, 2020, it remained subject to adjustments for sales returns and exchange rate differences. The royalty revenue related to Relenza recognized in the three months ended September 30, 2020 and 2019, was nil and $8,000, respectively, and in the nine months ended September 30, 2020 and 2019, was $193,000 and $772,000, respectively, representing 7% of net sales in Japan.

The Company also generates royalty revenue from the sale of Inavir in Japan, pursuant to a collaboration and license agreement that Aviragen entered into with Daiichi Sankyo Company, Limited ("Daiichi Sankyo") in 2009. In September 2010, laninamivir octanoate was approved for sale by the Japanese Ministry of Health and Welfare for the treatment of influenza in adults and children, which Daiichi Sankyo markets as Inavir. Under the agreement, the Company currently receives a 4% royalty on net sales of Inavir in Japan. The last patent related to Inavir is set to expire in December 2029, at which time royalty revenue will cease. The royalty revenue related to Inavir recognized in the nine months ended September 30, 2020 and 2019, was $2,769,000 and $2,964,000, respectively, representing 4% of net sales in Japan. In addition, the Company recognized non-cash royalty revenue related to the sale of future royalties (see Note 6) of $263,000 and $352,000 in the three months ended September 30, 2020 and 2019, respectively, and $535,000 and $2,116,000 in the nine months ended September 30, 2020 and 2019, respectively. Both the royalty revenue and the non-cash royalty revenue related to sale of future royalties have been subjected to a 5% withholding tax in Japan, for which $13,000 and $17,000 was included in income tax expense in the three months ended September 30, 2020 and 2019, respectively, and $165,000 and $254,000 was included in income tax expense in the nine months ended September 30, 2020 and 2019, respectively.

The Company's royalty revenue is seasonal, in line with the flu season, so the majority of the Company's royalty revenue is earned in the first and fourth fiscal quarters.

**NOTE 6. Liabilities Related to Sale of Future Royalties**

In April 2016, Aviragen entered into a Royalty Interest Acquisition Agreement (the "RIAA") with HealthCare Royalty Partners III, L.P. ("HCRP"). Under the RIAA, HCRP made a $20.0 million cash payment to Aviragen in consideration for acquiring certain royalty rights ("Royalty Rights") related to the approved product Inavir in the Japanese market. The Royalty Rights were obtained pursuant to the collaboration and license agreements (the "License Agreement") and a commercialization agreement that the Company entered into with Daiichi Sankyo. Per the terms of the RIAA, HCRP is entitled to the first $3.0 million plus 15% of the next $1.0 million in royalties earned in each year commencing on April 1, with any excess revenue being retained by the Company.

Under the relevant accounting guidance, due to a limit on the amount of royalties that HCRP can earn under the RIAA, this transaction is accounted for as a liability that is being amortized using the interest method over the life of the arrangement. The Company has no obligation to pay any amounts to HCRP other than to pass through to HCRP its share of royalties as they are received from Daiichi Sankyo. In order to record the amortization of the liability, the Company is required to estimate the total amount of future royalty payments to be received under the License Agreement and the payments that will be passed through to HCRP over the life of this agreement. Consequently, the Company imputes interest on the unamortized portion of the liability and records non-cash interest expense using an estimated effective interest rate. The royalties earned in each period that will be passed through to HCRP are recorded as non-cash royalty revenue related to sale of future royalties, with any excess not subject to pass-through being recorded as royalty revenue. When the pass-through royalties are paid to HCRP in the following quarter, the imputed liability related to sale of future royalties is commensurately reduced. The Company periodically assesses the expected royalty payments, and to the extent such payments are greater or less than the initial estimate, the Company adjusts the amortization of the liability and interest rate. As a result of this accounting, even though the Company does not retain HCRP's share of the royalties, it will continue to record non-cash revenue related to those royalties until the amount of the associated liability, including the related interest, is fully amortized.

The following table shows the activity within the liability account during the nine months ended September 30, 2020 (in thousands):

| | | |
|---|---|---|
| Total liability related to sale of future royalties, start of period | $ | 16,332 |
| Non-cash royalty revenue paid to HCRP | | (3,027) |
| Non-cash interest expense recognized | | 1,401 |
| Total liability related to sale of future royalties, end of period | | 14,706 |
| Current portion | | (3,008) |
| Long-term portion | $ | 11,698 |

**NOTE 7. Leases**

The Company has obtained the right of use for office and manufacturing facilities under five operating lease agreements, one of which has been subleased, and for equipment under an operating lease agreement with an initial term exceeding one year, and under three operating lease agreements with initial terms of one year or less.

The Company obtained the right of use of real estate located in South San Francisco, California, in June 2015 that was scheduled to terminate on April 30, 2020, with a five-year extension option that the Company exercised in July 2019, extending the lease until April 30, 2025. The right of use of these premises was assessed as partially impaired as of December 31, 2019 (see Note 14). The Company also obtained, via the Merger in February 2018, the right of use of facilities located in Alpharetta, Georgia, that terminates on February 28, 2021, with no extension option. These facilities were subleased for the remainder of the lease term effective November 30, 2018. In addition, the Company has the right of use of two facilities located in South San Francisco, California, under leases that terminate on July 31, 2021, with no extension options, and the right of use of equipment under a lease that terminates in September 2021. Further, the Company has identified an embedded lease for the rental of facilities in Burlingame, California, within a Statement of Work for the manufacture of bulk vaccine product that is expected to be completed by September 2021.

As of September 30, 2020, the weighted average discount rate for operating leases with initial terms of more than one year was 10.34% and the weighted average remaining term of these leases was 2.58 years. Discount rates were determined using the Company's marginal rate of borrowing at the time each lease was executed or extended.

The following table summarizes the Company's undiscounted cash payment obligations for its operating lease liabilities with initial terms of more than twelve months as of September 30, 2020 (in thousands):

| Year Ending December 31, | |
|---|---|
| 2020 (excluding the nine months ended September 30, 2020) | $ 265 |
| 2021 | 1,719 |
| 2022 | 336 |
| 2023 | 348 |
| 2024 | 360 |
| Thereafter | 122 |
| Undiscounted total | 3,150 |
| Less: imputed interest | (419) |
| Present value of future minimum payments | 2,731 |
| Current portion of operating lease liability | (1,699) |
| Operating lease liability, net of current portion | $ 1,032 |

The Company presently has no finance leases and no future obligations under operating leases for equipment with initial terms of one year or less.

Certain operating lease agreements for facilities include non-lease costs, such as common area maintenance, which are recorded as variable lease costs. Operating lease expenses for the three and nine months ended September 30, 2020 and 2019, are summarized as follows:

| | Three Months Ended September 30, | | Nine Months Ended September 30, | |
|---|---|---|---|---|
| | 2020 | 2019 | 2020 | 2019 |
| Lease cost | *(in thousands)* | | *(in thousands)* | |
| Operating lease cost | $ 235 | $ 258 | $ 636 | $ 703 |
| Short-term lease cost | 4 | 4 | 10 | 11 |
| Variable lease cost | 29 | 44 | 53 | 132 |
| Sublease income | (54) | (53) | (163) | (162) |
| Total lease cost | $ 214 | $ 253 | $ 536 | $ 684 |

Net cash outflows associated with operating leases totaled $243,000 and $253,000 in the three months ended September 30, 2020 and 2019, respectively, and $717,000 and $740,000 in the nine months ended September 30, 2020 and 2019, respectively.

**NOTE 8. Secured Promissory Note Payable to Oxford Finance**

On December 22, 2016, the Company entered into a loan and security agreement (the "Loan Agreement") with Oxford Finance, under which the Company borrowed $5.0 million. The $5.0 million loan, which bore interest at the 30-day U.S. LIBOR plus 6.17%, was evidenced by a secured promissory note and was repayable over four years, with interest only payable over the first 12 months and the balance fully amortized over the subsequent 36 months. Upon repayment, an additional final payment equal to $325,000 was due, which was accreted as interest expense over the term of the loan using the effective-interest method. The loan was secured by substantially all the Company's assets, except for intellectual property.

The annual effective interest rate of the note, including the accretion of the final payment and the amortization of the debt discount, was approximately 10.5%. The Company recorded interest expense related to the Loan Agreement of $82,000 and $284,000 during the three and nine months ended September 30, 2019, respectively, of which $55,000 and $191,000, respectively, was paid. The note was repaid in full on November 4, 2019.

**NOTE 9. Commitments and Contingencies**

***(a) Leases***

The Company's lease commitments are detailed in Note 7.

***(b) Indemnifications***

In the ordinary course of business, the Company enters into agreements that may include indemnification provisions. Pursuant to such agreements, the Company may indemnify, hold harmless and defend indemnified parties for losses suffered or incurred by the indemnified party. Some of the provisions will limit losses to those arising from third-party actions. In some cases, the indemnification will continue after the termination of the agreement. The maximum potential amount of future payments the Company could be required to make under these provisions is not determinable. The Company has also entered into indemnification agreements with its directors and officers that require the Company to indemnify its directors and officers against liabilities that may arise by reason of their status or service as directors or officers to the fullest extent permitted by Delaware corporate law. The Company currently has directors' and officers' insurance.

***(c) Litigation***

From time to time the Company may be involved in legal proceedings arising in connection with its business. Based on information currently available, the Company believes that the amount, or range, of reasonably possible losses in connection with any pending actions against it in excess of established reserves, in the aggregate, is not material to its consolidated financial condition or cash flows. However, any current or future dispute resolution or legal proceeding, regardless of the merits of any such proceeding, could result in substantial costs and a diversion of management's attention and resources that are needed to run the Company successfully, and could have a material adverse impact on its business, financial condition and results of operations.

On August 4, 2020, a purported shareholder derivative complaint was filed in the Superior Court of California, San Mateo County, entitled Godfrey v. Latour, et al. An amended complaint was filed on September 4, 2020, and the case was re-named Ennis v. Latour, et al. The amended complaint names certain of Vaxart's officers and directors as defendants, asserting claims against them for breach of fiduciary duty, unjust enrichment, and waste and seeking, among other things, an award of unspecified damages, certain equitable relief, and attorneys' fees and costs. The complaint also asserts claims for breach of fiduciary duty, unjust enrichment, and aiding and abetting breach of fiduciary duty against Armistice Capital, LLC ("Armistice"). The claims challenge certain stock options granted to certain of the Company's officers and directors between March 24, 2020 and June 15, 2020 and certain amendments to two warrants held by Armistice, as disclosed on June 8, 2020. The amended complaint purports to bring the lawsuit derivatively on behalf of and for the benefit of the Company and names the Company as a "nominal defendant" against which no damages are sought. On October 14, 2020, all defendants in the action filed a demurrer with the court, seeking to have the entire case dismissed.

On September 8, 2020, a purported shareholder derivative complaint was filed in the Chancery Court in the State of Delaware, entitled Galjour v. Floroiu, et al. On October 20, 2020, a purported shareholder derivative and class action complaint, entitled Jaquith v. Vaxart, Inc., was filed in the Court of Chancery of the State of Delaware. The complaints name as defendants certain of Vaxart's current and former directors, asserting claims against them for breach of fiduciary duty, unjust enrichment, and waste and seeking, among other things, an award of unspecified damages, certain equitable relief, and attorneys' fees and costs. The complaints also assert claims against Armistice. The complaints challenge certain stock options granted to certain of the Company's officers and directors between June 8, 2020 and June 15, 2020 and certain amendments made to two warrants held by Armistice, as disclosed on June 9, 2020. Both complaints purport to bring suit derivatively on behalf of and for the benefit of the Company, and the Jaquith complaint also purports to assert a direct claim for breach of fiduciary duty on behalf of a class of Vaxart stockholders. Both complaints name the Company as a "nominal defendant" against which no claims are asserted and no damages are sought. On October 9, 2020, Defendants moved to dismiss the Galjour complaint and to stay the action pending disposition of the Ennis action in California. On November 9, 2020, the Court denied Defendant's motion to stay the Galjour action pending disposition of the Ennis action in California. On November 9, 2020, the Court also ordered that the parties meet and confer to consolidate the Jaquith and Galjour actions.

On September 17, 2020, a purported derivative complaint was filed in the U.S. District Court for the Northern District of California, entitled Stachowski v. Boyd, et al. The complaint names as defendants certain of Vaxart's current directors, asserting claims against them for breach of fiduciary duty and unjust enrichment and seeking, among other things, an award of unspecified damages, certain equitable relief, and attorneys' fees and costs. The complaint also alleges a violation of §14(a) of the Securities Exchange Act of 1934 for allegedly false statements or omissions in the Company's April 24, 2020, proxy statement regarding the Company's options practices. The complaint also asserts a claim for breach of fiduciary duty against Armistice. The claims are based on allegations that certain stock options granted to certain of the Company's officers and directors between June 8 and June 15, 2020, were allegedly improper and that certain warrants held by Armistice were amended on June 8, 2020, allegedly for no consideration. The complaint purports to bring the lawsuit derivatively on behalf of and for the benefit of the Company and names the Company as a "nominal defendant" against which no claims are asserted and no damages are sought.

Two substantially similar securities class actions were filed in the U.S. District Court for the Northern District of California, the first, titled Himmelberg v. Vaxart, Inc. et al. was filed on August 24, 2020 (the "Himmelberg Action"), and the second action, titled Hovhannisyan v. Vaxart, Inc. et al. was filed on September 1, 2020 (the "Hovhannisyan Action," and together, the "Putative Class Actions"). On September 17, 2020, the court issued an order that the Putative Class Actions were related and would proceed as one consolidated action. The Putative Class Actions both name as defendants certain of Vaxart's current and former executive officers and directors, and Armistice. The complaint claims two violations of federal civil securities laws, violation of SEC Rule 10b-5, as against all defendants; and violation of Section 20(A) of the Exchange Act, as against all defendants except for Vaxart. The Putative Class Actions allege defendants violated securities laws by misstating and omitting information regarding the Company's Operation Warp Speed ("OWS") involvement to deceive the investing public and inflate the market price of Vaxart securities. The Putative Class Actions seek to be certified as a class action for similarly situated shareholders and seek, among other things, an uncertain amount of damages and attorneys' fees and costs.

On October 23, 2020, a purported shareholder derivative complaint was filed in the U.S. District Court for the Southern District of New York, entitled Roth v. Armistice Capital LLC, et al. The complaint names Armistice and an Armistice-affiliated Company director as defendants, asserting a violation of Exchange Act Section 16(b) and seeking the disgorgement of short-swing profits obtained in violation thereof. The complaint purports to bring the lawsuit derivatively on behalf of and for the benefit of the Company and names the Company as a "nominal defendant" against which no damages are sought.

The Company's legal costs incurred in its defense against these claims are expensed as incurred.

## NOTE 10. Stockholders' Equity

### *(a) Preferred Stock*

The Company is authorized to issue 5,000,000 shares of preferred stock, $0.0001 par value per share. The Company's board of directors may, without further action by the stockholders, fix the rights, preferences, privileges and restrictions of up to an aggregate of 5,000,000 shares of preferred stock in one or more series and authorize their issuance. These rights, preferences and privileges could include dividend rights, conversion rights, voting rights, terms of redemption, liquidation preferences, sinking fund terms and the number of shares constituting any series or the designation of such series, any or all of which may be greater than the rights of the Company's common stock. The issuance of preferred stock could adversely affect the voting power of holders of common stock and the likelihood that such holders will receive dividend payments and payments upon liquidation. In addition, the issuance of preferred stock could have the effect of delaying, deterring or preventing a change of control or other corporate action. No shares of preferred stock are currently outstanding, and the Company has no present plan to issue any shares of preferred stock.

***(b) Common Stock***

At the Company's annual meeting of stockholders held on June 8, 2020, the Company's shareholders approved an amendment to the Company's certificate of incorporation to increase the authorized number of shares of common stock from 100,000,000 shares to 150,000,000 shares and decrease the par value of the Company's capital stock from $0.10 to $0.0001. On June 8, 2020, the Company filed a Certificate of Amendment with the Secretary of State of the State of Delaware to effect the amendment.

Except as otherwise required by law or as otherwise provided in any certificate of designation for any series of preferred stock, the holders of common stock possess all voting power for the election of the Company's directors and all other matters requiring stockholder action. Holders of common stock are entitled to one vote per share on matters to be voted on by stockholders. Holders of common stock are entitled to receive such dividends, if any, as may be declared from time to time by the Company's board of directors in its discretion out of funds legally available therefor. In no event will any stock dividends or stock splits or combinations of stock be declared or made on common stock unless the shares of common stock at the time outstanding are treated equally and identically. As of September 30, 2020, no dividends had been declared by the board of directors.

In the event of the Company's voluntary or involuntary liquidation, dissolution, distribution of assets or winding-up, the holders of the common stock will be entitled to receive an equal amount per share of all of the Company's assets of whatever kind available for distribution to stockholders, after the rights of the holders of the preferred stock have been satisfied. There are no sinking fund provisions applicable to the common stock.

The Company had shares of common stock reserved for issuance as follows:

| | September 30, 2020 | December 31, 2019 |
|---|---|---|
| Options issued and outstanding | 6,320,530 | 1,811,652 |
| PRSUs issued and outstanding | 411,000 | — |
| Available for future grants of equity awards | 1,554,328 | 295,180 |
| Common stock warrants | 1,244,974 | 43,370,162 |
| Total | 9,530,832 | 45,476,994 |

***(c) Warrants***

The following warrants were outstanding as of September 30, 2020, all of which contain standard anti-dilution protections in the event of subsequent rights offerings, stock splits, stock dividends or other extraordinary dividends, or other similar changes in the Company's common stock or capital structure, and none of which have any participating rights for any losses:

| Securities into which warrants are convertible | Warrants outstanding | Exercise Price | Expiration Date |
|---|---|---|---|
| Common Stock | 5,000 | $ 0.30 | September 2024 |
| Common Stock | 224,797 | $ 0.375 | September 2024 |
| Common Stock | 225,966 | $ 1.10 | April 2024 |
| Common Stock | 111,931 | $ 1.375 | April 2024 |
| Common Stock | 316,584 | $ 2.50 | March 2025 |
| Common Stock | 269,496 | $ 3.125 | February 2025 |
| Common Stock | 80,286 | $ 3.125 | March 2024 |
| Common Stock | 10,914 | $ 22.99 | December 2026 |
| Total | 1,244,974 | | |

The 280,000 common stock warrants issued to placement agents' designees at the closing of the March 2020 Offering (see Note 1) each entitle the holder to purchase one share of common stock for $3.125 at any time within five years of February 27, 2020, the effective date of the March 2020 Offering. The aggregate fair value of these warrants at issuance was estimated to be $453,000, using the Black-Scholes valuation model, using a closing stock price of $2.34 and assumptions including estimated volatility of 98%, a risk-free interest rate of 0.88%, a zero dividend rate and an estimated remaining term of 4.99 years.

In the event of a Fundamental Transaction (a transfer of ownership of the Company as defined in the warrant) within the Company's control, the holders of the unexercised common stock warrants exercisable for $0.30, $0.375, $1.10 and $2.50 and those exercisable for $3.125 expiring in February 2025 shall be entitled to receive cash consideration equal to a Black-Scholes valuation, as defined in the warrant. If such Fundamental Transaction is not within the Company's control, the warrantholders would only be entitled to receive the same form of consideration (and in the same proportion) as the holders of the Company's common stock, hence these warrants are classified as a component of permanent equity.

**NOTE 11. Equity Incentive Plans**

On April 23, 2019, the Company's stockholders approved the adoption of the 2019 Equity Incentive Plan (the "2019 Plan"), under which the Company is authorized to issue incentive stock options, nonqualified stock options, stock appreciation rights, restricted stock awards and restricted stock units, other stock awards and performance awards that may be settled in cash, stock, or other property. The 2019 Plan is designed to secure and retain the services of employees, directors and consultants, provide incentives for the Company's employees, directors and consultants to exert maximum efforts for the success of the Company and its affiliates, and provide a means by which employees, directors and consultants may be given an opportunity to benefit from increases in the value of the Company's common stock. Following adoption of the 2019 Plan, all previous plans were frozen, and on forfeiture, cancellation and expiration, awards under those plans are not assumed by the 2019 Plan.

The aggregate number of shares of common stock authorized for issuance under the 2019 Plan was initially 1,600,000 shares, which was increased through an amendment to the 2019 Plan adopted by the Company's stockholders on June 8, 2020, to 8,000,000 (the "Plan Amendment"), subject to standard adjustments in the event of a stock split, stock dividend or other extraordinary dividend, or other similar change in the Company's common stock or capital structure. Further amendments to the 2019 Plan to increase the share reserve would require stockholder approval. Awards that expire or are canceled generally become available for issuance again under the 2019 Plan. Awards have a maximum term of ten years from the grant date and may vest over varying periods, as specified by the Company's board of directors for each grant.

In March 2020, the Company granted 411,000 performance-based restricted stock unit ("PRSU") awards to employees which vest upon the achievement of certain performance conditions by December 31, 2020, subject to each employee's continued service relationship with the Company. As of September 30, 2020, all of these 411,000 PRSUs were outstanding. The related compensation cost, which is based on the grant date fair value of the Company's common stock multiplied by the number of PRSUs granted, is recognized as an expense ratably over the estimated vesting period when achievement of the performance condition is considered probable. Based on the Company's evaluation of the probability of achieving the performance condition as of September 30, 2020, the Company recognized $101,000 and $632,000 of related expense during the three and nine months ended September 30, 2020, respectively.

On March 24, 2020, the board of directors of the Company approved the grant of an aggregate of 2,610,000 options with an exercise price of $1.70 per share (the closing price of the Company's common stock on March 24, 2020) (the "March Option Awards"), which vest as to 25% of the underlying shares of common stock on the date of grant and thereafter in twenty-four (24) equal monthly installments from May 1, 2020 until April 1, 2022; provided that the stock options were not exercisable until the approval by the stockholders of the Plan Amendment. On June 8, 2020, the stockholders approved the Plan Amendment and at such time the March Option Awards became exercisable, subject to the vesting schedule noted previously.

A summary of stock option transactions in the nine months ended September 30, 2020, is as follows:

| | Shares Available For Grant | Number of Options Outstanding | | Weighted Average Exercise Price |
|---|---|---|---|---|
| Balance at January 1, 2020 | 295,180 | 1,811,652 | $ | 2.74 |
| 2019 Plan Amendment | 6,400,000 | — | $ | — |
| PRSUs granted, net of tax forfeitures | (278,535) | — | $ | — |
| Granted | (4,957,800) | 4,957,800 | $ | 2.10 |
| Exercised | — | (305,179) | $ | 1.32 |
| Forfeited | 85,910 | (85,992) | $ | 0.39 |
| Canceled | 9,573 | (57,751) | $ | 10.57 |
| Balance at September 30, 2020 | 1,554,328 | 6,320,530 | $ | 2.27 |

As of September 30, 2020, there were 6,320,530 options outstanding with a weighted average exercise price of $2.27, a weighted average remaining term of 9.18 years and an aggregate intrinsic value of $28.7 million. Of these options, 2,539,452 were vested, with a weighted average exercise price of $2.79, a weighted average remaining term of 8.90 years and an aggregate intrinsic value of $10.8 million. The Company received $402,000 for the 305,179 options exercised during the nine months ended September 30, 2020, which had an intrinsic value of $1.6 million. No options were exercised during the nine months ended September 30, 2019.

On June 15, 2020, the Company awarded 900,000 performance-based options and 845,280 time-based options with an exercise price of $2.46 per share (the closing price of the Company's common stock on the grant date) to its new Chief Executive Officer. Vesting of the time-based options will be as follows: 25% on the first anniversary of the grant date and 75% in equal monthly installments over the three-year period commencing on such first anniversary, with accelerated vesting with respect to 50% of any then-unvested option shares upon a substantial strategic agreement, as determined by the Board, and with accelerated vesting in full in the event of a "Change in Control" (as defined under the 2019 Plan).

Vesting of the performance-based options would occur if the Company achieved a specified closing price during any ten consecutive trading days by November 30, 2020, with one-third based on a closing price of $5.00, one-third based on a closing price of $7.50 and one-third based on a closing price of $10.00, subject to continuing employment. Utilizing a Monte Carlo Simulation and assumptions of the fair value of Common Stock of $2.46, estimated volatility of 105%, a risk-free interest rate of 0.35%, a zero dividend rate and an expected term of 5.23 years, the Company determined the weighted average fair value of these options on the issuance date to be $0.31 per share, or $279,000, which was initially being expensed over the estimated vesting term, assuming vesting occurs by November 30, 2020, for each tranche.

The tranches based on closing prices of $5.00, $7.50 and $10.00 vested on July 9, 2020, July 20, 2020 and July 24, 2020, respectively, so the unamortized balance as of June 30, 2020, was expensed in the three months ended September 30, 2020. The weighted average grant date fair value of all other options awarded in the nine months ended September 30, 2020 and 2019, was $1.98 and $0.55, respectively. Fair values were estimated using the following assumptions:

| | Nine Months Ended September 30, | |
|---|---|---|
| | 2020 | 2019 |
| Risk-free interest rate | 0.40% - 0.88% | 1.89% - 2.31% |
| Expected term | 5.22 - 10.00 Years | 5.39 - 6.08 Years |
| Expected volatility | 94% - 108% | 83% - 85% |
| Dividend yield | —% | —% |

The Company measures the fair value of all stock-based awards on the grant date and records the fair value of these awards, net of estimated forfeitures, to compensation expense over the service period. Total stock-based compensation recognized for options and PRSUs was as follows:

| | Three Months Ended September 30, | | Nine Months Ended September 30, | |
|---|---|---|---|---|
| | 2020 | 2019 | 2020 | 2019 |
| | *(in thousands)* | | *(in thousands)* | |
| Research and development | $ 268 | $ 63 | $ 1,405 | $ 222 |
| General and administrative | 647 | 83 | 2,466 | 268 |
| Total stock-based compensation | $ 915 | $ 146 | $ 3,871 | $ 490 |

As of September 30, 2020, the unrecognized stock-based compensation cost related to outstanding unvested stock options and PRSUs that are expected to vest was $5.4 million, which the Company expects to recognize over an estimated weighted average period of 2.35 years.

**NOTE 12. Related Party Transactions**

In April 2020 the Company recorded a net amount of $652,000 related to the disgorgement of stockholder short-swing profits under Section 16(b) of the Securities Exchange Act of 1934, as amended. The Company recognized these related party proceeds as an increase to contributed capital on the condensed consolidated balance sheet.

**NOTE 13. Net Loss Per Share**

The following table presents the calculation of basic and diluted net loss per share (in thousands, except share and per share amounts):

| | Three Months Ended September 30, | | Nine Months Ended September 30, | |
|---|---|---|---|---|
| | 2020 | 2019 | 2020 | 2019 |
| Net loss | $ (8,085) | $ (5,260) | $ (18,359) | $ (12,236) |
| Shares used to compute net loss per share – basic and diluted | 107,718,578 | 16,249,032 | 81,121,045 | 12,748,665 |
| Net loss per share – basic and diluted | $ (0.08) | $ (0.32) | $ (0.23) | $ (0.96) |

No adjustment has been made to the net loss in the three and nine months ended September 30, 2020 or 2019, as the effect would be anti-dilutive due to the net loss.

The following potentially dilutive securities were excluded from the computation of diluted weighted average shares outstanding because they would have been antidilutive:

| | Three Months Ended September 30, | | Nine Months Ended September 30, | |
|---|---|---|---|---|
| | 2020 | 2019 | 2020 | 2019 |
| Options to purchase common stock | 6,335,797 | 1,965,910 | 3,596,816 | 1,466,495 |
| PRSUs | 411,000 | — | 286,500 | — |
| Warrants to purchase common stock | 1,383,026 | 13,064,514 | 19,275,277 | 8,340,589 |
| Total potentially dilutive securities excluded from denominator of the diluted earnings per share computation | 8,129,823 | 15,030,424 | 23,158,593 | 9,807,084 |

## NOTE 14. Restructuring Costs

Restructuring liabilities primarily consist of the estimated future obligations for contract suspension costs. These restructuring liabilities, all of which are expected to be paid in the year ending December 31, 2020, are recorded in other accrued liabilities in the condensed consolidated balance sheets.

The Company approved a reduction-in-force during the year ended December 31, 2019, for which it accrued severance and benefits charges, all of which were paid in the three months ended March 31, 2020. The Company also accrued the maximum amount potentially payable under a manufacturing work order which it suspended. Following negotiations with the vendor, the Company paid $2,252,000 in the three months ended September 30, 2020, in full settlement with the vendor, and reversed the remainder of the balance accrued. Further, the Company recorded impairment charges against property and equipment and right-of-use assets formerly used for manufacturing covering the period in which no benefits were expected to be derived, and incurred legal fees and accretion costs in connection with the restructuring. In the nine months ended September 30, 2020, the Company recorded costs for legal fees and for accretion related to the manufacturing premises. The Company does not expect to incur any further charges related to this restructuring.

Cumulative restructuring costs incurred and a reconciliation of the change in related liabilities during the nine months ended September 30, 2020, is as follows:

| | Suspension of Contract | Severance Benefits | Impairment Charges | Other | Total |
|---|---|---|---|---|---|
| | | | *(in thousands)* | | |
| Cumulative cost incurred as of September 30, 2020 | $ 2,252 | $ 368 | $ 1,272 | $ 179 | $ 4,071 |
| Reconciliation of liabilities: | | | | | |
| Balance at December 31, 2019 | $ 3,223 | $ 368 | $ — | $ 57 | $ 3,648 |
| Period charges | (971) | — | — | 122 | (849) |
| Payments and settlements | (2,252) | (368) | — | (165) | (2,785) |
| Balance at September 30, 2020 | $ — | $ — | $ — | $ 14 | $ 14 |

## NOTE 15. Subsequent Events

On October 13, 2020, the Company entered into an Open Market Sale Agreement℠, (the "Sales Agreement") pursuant to which it may offer and sell, from time to time through sales agents, shares of its common stock having an aggregate offering price of up to $250 million. The Company incurred direct expenses of approximately $0.3 million in connection with filing a prospectus supplement, dated October 13, 2020, with the SEC, and will pay sales commissions of 4.5% of gross proceeds from the sale of shares. As of November 12, 2020, no shares had been sold under the Sales Agreement.

Changes in the status of litigation since September 30, 2020, are included in "Note 9. Commitments and Contingencies—(c) Litigation".

**Item 2. Management's Discussion and Analysis of Financial Condition and Results of Operations**

*The following discussion and analysis of our financial condition and results of operations should be read in conjunction with our condensed consolidated financial statements and related notes included elsewhere in this in this Quarterly Report on Form 10-Q and with our audited consolidated financial statements included in our Annual Report on Form 10-K filed with the SEC on March 19, 2020. This Quarterly Report on Form 10-Q contains forward-looking statements within the meaning of Section 27A of the Securities Act of 1933, as amended, and Section 21E of the Securities Exchange Act of 1934, as amended, which are subject to the "safe harbor" created by those sections. Forward-looking statements are based on our management's beliefs and assumptions and on information currently available to our management. In some cases, you can identify forward-looking statements by terms such as "may," "will," "should," "could," "goal," "would," "expect," "plan," "anticipate," "believe," "estimate," "project," "predict," "potential" and similar expressions intended to identify forward-looking statements and reflect our beliefs and opinions on the relevant subject. Our actual results could differ materially from those discussed in the forward-looking statements. Factors that could cause or contribute to these differences include those discussed below and elsewhere in this Quarterly Report on Form 10-Q, particularly in "Risk Factors." The forward-looking statements included in this Quarterly Report on Form 10-Q are made only as of the date hereof. These statements are based upon information available to us as of the filing date of this Quarterly Report on Form 10-Q , and while we believe such information forms a reasonable basis for such statements, such information may be limited or incomplete, and our statements should not be read to indicate that we have conducted an exhaustive inquiry into, or review of, all potentially available relevant information. These statements are inherently uncertain and investors are cautioned not to unduly rely upon these statements.*

**Company Overview and Background**

We are a clinical-stage biotechnology company primarily focused on the development of oral recombinant vaccines based on our proprietary oral vaccine platform. Our oral vaccines are designed to generate broad and durable immune responses that may protect against a wide range of infectious diseases and may be useful for the treatment of chronic viral infections and cancer. Our investigational vaccines are administered using a room temperature-stable tablet, rather than by injection.

We are developing prophylactic vaccine candidates for several targets. These include SARS-CoV-2, a coronavirus currently causing an epidemic throughout the world, for which human dosing for our Phase 1 clinical trial commenced in October 2020; norovirus, a widespread cause of acute gastro-intestinal enteritis, for which three Phase 1 human studies have been completed, including a study with a bivalent norovirus vaccine which, as we disclosed in September 2019, met its primary and secondary endpoints; seasonal influenza, for which our monovalent H1 influenza vaccine protected patients against H1 influenza infection in a Phase 2 challenge study; and respiratory syncytial virus, or RSV, a common cause of respiratory tract infections. In addition, we are developing our first therapeutic vaccine targeting cervical cancer and dysplasia caused by human papillomavirus, or HPV.

**Merger with Aviragen**

Vaxart Biosciences, Inc. was originally incorporated in California in March 2004, under the name West Coast Biologicals, Inc. and changed its name to Vaxart, Inc., or Private Vaxart, in July 2007, and reincorporated in the state of Delaware. On February 13, 2018, Private Vaxart completed a reverse merger, or the Merger, with Aviragen Therapeutics, Inc., or Aviragen, pursuant to which Private Vaxart survived as a wholly owned subsidiary of Aviragen. Under the terms of the Merger, Aviragen changed its name to Vaxart, Inc. and Private Vaxart changed its name to Vaxart Biosciences, Inc.

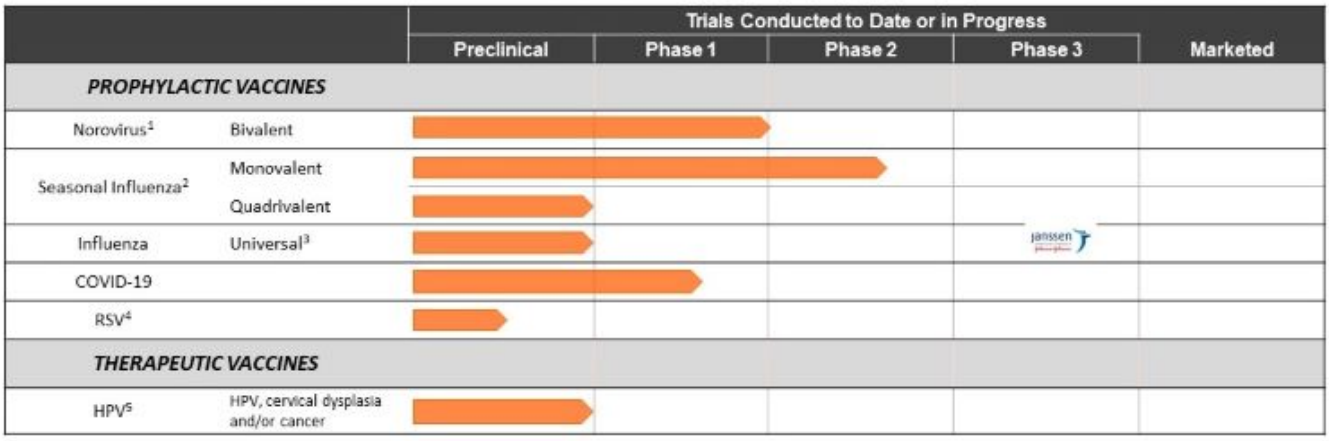
**Business Update Regarding COVID-19**

The current coronavirus disease 2019 ("COVID-19") outbreak has presented a substantial public health and economic challenge around the world and is affecting our employees, patients, communities and business operations, as well as the U.S. economy and financial markets. The full extent to which the COVID-19 outbreak will directly or indirectly impact our business, results of operations and financial condition will depend on future developments that are highly uncertain and cannot be accurately predicted, including new information that may emerge concerning COVID-19, the actions taken to contain it or treat its impact and the economic impact on local, regional, national and international markets.

To date, we have been able to continue our operations and do not anticipate any material interruptions, for the foreseeable future. However, we are continuing to assess the potential impact of the COVID-19 pandemic on our business and operations, including our expenses, supply chain and clinical trials, and the effects of the current increase in cases in the United States. Our office-based employees have been mostly working from home since mid-March 2020 and will continue to do so for the foreseeable future. Our partners have mostly continued to operate their facilities at or near normal levels. While we currently do not anticipate any interruptions in our operations, it is possible that the COVID-19 pandemic and response efforts may have an impact in the future on our operations and/or the operations of our third-party suppliers and partners. Any recovery from negative impacts to our business and related economic impact due to the COVID-19 outbreak may also be slowed or reversed by a number of factors, including the current widespread resurgence in COVID-19 infections, combined with the seasonal flu.

**Our Product Pipeline**

The following table outlines the status of our oral vaccine development programs:




1. Bivalent GI.1 - GII.4 Norovirus vaccine generated IgA ASC response rates of 78 – 86% for GI.1 and 90 – 93% for GII.4. Program restarted with second dosing.
2. Monovalent H1 flu vaccine completed Phase 2 Proof of Concept efficacy study. Quadrivalent flu Phase 1 on hold pending partnering process.
3. Janssen collaboration. Janssen has an option to negotiate an exclusive license.
4. RSV program to be partnered with new antigen partner, pending which the program is on hold.
5. HPV therapeutic pre-IND feedback received. Program presently on hold.

We are developing the following tablet vaccine candidates, which are based on our proprietary platform:

- ***Coronavirus Vaccine.*** We are developing an oral tablet vaccine for coronavirus SARS-CoV-2. We generated multiple vaccine candidates based on the published genome of SARS-CoV-2 and have been evaluating them in preclinical models for their ability to generate both mucosal and systemic immune responses. One of these, VXA-CoV2-1, a non-replicating Ad5 vector oral tablet COVID-19 vaccine candidate, was chosen for GMP production and additional animal efficacy testing. We believe the logistical advantages of an oral vaccine that is administered using a room temperature-stable tablet could be of critical benefit when rolling out a major public health vaccination campaign.

According to the Center for Disease Control and Prevention, or CDC, in late 2019 an outbreak of COVID-19, caused by the virus SARS-CoV-2, began in Wuhan, China. The disease spread rapidly and person-to-person transmission has been widely documented. Stay-at-home orders or similar mandates were issued in all 50 states and restrictions on certain activities, especially those involving large gatherings of people, remain in place throughout the U.S., with regional variations. By November 11, 2020, more than 52 million COVID-19 cases had been identified in over 200 countries and territories worldwide, including the United States, where the CDC had reported over 10.1 million infections and 239,000 deaths.

On June 26, 2020, we announced that our oral COVID-19 vaccine was selected to participate in a non-human primate challenge study, organized and funded by Operation Warp Speed, a new national program aiming to provide substantial quantities of safe and effective vaccine for Americans by January 2021. The study was designed to test the efficacy of our oral COVID-19 vaccine candidate. Operation Warp Speed is a collaboration among the Department of Health and Human Services, or HHS, including the Centers for Disease Control and Prevention, the U.S. Food and Drug Administration, the National Institutes of Health, and the Biomedical Advanced Research and Development Authority, or BARDA; the Department of Defense; and private companies and firms, to facilitate the development, manufacturing, and distribution of vaccines, therapeutics and other countermeasures to address the COVID-19 epidemic throughout the world. The policies and standards governing Operation Warp Speed are uncertain and may rapidly evolve as the program progresses, including the procedures and analysis used to select participating companies that will receive federal funds through the program. On September 14, 2020, we announced that we had received U.S. Food and Drug Administration ("FDA") approval of our Investigational New Drug ("IND") application, and on October 13, 2020, we announced that Phase 1 testing had commenced. Neither VXA-CoV2-1 nor our other oral COVID-19 vaccine candidates may be efficacious, and we may be unable to produce an effective vaccine that successfully immunizes humans against SARS-CoV-2 in a timely matter, if at all. In addition, we cannot assure you that Operation Warp Speed will have a positive impact on our financial results. See "Part II, Item 1A. Risks Factors — The policies and standards governing Operation Warp Speed are uncertain, and new regulations or policies may materially adversely affect our business and the development of our COVID-19 vaccine candidate."

- ***Norovirus Vaccine.*** We are developing an oral tablet vaccine for norovirus, a leading cause of acute gastroenteritis in the United States and Europe. Because norovirus infects the small intestine, we believe that our vaccine, which is designed to generate mucosal antibodies locally in the intestine in addition to systemic antibodies in the blood, may better protect against norovirus infection than an injectable vaccine. Clinical evidence that vaccines based on our platform technology can protect against infection is described under "Clinical Trial Update" in the "Seasonal Influenza Vaccine" section below. The program has been restarted with the addition of a second dose more than 12 months post first vaccination in subjects who participated in the Phase 1b norovirus trial.

Norovirus is the leading cause of vomiting and diarrhea from acute gastroenteritis among people of all ages in the United States. Each year, on average, norovirus causes 19 to 21 million cases of acute gastroenteritis and contributes to 56,000 to 71,000 hospitalizations and 570 to 800 deaths, mostly among young children and older adults. Typical symptoms include dehydration, vomiting, diarrhea with abdominal cramps, and nausea. In a study by the CDC and Johns Hopkins University, published in 2016, the global economic impact of norovirus disease was estimated at $60 billion, $34 billion of which occurred in high income countries including the United States, Europe and Japan. An update by the lead authors estimated the burden in the U.S. alone to be $10.5 billion in 2018. Virtually all norovirus disease is caused by norovirus GI and GII genotypes, and we are developing a bivalent vaccine designed to protect against both. We anticipate the vaccine will be an annual, one-time administration ahead of the winter season when norovirus incidence is at its peak, similar to the influenza season.

*Clinical Trial Update*. In 2019, we completed the active phase of a Phase 1 clinical trial with our bivalent oral tablet vaccine for the GI.1 and GII.4 norovirus strains. Both the oral norovirus GI.1 and GII.4 vaccines were well tolerated with no serious adverse events reported. Most solicited and unsolicited adverse events were mild in severity, and there were no significant differences observed between the vaccine and placebo treatment groups.

Vaxart's bivalent vaccine demonstrated robust immunogenicity, with an IgA ASC response rate of 78% for the GI.1 strain and 93% for the GII.4 strain for the bivalent cohort of the study, and 86% and 90%, respectively, for the two monovalent cohorts of the study. There was no interference observed in the bivalent arm of the study.

We recently restarted clinical development with our norovirus vaccine candidate. The next step in the clinical development program, after a second dose of participants in the Phase 1b bivalent study, would most likely be a Phase 1b dose ranging study in elderly adult subjects. In addition, a Phase 2 safety and dose confirmation study with Vaxart's bivalent norovirus vaccine in subjects age 18 to 64 is being planned. The study may be expanded to include subjects age 65 and over. A Phase 2 challenge study may also be considered, and could be conducted in parallel with, before or after the Phase 2 dose confirmation study. The Phase 2 dose confirmation study would be followed by a Phase 3 efficacy study in subjects age 18 and over, after an End of Phase 2 Meeting to gain FDA concurrence.

- ***Seasonal Influenza Vaccine.*** Influenza is a major cause of morbidity and mortality in the U.S. and worldwide and, according to the CDC, only 49% of eligible U.S. citizens were vaccinated in 2018/2019, with particularly low vaccination rates among adults between ages 18 and 49. We believe our oral tablet vaccine has the potential to improve the protective efficacy of currently available influenza vaccines and increase flu vaccination rates.

Influenza is one of the most common global infectious diseases, causing mild to life-threatening illness and even death. An estimated 350 million cases of seasonal influenza occur annually worldwide, of which three to five million cases are considered severe, causing 290,000 to 650,000 deaths per year globally. During the flu season of 2018/2019 there were 34,200 flu related deaths in the U.S. alone, according to the CDC. Very young children and the elderly are at the greatest risk. In the United States, between 5% and 20% of the population contracts influenza, 226,000 people are hospitalized with complications of influenza, and between 3,000 and 49,000 people die from influenza and its complications each year, with up to 90% of the influenza-related deaths occurring in adults older than 65. The total economic burden of seasonal influenza has been estimated to be $87.1 billion, including medical costs which average $10.4 billion annually, while lost earnings due to illness and loss of life amount to $16.3 billion annually.

We believe our tablet vaccine candidate has the potential to address many of the limitations of current injectable egg-based influenza vaccines, because: our tablet vaccine candidates are designed to create broad and durable immune responses, which may provide more effective immunity and protect against additional strain variants; our vaccine is delivered as a room temperature-stable tablet, which we believe would provide a more convenient method of administration to enhance patient acceptance, and should simplify distribution and administration; and, by using recombinant methods, we believe our tablet vaccine may be manufactured more rapidly than vaccines manufactured using egg-based methods and should eliminate the risk of allergic reactions to egg protein.

*Clinical Trial Update*. In September 2018, we completed a $15.7 million contract with the U.S. Government through the Department of Health and Human Services, Office of Biomedical Advanced Research and Development Authority, or HHS BARDA, under which a Phase 2 challenge study of our H1N1 flu vaccine candidate was conducted. Previously, we had announced that, in healthy volunteers immunized and then experimentally infected with H1 influenza, our H1 influenza oral tablet vaccine reduced clinical disease by 39% relative to placebo. Fluzone, the market-leading injectable quadrivalent influenza vaccine, reduced clinical disease by only 27%. Our tablet vaccine also showed a favorable safety profile, indistinguishable from placebo.

On October 4, 2018, we presented data from the study demonstrating that our vaccine elicited a significant expansion of mucosal homing receptor plasmablasts to approximately 60% of all activated B cells. We believe these mucosal plasmablasts are a key indicator of a protective mucosal immune response and a unique feature of our vaccines. This data also provided evidence that our vaccines protect through mucosal immunity, the first line of defense against mucosal infections such as flu, norovirus, RSV and others, a potential key advantage over injectable vaccines for these indications.

At this time, we aim to finance development and commercialization of our seasonal quadrivalent influenza oral tablet vaccine through third-party collaboration and licensing arrangements and/or non-dilutive funding. In the future, we may also consider equity offerings and/or debt financings to fund the program. Pending a licensing, partnering or collaboration agreement, the seasonal flu program is currently on hold.

In addition to our conventional seasonal flu vaccine, we entered into a research collaboration agreement with Janssen Vaccines & Prevention B.V., or Janssen, to evaluate our proprietary oral vaccine platform for the Janssen universal influenza vaccine program. Under the agreement, we produced non-GMP oral vaccine containing certain proprietary antigens from Janssen and tested the product in a preclinical challenge model. The study has been completed and we are compiling a report for Janssen. Janssen has an option to negotiate an exclusive worldwide license to our technology encompassing the Janssen antigens.

- ***RSV Vaccine.*** RSV is a major respiratory pathogen with a significant burden of disease in the very young and in the elderly.

Based on the positive results of our cotton rat study, we believe our proprietary oral vaccine platform has the potential to be the optimal vaccine delivery system for RSV, offering significant advantages over injectable vaccines. We will seek to develop a tablet RSV vaccine by licensing one or more RSV protein antigens that have demonstrated protection against RSV infection in clinical studies, or by partnering with a third party with RSV antigens that can be delivered with our platform. Pending a licensing, partnering or collaboration agreement, the RSV program is currently on hold.

- ***HPV Therapeutic Vaccine*.** Our first therapeutic oral vaccine candidate targets HPV-16 and HPV-18, the two strains responsible for 70% of cervical cancers and precancerous cervical dysplasia.

Cervical cancer is the fourth most common cancer in women worldwide and in the United States with about 13,000 new cases diagnosed annually in the United States according to the National Cervical Cancer Coalition.

We have tested our HPV-16 vaccine candidate in two different HPV-16 solid tumor models in mice. The vaccine elicited T cell responses and promoted migration of the activated T cells into the tumors, leading to tumor cell killing. Mice that received our HPV-16 vaccine showed a significant reduction in volume of their established tumors.

In October 2018, we filed a pre-IND meeting request for our first therapeutic vaccine targeting HPV16 and HPV18 with the FDA, and we subsequently submitted a pre-IND briefing package. We received feedback from the FDA in January 2019. The program is currently on hold while the Company is focusing its efforts on the COVID-19 vaccine.

**Anti-Virals**

- Through the Merger, we acquired two royalty earning products, Relenza and Inavir. We also acquired three Phase 2 clinical stage antiviral compounds, which we have discontinued.

- Relenza and Inavir are antivirals for the treatment of influenza that are marketed by GlaxoSmithKline, plc, or GSK, and Daiichi Sankyo Company, Limited, or Daiichi Sankyo, respectively. We have earned royalties on the net sales of Relenza and Inavir in Japan. The last patent for Relenza expired in July 2019 and the last patent for Inavir expires in December 2029. Sales of these antivirals vary significantly from quarter to quarter due to the seasonality of flu, and from one year to the next depending on the intensity of the flu season and competition from other antivirals such as Tamiflu. Importantly, on February 23, 2018, Xofluza, a new drug to treat influenza developed by Shionogi, was approved in Japan. The drug has gained significant market share, substantially reducing sales of Inavir.

**Financial Operations Overview**

***Revenue***

*Revenue from Customer Service Contracts*

We are earning revenue from a fixed price service contract, as amended, for a total of $617,000, which we expect to complete by December 31, 2020.

*Royalty Revenue*

We earn royalty revenue on sales of Inavir and, until the patent expired, Relenza, both treatments for influenza, from our licensees, Daiichi Sankyo and GSK, respectively, under royalty agreements with expiry dates in December 2029 and July 2019, respectively, based on fixed percentages of net sales of these drugs.

*Non-Cash Royalty Revenue Related to the Sale of Future Royalties*

In April 2016, Aviragen sold certain royalty rights related to Inavir in the Japanese market for $20.0 million to HealthCare Royalty Partners III, L.P., or HCRP. At the time of the Merger, the fair value of the estimated future benefit to HCRP was $15.9 million, which we recorded as a liability that we are amortizing using the effective interest method over the remaining estimated life of the arrangement. Even though we did not retain the related royalties under the transaction, as the amounts are remitted to HCRP, we will continue to record revenue related to these royalties until the amount of the associated liability and related interest is fully amortized.

***Research and Development Expenses***

Research and development expenses represent costs incurred to conduct research, including the development of our tablet vaccine platform, and the manufacturing, preclinical and clinical development activities of our tablet vaccine candidates. We recognize all research and development costs as they are incurred. Research and development expenses consist primarily of the following:

- employee-related expenses, which include salaries, benefits and stock-based compensation;
- expenses incurred under agreements with contract research organizations, or CROs, that conduct clinical trials on our behalf;
- manufacturing materials, analytical and release testing services required for our production of vaccine candidates used primarily in clinical trials;
- process development expenses incurred internally and externally to improve the efficiency and yield of the bulk vaccine and tablet manufacturing activities;
- laboratory supplies and vendor expenses related to its preclinical research activities;
- consultant expenses for services supporting our clinical, regulatory and manufacturing activities; and
- facilities, depreciation and allocated overhead expenses.

Our preclinical research activities in the nine months ended September 30, 2020, have related principally to COVID-19, whereas in the nine months ended September 30, 2019, they related principally to norovirus. Our clinical activities related primarily to norovirus and VXA-CoV2-1 in the nine months ended September 30, 2020 and almost exclusively to norovirus in the nine months ended September 30, 2019.

We expect that research and development expenses will increase in the fourth quarter of 2020 as the clinical trials for VXA-CoV2-1 progress and manufacturing runs are completed. We expect that the total costs of research and development related to VXA-CoV2-1 and our other vaccine candidates will increase significantly over the next several years as we advance those candidates into and through clinical trials, pursue regulatory approval of those candidates and prepare for a possible commercial launch, all of which will also require a significant investment in manufacturing and inventory related costs. We are seeking potential partners and collaborators to bear a significant portion of such costs.

The process of conducting clinical trials necessary to obtain regulatory approval is costly and time consuming. We may never succeed in achieving marketing approval for VXA-CoV2-1 or any of our tablet vaccine candidates. The probability of successful commercialization of our tablet vaccine candidates may be affected by numerous factors, including clinical data obtained in future trials, competition, manufacturing capability and commercial viability. As a result, we are unable to determine the duration and completion costs of our research and development projects or when and to what extent we will generate revenue from the commercialization and sale of any of our tablet vaccine candidates.

***General and Administrative Expense***

General and administrative expenses consist of personnel costs, allocated expenses and expenses for outside professional services, including legal, audit, accounting, public relations, market research and other consulting services. Personnel costs consist of salaries, benefits and stock-based compensation. Allocated expenses consist of rent, depreciation and other facilities related expenses.

**Results of Operations**

The following table presents selected items in the condensed consolidated statements of operations and comprehensive loss for the three and nine months ended September 30, 2020 and 2019:

| | Three Months Ended September 30, | | Nine Months Ended September 30, | |
|---|---|---|---|---|
| | 2020 | 2019 | 2020 | 2019 |
| | *(in thousands)* | | *(in thousands)* | |
| Revenue: | | | | |
| Revenue from customer service contracts | $ 2 | $ 94 | $ 193 | $ 94 |
| Royalty revenue | — | 8 | 2,962 | 3,736 |
| Non-cash royalty revenue related to sale of future royalties | 263 | 352 | 535 | 2,116 |
| Total revenue | 265 | 454 | 3,690 | 5,946 |
| Operating expenses: | | | | |
| Research and development | 4,616 | 3,713 | 11,272 | 11,249 |
| General and administrative | 4,190 | 1,455 | 10,076 | 4,856 |
| Restructuring costs | (952) | — | (849) | — |
| Total operating expenses | 7,854 | 5,168 | 20,499 | 16,105 |
| Operating loss | (7,589) | (4,714) | (16,809) | (10,159) |
| Other income and (expenses): | | | | |
| Interest income | 5 | 58 | 69 | 97 |
| Interest expense | — | (84) | — | (288) |
| Non-cash interest expense related to sale of future royalties | (464) | (500) | (1,401) | (1,560) |
| Foreign exchange gain (loss), net | (11) | 11 | (13) | (32) |
| Total other income and (expenses) | (470) | (515) | (1,345) | (1,783) |
| Net loss before income taxes | (8,059) | (5,229) | (18,154) | (11,942) |
| Provision for income taxes | 26 | 31 | 205 | 294 |
| Net loss | $ (8,085) | $ (5,260) | $ (18,359) | $ (12,236) |

*Revenue from Customer Service Contracts*

The following table presents our revenue from customer service contracts for the three and nine months ended September 30, 2020 and 2019, respectively:

| Three Months Ended September 30, | | | Nine Months Ended September 30, | | |
|---|---|---|---|---|---|
| 2020 | 2019 | % Change | 2020 | 2019 | % Change |
| *(dollars in thousands)* | | | *(dollars in thousands)* | | |
| $ 2 | $ 94 | (98)% | $ 193 | $ 94 | 105% |

We earned revenue from customer service contracts of $2,000 and $193,000 in the three and nine months ended September 30, 2020, respectively, and $94,000 in the nine months ended September 30, 2019, all of which was earned in the three months ended September 30, 2019. This revenue was recognized from a fixed price contract executed in July 2019, as amended, for a total of $617,000, which we expect to be completed by December 31, 2020, enabling us to recognize the remaining $18,000 as revenue.

*Royalty Revenue*

The following table presents our royalty revenue for the three and nine months ended September 30, 2020 and 2019, respectively:

| Three Months Ended September 30, | | | Nine Months Ended September 30, | | |
|---|---|---|---|---|---|
| 2020 | 2019 | % Change | 2020 | 2019 | % Change |
| *(dollars in thousands)* | | | *(dollars in thousands)* | | |
| $ — | $ 8 | (100)% | $ 2,962 | $ 3,736 | (21)% |

For the three months ended September 30, 2020, we earned no royalty revenue, compared to $8,000 earned in the three months ended September 30, 2019, all related to Relenza, for which the patent has now expired. For the nine months ended September 30, 2020, royalty revenue decreased by $774,000, or 21%, compared to the nine months ended September 30, 2019. The decrease in 2020 is principally due to the absence of Relenza royalty revenue in the first quarter. Royalty revenue is earned on sales of Inavir and, until the patent expired in July 2019, Relenza, both treatments for influenza, which were acquired in the Merger and is based on fixed percentages of net sales of these drugs in the period.

*Non-cash Royalty Revenue Related to Sale of Future Royalties*

The following table presents our non-cash royalty revenue related to sale of future royalties for the three and nine months ended September 30, 2020 and 2019, respectively:

| Three Months Ended September 30, | | | Nine Months Ended September 30, | | |
|---|---|---|---|---|---|
| 2020 | 2019 | % Change | 2020 | 2019 | % Change |
| *(dollars in thousands)* | | | *(dollars in thousands)* | | |
| $ 263 | $ 352 | (25)% | $ 535 | $ 2,116 | (75)% |

For the three months ended September 30, 2020, royalty revenue related to sale of future royalties was $263,000, compared to $352,000 in the three months ended September 30, 2019, due to a decrease in revenue from Inavir sales. For the nine months ended September 30, 2020, royalty revenue related to sale of future royalties was $535,000, compared to $2.1 million in the nine months ended September 30, 2019. The decrease is due to a ceiling of $3.3 million that may be earned in years ending on March 31, and we recorded almost all of this in the nine months ended December 31, 2019.

*Research and Development*

The following table presents our research and development expenses for the three and nine months ended September 30, 2020 and 2019, respectively:

| Three Months Ended September 30, | | | Nine Months Ended September 30, | | |
|---|---|---|---|---|---|
| 2020 | 2019 | % Change | 2020 | 2019 | % Change |
| *(dollars in thousands)* | | | *(dollars in thousands)* | | |
| $ 4,616 | $ 3,713 | 24% | $ 11,272 | $ 11,249 | 0.2% |

For the three months ended September 30, 2020, research and development expenses increased by $903,000, or 24%, compared to the three months ended September 30, 2019. The increase is primarily due to preclinical, manufacturing and clinical expenses related to our COVID-19 vaccine candidate and higher stock-based compensation costs, partially offset by lower costs of manufacturing and clinical trials for our norovirus vaccine candidate and reduced personnel, facilities and depreciation costs since we ceased internal manufacturing as part of our December 2019 restructuring and reduced severance expense.

For the nine months ended September 30, 2020, research and development expenses increased by $23,000, or 0.2%, compared to the nine months ended September 30, 2019. The increase in the 2020 period is principally due to preclinical, manufacturing and clinical expenses related to our COVID-19 vaccine candidate, higher stock-based compensation costs and costs related to our customer service contract, partially offset by lower costs of manufacturing and clinical trials for our norovirus vaccine candidate, reduced personnel and facilities costs, lower amortization expense and reduced travel and severance costs.

We expect that research and development expenses will be higher in 2020 than in 2019 as we expect significant expenditures on clinical trials in the fourth quarter, which will only be partially offset by the reduction in personnel costs since we ceased internal bulk product manufacturing as part of our restructuring in December 2019.

*General and Administrative*

The following table presents our general and administrative expenses for the three and nine months ended September 30, 2020 and 2019, respectively:

| Three Months Ended September 30, | | | Nine Months Ended September 30, | | |
|---|---|---|---|---|---|
| 2020 | 2019 | % Change | 2020 | 2019 | % Change |
| *(dollars in thousands)* | | | *(dollars in thousands)* | | |
| $ 4,190 | $ 1,455 | 188% | $ 10,076 | $ 4,856 | 107% |

For the three months ended September 30, 2020, general and administrative expenses increased by $2.7 million compared to the corresponding period in 2019. The principal reasons are increased legal fees to defend ourselves against various shareholder lawsuits and class actions and to respond to governmental inquiries, higher stock-based compensation costs, increased D&O insurance and other professional costs, and increases in personnel and recruitment costs incurred in the three months ended September 30, 2020, as we grow our research and development activities and upgrade our accounting systems in order to comply with Section 404(b) of the Sarbanes-Oxley Act of 2002 before year-end.

For the nine months ended September 30, 2020, general and administrative expenses increased by $5.2 million compared to the corresponding period in 2019. The principal reasons for the increase are higher stock-based compensation costs, increased legal fees, higher D&O insurance costs, severance expenses for our former Chief Executive Officer and increased personnel costs incurred in the nine months ended September 30, 2020.

We expect general and administrative costs in the fourth quarter of 2020 will remain at a similar level to the three months ended September 30, 2020.

*Restructuring Costs*

The following table presents our restructuring costs for the three and nine months ended September 30, 2020 and 2019, respectively:

| Three Months Ended September 30, | | | Nine Months Ended September 30, | | |
|---|---|---|---|---|---|
| 2020 | 2019 | % Change | 2020 | 2019 | % Change |
| *(dollars in thousands)* | | | *(dollars in thousands)* | | |
| $ (952) | $ — | N/A | $ (849) | $ — | N/A |

We approved a reduction-in-force during the year ended December 31, 2019, for which we accrued severance and benefits charges, the maximum amount potentially payable under a manufacturing work order which we suspended, impairment charges against property and equipment and right-of-use assets formerly used for manufacturing from which no future benefits will be derived, and incurred legal fees and accretion costs in connection with the restructuring. Our net reversal of costs in the nine months ended September 30, 2020, relates to the settlement of the manufacturing work order for less than the maximum amount potentially payable, partially offset by legal fees and accretion costs. We do not expect to incur any further charges related to this restructuring.

*Other Income and (Expenses)*

The following table presents our non-operating income and expenses for the three and nine months ended September 30, 2020 and 2019, respectively:

| Three Months Ended September 30, | | | Nine Months Ended September 30, | | |
|---|---|---|---|---|---|
| 2020 | 2019 | % Change | 2020 | 2019 | % Change |
| *(dollars in thousands)* | | | *(dollars in thousands)* | | |
| $ (470) | $ (515) | (9)% | $ (1,345) | $ (1,783) | (25)% |

For the three months ended September 30, 2020, we recorded net non-operating expenses of $470,000, a 9% decrease from the $515,000 recorded in the three months ended September 30, 2019. For the nine months ended September 30, 2020, we recorded net non-operating expenses of $1.3 million, a 25% decrease from the $1.8 million recorded in the nine months ended September 30, 2019. The decrease in both periods was principally due to the absence of interest expense in 2020, principally due to the repayment of a loan from Oxford Finance LLC in November 2019, and the reduction in non-cash interest expense related to sale of future royalties due to a reduction in the related liability.

*Provision for Income Taxes*

The following table presents our provision for income taxes for the three and nine months ended September 30, 2020 and 2019, respectively:

| Three Months Ended September 30, | | | Nine Months Ended September 30, | | |
|---|---|---|---|---|---|
| 2020 | 2019 | % Change | 2020 | 2019 | % Change |
| *(dollars in thousands)* | | | *(dollars in thousands)* | | |
| $ 26 | $ 31 | (16)% | $ 205 | $ 294 | (30)% |

The provision for income taxes comprises $26,000 and $31,000 in the three months ended September 30, 2020 and 2019, respectively. Of this charge, $13,000 in 2020 and $17,000 in 2019 represents withholding tax on royalty revenue earned on sales of Inavir in Japan, which is potentially recoverable as a foreign tax credit but expensed because we record a 100% valuation allowance against our deferred tax assets. The remainder of the charge in both years is due to foreign taxes payable on intercompany interest.

The provision for income taxes comprises $205,000 and $294,000 in the nine months ended September 30, 2020 and 2019, respectively. The majority of the charge, $165,000 in 2020 and $254,000 in 2019, represents the Japanese withholding tax on royalty revenue. The decrease arose because Inavir royalties, including the portion that we pass through to HCRP, in the first nine months fell from $5.1 million in 2019 to $3.3 million in 2020. The remainder of the charge, $40,000 in each of 2020 and 2019, relates primarily to foreign taxes payable on intercompany interest.

**Liquidity and Capital Resources**

From its inception until the Merger, Private Vaxart's operations were financed primarily by net proceeds of $38.9 million and $29.4 million from the sale of convertible preferred stock and the issuance of convertible promissory notes, respectively, all of which were converted into Aviragen common stock in the Merger, and $4.9 million from the issuance of secured promissory notes to Oxford Finance, of which the remaining balance of $2.5 million as of September 30, 2019, was repaid in full on November 4, 2019. Vaxart gained $25.5 million in cash from Aviragen in the Merger, of which $4.9 million was used to pay Aviragen's Merger-related costs. Since the Merger, through September 30, 2020, we have received net proceeds of $151.9 million from the sale of common stock, pre-funded warrants and common stock warrants and the exercise of pre-funded warrants and common stock warrants from equity financings in March, April and September 2019 and March and July 2020.

As of September 30, 2020, we had $133.4 million of cash and cash equivalents. We believe our existing funds as of September 30, 2020, in addition to our projected revenue and proceeds from the issuance of common stock under the Open Market Sale Agreement℠ that we entered into on October 13, 2020, and from the exercise of common stock warrants and options, are sufficient to fund us through 2021. To continue operations thereafter, we expect that we will need to raise further capital, through the sale of additional securities or otherwise. Our operating needs include the planned costs to operate our business, including amounts required to fund working capital and capital expenditures. As of September 30, 2020, we had no commitments for capital expenditures. Our future capital requirements and the adequacy of our available funds will depend on many factors, most notably our ability to successfully commercialize our products and services.

We plan to fund a significant portion of our ongoing operations through partnering and collaboration agreements which, while reducing our risks and extending our cash runway, will also reduce our share of eventual revenues, if any, from our vaccine product candidates. We may be able to fund certain activities with assistance from government programs including HHS BARDA. We may also need to fund our operations through equity and/or debt financing. The sale of additional equity would result in additional dilution to our stockholders. Incurring debt financing would result in debt service obligations, and the instruments governing such debt could provide for operating and financing covenants that would restrict our operations. If we are unable to raise additional capital in sufficient amounts or on acceptable terms, we may be required to delay, limit, reduce, or terminate our product development or future commercialization efforts or grant rights to develop and market vaccine candidates that we would otherwise prefer to develop and market ourselves. Any of these actions could harm our business, results of operations and prospects.

Our future funding requirements will depend on many factors, including the following:

- the timing and costs of our planned preclinical studies for our product candidates;
- the timing and costs of our planned clinical trials of our product candidates;
- our manufacturing capabilities, including the availability of contract manufacturing organizations to supply our product candidates at reasonable cost;
- the amount and timing of royalties received on sales of Inavir;
- the number and characteristics of product candidates that we pursue;
- the outcome, timing and costs of seeking regulatory approvals;
- revenue received from commercial sales of our future products, which will be subject to receipt of regulatory approval;
- the terms and timing of any future collaborations, licensing, consulting or other arrangements that we may enter into;
- the amount and timing of any payments that may be required in connection with the licensing, filing, prosecution, maintenance, defense and enforcement of any patents or patent applications or other intellectual property rights; and
- the extent to which we in-license or acquire other products and technologies.

In addition, the COVID-19 pandemic may negatively impact our operations, including possible effects on our financial condition, ability to access the capital markets on attractive terms or at all, liquidity, operations, suppliers, industry, and workforce. The Company will continue to evaluate the impact that these events could have on the operations, financial position, and the results of operations and cash flows during fiscal year 2020 and beyond.

**Cash Flows**

The following table summarizes our cash flows for the periods indicated:

| | Nine Months Ended September 30, | |
|---|---|---|
| | 2020 | 2019 |
| | *(in thousands)* | |
| Net cash used in operating activities | $ (12,984) | $ (9,298) |
| Net cash used in investing activities | (318) | (838) |
| Net cash provided by financing activities | 133,214 | 18,188 |
| Net increase in cash and cash equivalents | $ 119,912 | $ 8,052 |

*Net Cash Used in Operating Activities*

Vaxart experienced negative cash flow from operating activities for the nine months ended September 30, 2020 and 2019, in the amounts of $13.0 million and $9.3 million, respectively. The cash used in operating activities in the nine months ended September 30, 2020, was due to cash used to fund a net loss of $18.4 million, partially offset by adjustments for net non-cash income related to depreciation and amortization, stock-based compensation, non-cash interest expense related to sale of future royalties and non-cash revenue related to sale of future royalties totaling $4.1 million and a decrease in working capital of $1.3 million. The cash used in operating activities in the nine months ended September 30, 2019, was due to cash used to fund a net loss of $12.2 million, partially offset by adjustments for net non-cash expenses related to depreciation and amortization, stock-based compensation, non-cash interest expense, non-cash interest expense related to sale of future royalties and non-cash revenue related to sale of future royalties totaling $1.8 million and a decrease in working capital of $1.1 million.

*Net Cash Used in Investing Activities*

We used $321,000 and $838,000 to purchase property and equipment in the nine months ended September 30, 2020 and 2019, respectively. We received cash of $3,000 for the sale of equipment in the nine months ended September 30, 2020.

*Net Cash Provided by Financing Activities*

In the nine months ended September 30, 2020, we received $9.2 million from the sale of common stock and warrants in a registered direct offering in March, $97.0 million from the sale of common stock under an at-the-market facility in July, $26.4 million from the exercise of common stock warrants and stock options, and net proceeds of $652,000 from the disgorgement of related party short-swing profits. In the nine months ended September 30, 2019, we received $2.5 million from the sale of common stock in a registered direct offering in March, $8.1 million from the sale of common stock, pre-funded warrants and common stock warrants in an underwritten public offering in April, $7.7 million from the sale of common stock, pre-funded warrants and common stock warrants in an underwritten public offering in September and $1.1 million from the exercise of pre-funded warrants, partially offset by the repayment of principal of $1.2 million on the secured promissory note payable to Oxford Finance LLC.

**Critical Accounting Policies and Estimates**

Our management’s discussion and analysis of financial condition and results of operations is based on our condensed consolidated financial statements, which have been prepared in accordance with generally accepted accounting principles in the United States. The preparation of these financial statements requires us to make estimates and judgments that affect the reported amounts of assets, liabilities and expenses. On an ongoing basis, we evaluate these estimates and judgments. We base our estimates on historical experience and on various assumptions that we believe to be reasonable under the circumstances. These estimates and assumptions form the basis for making judgments about the carrying values of assets and liabilities and the recording of expenses that are not readily apparent from other sources. Actual results may differ materially from these estimates. We believe that the accounting policies discussed below are critical to understanding our historical and future performance, as these policies relate to the more significant areas involving management’s judgments and estimates.

*Accrued Research and Development Expenses*

We record accrued expenses for estimated costs of research and development activities conducted by third-party service providers, which include the conduct of clinical and contract formulation and contract manufacturing activities. We record the estimated costs of research and development activities based upon the estimated amount of services provided and include the costs incurred but not yet invoiced within accrued liabilities in the condensed consolidated balance sheets and within research and development expense in the condensed consolidated statement of operations and comprehensive loss. These costs can be a significant component our research and development expenses.

We estimate the amount of work completed through discussions with internal personnel and external service providers as to the progress or stage of completion of the services and the agreed-upon fee to be paid for such services. We make significant judgments and estimates in determining the accrued balance in each reporting period. As actual costs become known, we adjust our accrued estimates.

*Intangible Assets*

Intangible assets acquired in the Merger were recorded at their estimated fair values of $20.3 million for developed technology related to Inavir which is being amortized on a straight-line basis over the estimated period of future royalties of 11.75 years and $1.8 million for the developed technology related to Relenza which was fully amortized over the remaining royalty period of 1.3 years. These valuations were prepared by an independent third party based on estimated discounted cash flows based on probability-weighted future development expenditures and revenue streams, which are highly subjective.

**Off-Balance Sheet Arrangements**

We had no off-balance sheet arrangements in the periods presented.

**Recent Accounting Pronouncements**

See the “Recent Accounting Pronouncements” in Note 2 to the Condensed Consolidated Financial Statements in Part I, Item 1 for information related to the issuance of new accounting standards in the first nine months of 2020, none of which had a material impact on our condensed consolidated financial statements.

**Item 3. Quantitative and Qualitative Disclosures About Market Risk**

Not applicable.

**Item 4. Controls and Procedures**

**Evaluation of Disclosure Controls and Procedures**

Our management, with the participation of our President and Chief Executive Officer (who serves as our principal executive officer and principal financial officer), has evaluated the effectiveness of our disclosure controls and procedures (as defined in Rules 13a-15(e) and 15d-15(e) under the Securities Exchange Act of 1934, as amended) as of the end of the period covered by this Quarterly Report on Form 10-Q. Based on such evaluation, our management has concluded that our disclosure controls and procedures were effective at a reasonable assurance level as of September 30, 2020.

**Changes in Internal Control over Financial Reporting**

There was no material change in our internal control over financial reporting that occurred during the quarter ended September 30, 2020, that has materially affected, or is reasonably likely to materially affect, our internal control over financial reporting.

**Inherent Limitations on Effectiveness of Controls**

Our management, including our President and Chief Executive Officer, does not expect that our disclosure controls and procedures or our internal controls will prevent all error and all fraud. A control system, no matter how well conceived and operated, can provide only reasonable, not absolute, assurance that the objectives of the control system are met. Further, the design of a control system must reflect the fact that there are resource constraints, and the benefits of controls must be considered relative to their costs. Because of the inherent limitations in all control systems, no evaluation of controls can provide absolute assurance that all control issues and instances of fraud, if any, within Vaxart have been detected.

## PART II OTHER INFORMATION

### Item 1. Legal Proceedings

The information included in "Note 9. Commitments and Contingencies—(c) Litigation" to the Condensed Consolidated Financial Statements in Part I, Item 1 is incorporated by reference into this Item.

We may also from time to time be involved in legal proceedings arising in connection with its business. Based on information currently available, we believe that the amount, or range, of reasonably possible losses in connection with any pending actions against us in excess of established reserves, in the aggregate, is not material to our consolidated financial condition or cash flows. However, any current or future dispute resolution or legal proceeding, regardless of the merits of any such proceeding, could result in substantial costs and a diversion of management's attention and resources that are needed to run our business successfully, and could have a material adverse impact on our business, financial condition and results of operations.

### Item 1A. Risk Factors

You should consider the risks and uncertainties described under Item 1A of Part I of our Annual Report on Form 10-K for the fiscal year ended December 31, 2019, which we filed with the Securities and Exchange Commission on March 19, 2020, together with all other information contained or incorporated by reference in this Quarterly Report on Form 10-Q when evaluating our business and our prospects. Except as disclosed below, there are no material changes from the risk factors set forth in Part I, Item 1A, in our Annual Report on Form 10-K for the year ended December 31, 2019.

***Our development of a COVID-19 vaccine candidate is at an early stage. We may be unable to produce an effective vaccine that successfully immunizes humans against SARS-CoV-2 in a timely manner, if at all.***

We are in the business of developing oral vaccines that are administered by tablet rather than by injection. In response to the global outbreak of COVID-19, in January 2020, we announced that we had initiated a program to develop a coronavirus vaccine candidate based on Vector-Adjuvant-Antigen Standardized Technology Platform, our proprietary oral vaccine platform ("VAAST"). In addition, on October 13, 2020, we announced that the first subject has been dosed in our Phase 1 study of VXA-CoV2-1, a non-replicating Ad5 vector oral tablet COVID-19 vaccine candidate. Our development of the vaccine is in a very early stage, and we may be unable to produce an effective vaccine that successfully immunizes humans against SARS-CoV-2 in a timely manner, if at all.

We have also entered into an agreement with certain manufacturing partners to help develop and manufacture our experimental oral COVID-19 vaccine. If we are unsuccessful in maintaining our relationships with these and other critical third parties, our ability to develop our oral COVID-19 vaccine candidate and consequently compete in the marketplace could be impaired, and our results of operations may suffer. Even if we are successful, we cannot assure you that these relationships will result in successful development and commercialization of our oral COVID-19 vaccine candidate.

Manufacturing any drug product with recombinant technology such as our adenovirus type 5 based vaccines presents technical challenges. Our manufacturing partners may not be able to successfully manufacture any vaccine with our VAAST platform, or to comply with cGMP, regulations or similar regulatory requirements. To date, our manufacturing partners have manufactured clinical supply for our planned clinical investigations. The number of doses of our potential vaccine that we are able to produce is dependent on the ability of our contract manufacturers to successfully and rapidly scale-up manufacturing capacity. The number of doses that we will be able to produce is also dependent in large part on the dose of the vaccine required to be administered to patients which will be determined in our clinical trials. To properly scale-up and develop a commercial process, we may need to expend significant resources, expertise, and capital.

Scale up can present problems such as difficulties with production costs and yields, quality control, including stability of the product candidate and quality assurance testing, shortages of qualified personnel or key raw materials, and compliance with strictly enforced federal, state, and foreign regulations. Our contract manufacturers may not perform as agreed. If any manufacturer encounters these or other difficulties, our ability to provide product candidates to patients in our clinical trials could be jeopardized.

Various government entities, including the U.S. government, are offering incentives, grants and contracts to encourage additional investment by commercial organizations into preventative and therapeutic agents against COVID-19, and this may have the effect of increasing the number of competitors and/or providing advantages to known competitors. We are aware of a substantial number of companies, individuals and institutions working to develop a vaccine against or treatment for COVID-19, many of which have substantially greater financial, scientific and other resources than us, and another party may be successful in producing a vaccine against COVID-19 or an effective treatment before we do. The rapid expansion of development programs directed at COVID-19 may also generate a scarcity of manufacturing capacity among contract research organizations that provide cGMP materials for development and commercialization of biopharmaceutical products.

We are committing financial resources to the development of a COVID-19 vaccine, which may cause delays in or otherwise negatively impact our other development programs. In addition, our management and scientific teams have dedicated substantial efforts to our COVID-19 vaccine development. As of the date of this report, we have 30 full-time equivalent employees, which may make us more reliant on our individual employees and on outside contractors than companies with a greater number of employees. If we fail to attract and retain management and scientific personnel, we may be unable to successfully produce, develop and commercialize our vaccine candidates.

Our failure, or the failure of such partners or potential partners, to comply with applicable regulations could result in sanctions being imposed on us, including clinical holds, delays, suspension or withdrawal of approval to conduct clinical investigations, license revocation, operating restrictions and criminal prosecutions, any of which could significantly and adversely affect supplies of our potential COVID-19 vaccine.

***The regulatory pathway for coronavirus vaccines is evolving and may result in unexpected or unforeseen challenges.***

To date, VXA-CoV2-1 has moved rapidly through the FDA regulatory review process. The speed at which all parties are acting to create and test therapeutics and vaccines for COVID-19 is unusual, and evolving or changing plans or priorities within the FDA, including changes based on new knowledge of COVID-19 and how the disease affects the human body, may significantly affect the regulatory timeline for VXA-CoV2-1. Results from clinical testing may raise new questions and require us to redesign proposed clinical trials, including revising proposed endpoints or adding new clinical trial sites or cohorts of subjects. Results from our vaccine (and other COVID-19) trials may require us to perform additional preclinical studies in order to advance our vaccine candidate. Discussions with FDA regarding the design of the anticipated Phase 2 and 3 studies for VXA-CoV2-1 are ongoing and important aspects of the trial design have yet to be determined, including the number of patients to be enrolled, the specific endpoints of the trial and the methods for obtaining and testing samples in the trial. The incidence of COVID-19 in the communities where our studies might be conducted will vary across different locations. If the overall incidence of COVID-19 in those locations is low, it may be difficult for us to recruit subjects or for any study we might perform to demonstrate differences in infection rates between participants in the study who receive placebo and participants in the study who receive VXA-CoV2-1.

The FDA has the authority to grant an Emergency Use Authorization to allow unapproved medical products to be used in an emergency to diagnose, treat, or prevent serious or life-threatening diseases or conditions when there are no adequate, approved, and available alternatives. If we are granted an Emergency Use Authorization for VXA-CoV2-1, we would be able to commercialize VXA-CoV2-1 prior to FDA approval. Furthermore, the FDA may revoke an Emergency Use Authorization where it is determined that the underlying health emergency no longer exists or warrants such authorization, and we cannot predict how long, if ever, an Emergency Use Authorization would remain in place. Such revocation could adversely impact our business in a variety of ways, including if VXA-CoV2-1 is not yet approved by the FDA and if we and our manufacturing partners have invested in the supply chain to provide VXA-CoV2-1 under an Emergency Use Authorization.

In addition, any success in preclinical testing we might observe for our COVID-19 vaccine candidates may not be predictive of the results of later-stage human clinical trials, Factors such as efficacy, immunogenicity, and adverse events can emerge at any time in clinical testing and have the potential to have adverse consequences for our ability to proceed with clinical trials. Other factors such as manufacturing challenges, availability of raw materials, and slow-downs in the global supply chain may delay or prevent us from receiving regulatory approval of our vaccine candidate or, if we do receive regulatory approval, prevent a successful product launch. We may not be successful in developing a vaccine, or another party may be successful in producing a more efficacious vaccine or other treatment for COVID-19.

***The policies and standards governing Operation Warp Speed are uncertain, and new regulations or policies may materially adversely affect our business and the development of our COVID-19 vaccine candidate.***

On June 26, 2020, we announced that our oral COVID-19 vaccine has been selected to participate in a non-human primate challenge study, organized and funded by Operation Warp Speed. The study is designed to test the efficacy of our oral COVID-19 vaccine candidate.

Operation Warp Speed is a collaboration among the Department of Health and Human Services, including the Centers for Disease Control and Prevention, the U.S. Food and Drug Administration, the National Institutes of Health, and the Biomedical Advanced Research and Development Authority; the Department of Defense; and private companies and firms, to facilitate the development, manufacturing, and distribution of vaccines, therapeutics and other countermeasures to address the COVID-19 epidemic throughout the world.

The policies and standards governing Operation Warp Speed, including, without limitation, the policies and standards governing the procedures for selecting which companies participate in Operation Warp Speed and receive funding from its participating agencies, are uncertain and may rapidly evolve in the future. Such policies and standards may negatively impact our plans to develop our COVID-19 vaccine candidate and failure by us to comply with any laws, rules and regulations, some of which may not exist yet or are subject to interpretation and may be subject to change, could result in a variety of adverse consequences. Efforts to comply with standards and policy priorities have resulted in, and are likely to continue to result in, increased general and administrative expenses and a diversion of management time and attention from vaccine development to compliance activities. If we fail to comply with the policies and standards governing Operation Warp Speed, or do not ultimately receive funding or complete our planned non-human primate challenge study for any other reason, our business and operations would be materially and adversely impacted.

In addition, we cannot assure you that Operation Warp Speed will have a positive impact on our financial results.

***In light of the COVID-19 pandemic, it is possible that one or more government entities may take actions that directly or indirectly have the effect of abrogating some of our rights or opportunities. If we were to develop a COVID-19 vaccine, the economic value of such a vaccine to us could be limited.***

Various government entities, including the U.S. government, are offering incentives, grants and contracts to encourage additional investment by commercial organizations into preventative and therapeutic agents against coronavirus, which may have the effect of increasing the number of competitors and/or providing advantages to known competitors. Accordingly, there can be no assurance that we will be able to successfully establish a competitive market share for our COVID-19 vaccine, if any.

***The COVID-19 coronavirus could adversely impact our preclinical studies and clinical trials.***

Since the initial report of a novel strain of coronavirus, SARS-CoV-2, in China in December 2019, COVID-19 has spread to multiple countries, including the United States. We have active and planned preclinical studies and clinical trial sites in the United States. On October 13, 2020, we announced that the first subject has been dosed in our Phase 1 study of VXA-CoV2-1, a non-replicating Ad5 vector oral tablet COVID-19 vaccine candidate.

As COVID-19 continues to spread around the globe, we will likely experience disruptions that could severely impact our planned and ongoing preclinical studies and clinical trials, including preclinical and clinical studies and manufacturing of VXA-CoV2-1 and clinical trials of our vaccine candidate for the GI.1 and GII.4 norovirus strains. Effects on our preclinical studies and clinical trial programs include, but are not limited to:

- delays in procuring subjects in our preclinical studies;
- delays or difficulties in enrolling patients in our clinical trials;
- delays or difficulties in preclinical and clinical site initiation, including difficulties in establishing appropriate and safe social distancing and other safeguards at preclinical and clinical sites;
- diversion of healthcare resources away from the conduct of preclinical and clinical trials, including the diversion of hospitals serving as our clinical trial sites and hospital staff supporting the conduct of our clinical trials;
- interruption of key preclinical study and clinical trial activities, such as preclinical and clinical trial site monitoring, subject recruitment and subject testing due to the course of the pandemic, limitations on freight and/or travel imposed or recommended by federal or state governments, employers and others;
- limitations in employee resources that would otherwise be focused on the conduct of our preclinical studies and clinical trials, including because of sickness of employees or their families, delays or difficulties in conducting site visits and other required travel, and the desire of employees to avoid contact with large groups of people;
- delays in receiving approval from local regulatory authorities to initiate or continue our planned preclinical studies and clinical trials;
- regulatory or legal developments in the United States or other countries; and
- the success of competitive vaccine products or COVID-19 treatments and related technologies.

The global outbreak of COVID-19 continues to rapidly evolve. The extent to which COVID-19 may impact our preclinical studies and clinical trials will depend on future developments, which are highly uncertain and cannot be predicted with confidence, such as the ultimate geographic spread of the disease, the duration of the outbreak, travel restrictions and social distancing in the United States and other countries, business closures or business disruptions and the effectiveness of actions taken in the United States and other countries to contain and treat the disease.

***An ownership change under Section 382 of the Code subjects the Company and all of its subsidiaries to limitations on the use of U.S. net operating loss carryforwards and certain other tax attributes. In addition to the ownership changes that occurred in February 2018, April 2019 and September 2019, a further ownership change under Section 382 of the Code occurred in the second quarter of 2020, subjecting us to further limitations.***

If a corporation undergoes an “ownership change” within the meaning of Section 382 of the Code, the corporation’s U.S. net operating loss carryforwards and certain other tax attributes arising from before the ownership change are subject to limitations on use after the ownership change. In general, an ownership change occurs if there is a cumulative change in the corporation’s equity ownership by certain stockholders that exceeds 50% over a three-year period. Similar rules may apply under state and foreign tax laws. Ownership changes occurred for the Company and all of its subsidiaries in February 2018, April 2019 and September 2019; accordingly, our U.S. net operating loss carryforwards and certain other tax attributes are subject to limitations on their use. The ownership change in September 2019 restricted annual usage to 1.89% of the combined organization’s value on September 30, 2019. A further change in ownership occurred in the second quarter of 2020, which may result in an additional restriction on usage of net operating loss carryforwards generated in the intervening period. Additional ownership changes in the future could result in further limitations on the combined organization’s net operating loss carryforwards. Consequently, even if we achieve profitability, we may not be able to utilize a material portion of our net operating loss carryforwards and other tax attributes, which could have a material adverse effect on our cash flow and results of operations.

***The price of our common stock has been volatile and fluctuates substantially, which could result in substantial losses for stockholders.***

Our stock price has been, and in the future may be, subject to substantial volatility. As a result of this volatility, our stockholders could incur substantial losses. The stock market in general, and the market for biopharmaceutical companies in particular, has experienced extreme volatility that has often been unrelated to the operating performance of particular companies. As a result of this volatility, you may not be able to sell your common stock at or above your initial purchase price.

The market price for our common stock may be influenced by many factors, including the results of clinical trials of our products or those of our competitors, regulatory or legal developments, developments, disputes, or other matters concerning patent applications, issued patents, or other proprietary rights, our ability to recruit and retain key personnel, public announcements by us or our strategic collaborators regarding the progress of our development candidates similar public announcements by our competitors, and other factors set forth in this quarterly report and our other reports filed with the SEC.

If our quarterly or annual results fall below the expectations of investors or securities analysts, the price of our common stock could decline substantially. Furthermore, any quarterly or annual fluctuations in our results may, in turn, cause the price of our stock to fluctuate substantially. We believe that period-to-period comparisons of our results are not necessarily meaningful and should not be relied upon as an indication of our future performance.

In addition, public statements by us, government agencies, the media or others relating to the coronavirus outbreak (including regarding efforts to develop a coronavirus vaccine) have in the past resulted, and may in the future result, in significant fluctuations in our stock price. Given the global focus on the coronavirus outbreak, any information in the public arena on this topic, whether or not accurate, could have an outsized impact (either positive or negative) on our stock price. Information related to our development, manufacturing and distribution efforts with respect to our vaccine candidates, or information regarding such efforts by competitors with respect to their potential vaccines, may also impact our stock price.

Our stock price is likely to continue to be volatile and subject to significant price and volume fluctuations in response to market and other factors, including the other factors discussed in our filings incorporated by reference herein or in future periodic reports; variations in our quarterly operating results from our expectations or those of securities analysts or investors; downward revisions in securities analysts' estimates; and announcement by us or our competitors of significant acquisitions, strategic partnerships, joint ventures or capital commitments.

***We are subject to multiple legal proceedings, and may be subject to additional legal proceedings, which may result in substantial costs, divert management's attention and have a material adverse effect on our business, financial condition and results of operations.***

We are currently subject to multiple pending legal proceedings, as described in this report. We may become involved in additional legal proceedings relating to the aforementioned matters or, from time to time, we may become involved in legal proceedings involving unrelated matters. Due to the inherent uncertainties in legal proceedings, we cannot accurately predict their ultimate outcome. Our stock price has been extremely volatile, and we may become involved in additional securities class action lawsuits in the future. Any such legal proceedings, regardless of their merit, could result in substantial costs and a diversion of management's attention and resources that are needed to successfully run our business, could impair the Company's ability to recruit and retain directors, officers, and other key personnel, could impact its ability to secure financing, insurance, and other transactions (or the terms of any such financings, insurance, or other transactions), and for these and other reasons could have a material adverse impact on our business, financial condition, results of operations, and prospects.

***We could face risks related to the potential outcomes of the investigation by the U.S. Attorney's office and/or SEC informal inquiry, including potential fines, penalties, damages or other remedies that could be imposed on us, substantial legal costs and expenses, significant management distraction, and potential reputational damages that we could suffer as a result of adverse findings.***

In July 2020, the U.S. Attorney's Office for the Northern District of California provided a grand jury subpoena to the Company seeking information pertaining to the Company's participation in, and disclosure of, an Operation Warp Speed-funded ("OWS") non-human primate study of the Company's oral COVID-19 vaccine and certain corporate, financing and stock transactions. In October 2020, the Company was informed that the investigation was being transferred to the Office of the U.S. Attorney for the Eastern District of New York and the Fraud Section of Main Justice (collectively, "DOJ"), and that the Office of the U.S. Attorney for the Northern District of California required no further response or action from the Company. In November 2020, the Company received a grand jury subpoena from DOJ that seeks substantially the same information as the earlier subpoena from the Northern District of California. In August 2020, the Enforcement Division of the SEC requested that the Company provide, on a voluntary basis, certain documents and information relating to the Company's participation in the aforementioned OWS-funded nonhuman primate study. The SEC has advised us that this informal, non-public fact-finding inquiry should not be construed as an indication that we or anyone else has violated the law or that the SEC has any negative opinion of any person, entity or security. The Company is cooperating with the SEC and DOJ and has provided them both with information and documents. We do not intend to comment further on these matters until they are closed or further action is taken by the SEC or the DOJ that, in our judgment, merits further comment or public disclosure. We could face risks related to the potential outcomes of these inquiries, including legal costs and expenses, potential regulatory action, penalties, damages or other remedies that could be imposed on us, management distraction, and potential reputational damage that we could suffer as a result of potential adverse findings.

**Item 2. Unregistered Sales of Equity Securities and Use of Proceeds**

Not applicable.

**Item 3. Defaults Upon Senior Securities**

Not applicable.

**Item 4. Mine Safety Disclosures**

Not applicable.

**Item 5. Other Information**

Not applicable.

**Item 6. Exhibits**

| Exhibit Number | Description of Document | Incorporated by Reference | | | |
|---|---|---|---|---|---|
| | | Schedule/Form | File Number | Exhibit | Filing Date |
| 10.1 # | 2019 Equity Incentive Plan, as amended | Form S-8 | 333-239727 | 10.1 | July 7, 2020 |
| 10.2 # | Form of Stock Option Grant Notice, Stock Option Agreement and Notice of Exercise under the 2019 Equity Incentive Plan, as amended | Form S-8 | 333-239727 | 10.2 | July 7, 2020 |
| 10.3 | Sales Agreement, dated July 8, 2020, by and between SVB Leerink LLC, B. Riley FBR, Inc. and Vaxart, Inc. | Form S-3ASR | 333-239751 | 1.2 | July 8, 2020 |
| 10.4 * + | Master Services Agreement, dated April 17, 2020, by and between Vaxart, Inc. and Kindred Biosciences, Inc. | | | | |
| 10.5 * + | Statement of Work 003, dated September 11, 2020, under the Master Services Agreement, dated April 17, 2020, by and between Vaxart, Inc. and Kindred Biosciences, Inc. | | | | |
| 10.6 * + | Statement of Work 004, dated September 11, 2020, under the Master Services Agreement, dated April 17, 2020, by and between Vaxart, Inc. and Kindred Biosciences, Inc. | | | | |
| 31.1 * | Certification of Principal Executive and Financial Officer pursuant to Exchange Act Rule, 13a-14(a) and 15d-14(a), as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002 | | | | |
| 32.1 *§ | Certification of Principal Executive and Financial Officer pursuant to Rule 13a-14(b) of the Securities Exchange Act of 1934, as amended, and 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002 | | | | |
| 101 * | The following financial information from the Company's Quarterly Report on Form 10-Q for the period ended September 30, 2020, formatted in Extensible Business Reporting Language (XBRL): (i) the Condensed Consolidated Balance Sheets as of September 30, 2020 and December 31, 2019, (ii) the Condensed Consolidated Statements of Operations and Comprehensive Loss for the three and nine months ended September 30, 2020 and 2019, (iii) the Condensed Consolidated Statements of Stockholders' Equity for the three and nine months ended September 30, 2020, (iv) the Condensed Consolidated Statements of Stockholders' Equity for the three and nine months ended September 30, 2019, (v) the Condensed Consolidated Statements of Cash Flows for the nine months ended September 30, 2020 and 2019, and (vi) Notes to the Condensed Consolidated Financial Statements | | | | |

* Filed herewith

\# Management contract or compensation plan or agreement

\+ Confidential portions of this exhibit have been omitted and filed separately with the Commission pursuant to confidential treatment granted under Rule 24b-2 promulgated under the Exchange Act

§ In accordance with Item 601(b)(32)(ii) of Regulation S-K and SEC Release Nos. 33-8238 and 34-47986, Final Rule: Management's Reports on Internal Control Over Financial Reporting and Certification of Disclosure in Exchange Act Periodic Reports, the certification furnished in Exhibit 32.1 hereto is deemed to accompany this Quarterly Report on Form 10-Q and will not be deemed "filed" for purposes of Section 18 of the Exchange Act. Such certification will not be deemed to be incorporated by reference into any filing under the Securities Act or the Exchange Act, except to the extent that the registrant specifically incorporates it by reference.

**SIGNATURES**

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized.

VAXART, INC.

Dated: November 12, 2020

By: /s/ ANDREI FLOROIU
Andrei Floroiu
President and Chief Executive Officer
(Principal Executive Officer and Principal Financial Officer)

# MASTER SERVICES AGREEMENT

This Master Services Agreement (the "Agreement") is made and entered into as of April 17, 2020 (the "Effective Date") by and between Vaxart, Inc., a Delaware corporation with a place of business 385 Oyster Point Boulevard, suite 9A, South San Francisco, CA 94080 ("Vaxart") and Kindred Biosciences, Inc., a Delaware corporation, with its principal office located at 1555 Bayshore Highway, Suite 200, Burlingame, California 94010 ("KindredBio"). Vaxart and KindredBio, collectively, are the "Parties"; and each, a "Party."

## RECITALS

A. KindredBio, among other things, operates a biological development and cGMP (defined below) manufacturing facility, and KindredBio provides contract development and manufacturing services for a wide range of human and animal biologicals;

B. Vaxart is a biotechnology company focused on the discovery, development, and commercialization of oral recombinant vaccines;

C. Vaxart desires to retain KindredBio from time to time to perform services, including to provide, supply, create, and/or manufacture certain pharmaceutical products in connection with vaccines, including Bulk Drug Substance (defined below) and Products (defined below), and KindredBio desires to perform such services, pursuant to this Agreement.

NOW, THEREFORE, in consideration of the mutual promises, undertakings, and covenants set forth in this Agreement, and for other good and valuable consideration, the receipt, sufficiency, and adequacy of which of which are hereby acknowledged, the Parties, intending to be legally bound, agree as follows:

## AGREEMENT

### ARTICLE 1: DEFINITIONS

1.1 "Affiliates" shall mean all entities controlling, controlled by, or under common control with a Party, as applicable. The term "control" (as used in this definition) shall mean, direct or indirect ownership of at least 50% of the outstanding voting securities of a corporation, or a comparable equity interest in any other type of entity, or the power to direct or cause the direction of the management and policies of an entity.

1.2 "Applicable Laws" means all U.S. (and as specified in a Work Order, foreign) laws, ordinances, codes, rules, and regulations applicable to the "Services" or any aspect thereof, and the obligations of Vaxart or KindredBio, as the context requires under this Agreement, including, without limitation: (i) all applicable United States federal, state, regional, and local laws and regulations (including applicable environmental laws and the U.S. Foreign Corrupt Practices Act); (ii) the FD&C Act; and (iii) all regulations, guidelines, guidances, rules, orders, and other requirements of any kind whatsoever of the FDA or of any comparable foreign agency (as applicable under any Work Order).

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[***] = Certain information contained in this document, marked by brackets, has been omitted because it is both not material and would be competitively harmful if publicly disclosed.

1.3 "Batch" means a specific quantity of a Product resulting from a single execution of the manufacturing process set forth in the Specifications and comprised of a number of units mutually agreed upon in writing between KindredBio and Vaxart, as set forth in a Work Order.

1.4 "Bulk Drug Substance" means the active compound, as set forth in each Work Order.

1.5 "Confidential Information" is defined in Section 8.1.

1.6 "FDA" means the United States Food and Drug Administration and any successor agencies or bodies.

1.7 "FD&C Act" means the United States Federal Food, Drug and Cosmetics Act, (21 U.S.C. 301, et seq.), as amended from time to time, and any regulation promulgated thereunder, including, without limitation, all cGMP and cGLP, in each case, as amended from time to time.

1.8 "Good Laboratory Practices," "cGLP," or "CGLP" means "current Good Laboratory Practices" as set forth in (a) Title 21, United States Code of Federal Regulations, Part 58 ("CGLP Regs"), and (b) all additional Applicable Laws that replace, amend, modify, supplement, or complement any of the foregoing.

1.9 "Good Manufacturing Practices," "cGMP" or "CGMP" means "Current Good Manufacturing Practices" as set forth in (a) Title 21, United States Code of Federal Regulations, Parts 210 and 211 ("CGMP Regs"), (b) International Conference on Harmonization (ICH) ICH Q7 Good Manufacturing Practice Guide for Active Pharmaceutical Ingredients, and (c) all additional Applicable Laws that replace, amend, modify, supplement, or complement any of the foregoing.

1.10 "Intellectual Property" means any and all proprietary rights in and to patents, patent applications, formulae, trademarks, trademark applications, trade names, inventions, technologies, copyrights, works of authorship, industrial designs, trade secrets, know how, or any other rights in and to proprietary works, information, or intellectual property of any kind or nature, including, without limitation, all biological, chemical, biochemical, toxicological, pharmacological, and metabolic material, and information and data relating thereto, and formulation, clinical, analytical, and stability information and data that have actual or potential commercial value and are not available in the public domain.

1.11 "KindredBio IP" is defined in Section 5.1.3.

1.12 "Materials" means any data, information, raw materials, or any other tangible materials of any kind provided by or on behalf of Vaxart to KindredBio or its designee under this Agreement or any WO for KindredBio's performance of the Services and/or any data, information, raw materials, or any other tangible material of any kind provided by or on behalf of KindredBio under this Agreement or any WO that, when combined with Materials provided by or on behalf of Vaxart, are necessary for KindredBio to perform the applicable Services.

1.13 "Person" means any person or entity, including any individual, trustee, corporation, partnership, trust, unincorporated organization, limited liability company, business association, firm, joint venture, or governmental agency or authority.

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[***] = Certain information contained in this document, marked by brackets, has been omitted because it is both not material and would be competitively harmful if publicly disclosed.

1.14 "Pre-Existing KindredBio IP" is defined in Section 5.1.3.

1.15 "Product" means each pharmaceutical product set forth in a Work Order, to be produced by KindredBio for development and/or clinical use only (and in no case for commercial use) as part of the applicable Services.

1.16 "Quality Agreement" is defined in Section 2.1.

1.17 "Records" is defined in Section 4.1.1.

1.18 "Reports" is defined in Section 2.3.

1.19 "Services" means the services to be performed pursuant to this Agreement and as further defined and detailed from time to time in an executed WO by KindredBio for the benefit of Vaxart, including, without limitation the supply, manufacture, and/or production of Products and the generation and delivery of any Reports.

1.20 "Specifications" means the specific requirements, standards, and other criteria for a Product, including, as applicable, the specific methods, techniques, processes, protocols, and standard operating procedures that are to be used by KindredBio to manufacture a Product, as set forth in the applicable Work Order.

1.21 "Third Party" means any Person other than a Party to this Agreement.

1.22 "Third Party Rights" means any Intellectual Property of any Third Party.

1.23 "Vaxart Inventions" is defined in Section 5.1.4.

1.24 "Vaxart Pre-Existing IP" is defined in Section 5.1.2.

1.25 "Work Order" or "WO" means a detailed document signed by both Parties that provides the specific information about particular projects and services to performed under this Agreement, including, for example, without limitation, and when applicable, the scope of the applicable project or services, timelines, milestones, payments and payment terms, the requisite processes, and what is expected of the Parties, and, in each case, shall, subject to Section 2.1, be an exhibit to this Agreement and incorporated herein.

1.26 "Work Product" is defined in Section 5.1.1.

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**ARTICLE 2: WORK ORDERS; PERFORMANCE OF SERVICES; REPORTS**

2.1 Purpose; Work Order; Quality Agreement. All Services to be performed by KindredBio under this Agreement shall be set forth in a Work Order mutually agreed to in writing by the Parties. Each Work Order shall expressly reference this Agreement and, upon execution by both Parties, this Agreement shall be incorporated into such Work Order by this reference and made a part of such Work Order. To the extent of any conflict between a Work Order and this Agreement, this Agreement shall control, except to the extent such Work Order specifically states that such Work Order controls with respect to the conflicting provisions. No Work Order shall be deemed to amend this Agreement. Each Work Order shall be agreed upon by the Parties on a project-by-project basis, with no required minimum or maximum number of Work Orders. This Agreement and the Quality Agreement (as defined below), together with each WO (including any attachments or schedules thereto), but separate and apart from any other WO, shall constitute the entire agreement between the Parties for the performance of Services defined in such WO. Upon or around the execution of this Agreement, the Parties will execute a mutually acceptable quality agreement ("Quality Agreement"), which will allocate to each Party the roles and responsibilities with respect to quality control and regulatory compliance as they apply to the Services provided by KindredBio to Vaxart under each Work Order. This Agreement shall be incorporated into the Quality Agreement by this reference and made a part of the Quality Agreement. To the extent of any conflict between the Quality Agreement and this Agreement, the Quality Agreement shall control with respect to quality-related matters, and this Agreement shall control with respect to all other matters. The Quality Agreement shall not be deemed to amend this Agreement.

2.1.1 If either KindredBio or Vaxart requires or requests any changes to the Services described in any particular Work Order for the particular applicable project(s) set forth therein, either Party, as the case may be, shall prepare a "Project Change Authorization" ("PCA") to amend the applicable WO that reflects the requested or required changes, including an estimate of any resulting adjustments to the timelines for such revised Services and any suggested changes in the applicable fees. Upon the execution by both Parties of the Project Change Authorization, this Agreement shall be incorporated into such amended Work Order by this reference and made a part of such amended Work Order, and KindredBio shall perform the Services as revised and changed in the PCA, and Vaxart shall pay any changed fees therefor in accordance with such PCA. Notwithstanding anything herein to the contrary, to the extent that the changes set forth in any PCA consist of a reduction or increase in the Services to be performed under a Work Order, KindredBio shall perform only such reduced or increased Services. In connection with any change to the scope of Services under any Work Order, the Parties shall negotiate in good faith a reduction or increase, respectively, in the fees payable to KindredBio for such reduced or increased Services and confirm any such change in the applicable PCA. Notwithstanding the foregoing, if Vaxart changes a scheduled fill date or cancels a Batch as set for in a particular WO, then Vaxart shall pay to KindredBio the applicable cancellation fee pursuant to Section 7.5.

2.1.2 The performance of all Services shall be controlled by the terms and conditions of this Agreement (including any applicable WO). The terms and conditions on any business forms (including purchase orders) used by either Party for the purposes of invoicing, delivering Reports, or otherwise, shall not form part of this Agreement. KindredBio agrees not to change or deviate from a WO without the prior written consent of Vaxart. In no event shall KindredBio be required to store Product for more than [***] after KindredBio's release of Product without KindredBio's prior written consent and Vaxart's written agreement to reimburse KindredBio for the cost of such storage at KindredBio's standard rates.

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[***] = Certain information contained in this document, marked by brackets, has been omitted because it is both not material and would be competitively harmful if publicly disclosed.

2.1.3 KindredBio shall not subcontract any Services to, or otherwise use the services of, KindredBio's Affiliates, contractors, or vendors to fulfill KindredBio's obligations under this Agreement or any WO without providing prior written notice to Vaxart, in the case of KindredBio's Affiliates, or obtaining Vaxart's prior written consent, in the case of KindredBio's contractors and vendors, which consent shall not be unreasonably withheld, delayed, or conditioned. If KindredBio subcontracts any Services to any Affiliate, contractor, or vendor, any Affiliate, contractor, or vendor so used shall be subject to all of the terms applicable to KindredBio under this Agreement and any WO, and shall be entitled to all rights afforded KindredBio under this Agreement and any WO. With KindredBio's consent, any Affiliate of KindredBio may execute a WO directly with Vaxart under this Agreement. KindredBio acknowledges and agrees that any use of its Affiliates, contractors, or vendors to fulfill KindredBio's obligations hereunder shall not relieve KindredBio of its obligations hereunder, and KindredBio agrees that it shall be liable for such Affiliate, contractor, or vendor conduct that is prohibited under this Agreement and Affiliate, contractor, or vendor conduct that would have constituted breach of this Agreement if it had been engaged in by KindredBio. In that circumstance, KindredBio expressly waives any requirement that Vaxart exhaust any power, right, or remedy, or proceed directly against the Affiliate, contractor, or vendor, for any obligation or performance by KindredBio under this Agreement.

2.1.4 Any Materials to be provided to KindredBio by Vaxart for KindredBio's use to perform Services under a Work Order shall be specified in the applicable Work Order, including the quantities of Materials to be provided and the timeline for providing such Materials. Vaxart shall provide KindredBio with pertinent and necessary information related to the Vaxart-supplied Materials, including, but not limited to, stability data, safety data sheets, and stability information, as applicable. KindredBio shall keep all Materials separate and segregated from other work. KindredBio shall use all Vaxart-supplied Materials in compliance with all Applicable Laws and all reasonable guidance documents, testing, and storage requirements, disposal, and other instructions provided by Vaxart and communicated to KindredBio. All such Materials provided to KindredBio are and shall remain the exclusive property of Vaxart, and shall be used by KindredBio only in strict accordance with the applicable Work Order and for no other purpose without the express prior written consent of Vaxart. KindredBio shall not use or exploit any of Materials for its own benefit or for the benefit of any other Person without the prior written consent of Vaxart. Unless otherwise specified in writing, no title, right, or license in or to Materials is granted or implied by this Agreement. Other than to an Affiliate, as provided in this Agreement, KindredBio shall not transfer or provide any Materials to a Third Party without the prior written consent of Vaxart. Vaxart hereby waives any and all rights of recovery against KindredBio and its Affiliates, and against any of their respective directors, officers, employees, subcontractors, agents, or representatives, for any loss or damage to the Materials to the extent the loss or damage is fully reimbursed to Vaxart by KindredBio's insurance (whether or not such insurance is described, provided for, or referenced in this Agreement).

2.1.5 Upon completion, termination, or discontinuation of any Work Order, KindredBio shall, upon Vaxart's decision and written direction regarding same communicated to KindredBio, and at Vaxart's reasonable expense, promptly return any Materials to Vaxart or its designee, or destroy any related Materials and provide a written certification to Vaxart regarding the destruction of such Materials.

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[***] = Certain information contained in this document, marked by brackets, has been omitted because it is both not material and would be competitively harmful if publicly disclosed.

2.2 Performance of Services.

2.2.1 KindredBio shall perform Services in accordance with the terms and conditions of this Agreement, the applicable WO, and the Quality Agreement, as applicable. Except as otherwise provided in the applicable Work Order, all Product manufactured by KindredBio and delivered to Vaxart hereunder will be manufactured in accordance with cGMP and will conform to the applicable Specifications. KindredBio shall deliver all applicable Product as described in an applicable WO to Vaxart or to Vaxart's designated agent or consignee. All shipments shall be delivered to Vaxart from KindredBio's facilities in California by freight collect via a common carrier designated by Vaxart, at Vaxart's expense; provided, however, that KindredBio shall be responsible for the loading of Product on departure and shall bear all costs of such loading. Vaxart shall procure, at its cost, insurance covering damage or loss of Product during shipping. All shipping instructions of Vaxart shall be accompanied by the name and address of the recipient, the shipping date, and any other pertinent information.

2.2.2 Services shall, unless otherwise permitted in the applicable WO or not specifically described in the applicable WO, use such personnel, methods, procedures, and resources as are specified in the applicable WO. KindredBio shall perform the Services at the facility specified in the applicable Work Order and shall not use any other facilities for the performance of Services without Vaxart's prior written consent. KindredBio shall meet industry standards of professional conduct in the performance of each Work Order and in the preparation of all Reports and generation of any data. KindredBio shall adhere to the terms and conditions of this Agreement (including the applicable Work Order and, if applicable, the Quality Agreement) and any and all Applicable Laws (including cGMP, if applicable) in the performance of each Work Order and in the preparation of all Reports and generation of any data. Should any regulatory requirements be changed, amended, updated, or revised, KindredBio shall make every reasonable effort to satisfy such new requirements. In the event that compliance with such new regulatory requirements necessitates a revised scope of work or change order under a Work Order, KindredBio shall submit to Vaxart an amended Work Order for Vaxart's written approval and acceptance prior to making any changes to Services under the applicable Work Order; provided that Vaxart shall not unreasonably withhold, condition, or delay such approval and acceptance. Vaxart shall approve or deny KindredBio's suggested changes within [***] of KindredBio's request for written approval or as soon thereafter as is practicable.

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[***] = Certain information contained in this document, marked by brackets, has been omitted because it is both not material and would be competitively harmful if publicly disclosed.

2.2.3 Within [***] after completion of all Services under a Work Order (or at such other time as may be specified in the applicable Work Order or Quality Agreement), Vaxart shall determine whether the Services conform to the requirements in this Agreement and the applicable Work Order (the "Services Requirements"). Except as otherwise set forth in this Agreement, if a Service fails to conform to the Services Requirements, it is referred to as "non- conforming" or as a "non-conformity," as applicable, under this Agreement. If (a) Services conform to the Services Requirements, or (b) Vaxart fails to notify KindredBio within the abovementioned time period that Services do not conform to the Services Requirements, then Vaxart shall be deemed to have accepted such Services and waived its right to revoke acceptance or make any claim that such Services do not conform to the Services Requirements. If Vaxart believes any Services do not conform to the Services Requirements, Vaxart shall so notify KindredBio as soon as practicable by telephone or e-mail providing a reasonably detailed explanation of the non-conformity and shall confirm such notice in writing via overnight delivery to KindredBio. Upon receipt of such telephone or e-mail notice, KindredBio will investigate such alleged non-conformity, and (i) if KindredBio agrees such Services are non-conforming, deliver to Vaxart a corrective action plan within [***] after receipt of Vaxart's overnight written notice of non-conformity, or such additional time as is reasonably required if such investigation or plan requires data from sources other than the Parties, or either of them, or (ii) if KindredBio disagrees with Vaxart's determination that the Services are non-conforming, KindredBio shall so notify Vaxart by telephone or e-mail within such period specified in (i) above. If the Parties dispute whether any Services are conforming or non- conforming, such Services as applicable will be submitted to a mutually acceptable independent laboratory or consultant for resolution, whose determination of conformity or non-conformity, and the cause thereof if non-conforming, shall be binding upon the Parties absent manifest error. If the laboratory or consultant determines that the Services are non-conforming, [***] for the costs of such laboratory or consultant. If the laboratory or consultant determines that the Services are conforming, Vaxart shall be solely responsible for the costs of such laboratory or consultant.

(i) In the event KindredBio agrees with Vaxart's determination that any Services are non-conforming [***], then [***].

(ii) Each Party acknowledges and agrees that KindredBio's sole and exclusive liability and Vaxart's sole and exclusive remedy with regard to non-conforming Services (whether arising out of or related to indemnification, breach of contract or warranty, strict or product liability, statutory violations, tort (including negligence), or otherwise) is limited to those remedies set forth in this Section 2.2.3. For the avoidance of doubt, those remedies set forth in this Section
2.2.3 are in lieu of (and not in addition to) any remedies available to Vaxart under applicable law or in equity, including without limitation, any rights of rejection or revocation of acceptance of Services.

2.2.4 If Services (including Product or any other results and proceeds of Services) are rejected by Vaxart or claimed by Vaxart to be non-conforming, and such Services' failure to meet any requirements under this Agreement or an applicable Work Order is the result of non-conforming Bulk Drug Substance, Materials, Components, or any other components or materials supplied by Vaxart, then such non-conformity shall be deemed not to be non-conforming for purposes of this Section 2.2 or otherwise, provided KindredBio properly performed its quality control and quality assurance obligations under the applicable Work Order and Quality Agreement.

2.3 Reports. KindredBio shall prepare and deliver to Vaxart in a timely fashion (i) all reports and other documentation required under all applicable WOs, and (ii) at Vaxart's request and cost, KindredBio shall prepare and provide to Vaxart a final written report describing, in a scientific manner, or in accordance with acceptable industry standards, and in a detailed manner, its activities in the course of providing the Services and the results obtained therefrom, including any and all applicable raw data, if so requested (collectively, the "Reports").

2.4 Regulatory Changes. If facility, equipment, process, or system changes are required of KindredBio as a result of requirements set forth by the FDA or any other regulatory authority, and such regulatory changes are solely as a result of the Services ("Regulatory Changes"), then the Parties will jointly review such Regulatory Changes and mutually agree in good faith and in writing to such Regulatory Changes, and Vaxart, in its sole discretion, may either (1) terminate this Agreement immediately and bear no cost of any such Regulatory Changes, or (2) pay 100% of the reasonable costs associated with such Regulatory Changes. However, nothing in this Section 2.5 shall be deemed an assignment, license, or change in ownership of any facility, equipment, process, or system.

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[***] = Certain information contained in this document, marked by brackets, has been omitted because it is both not material and would be competitively harmful if publicly disclosed.

## ARTICLE 3: PAYMENTS

3.1 Costs; Taxes. All consideration due to KindredBio for Services shall be set forth in an applicable Work Order, and Vaxart shall pay to KindredBio the fees for such Services agreed to and set forth in an applicable payment schedule under a WO. Vaxart shall pay all federal, state, municipal, foreign, or other sales, use, excise, import, property, value added, or other similar taxes, assessments, or tariffs assessed upon or levied against the sale and/or provision of Services (including Product, and any other results and proceeds of Services), excluding any taxes on income resulting from the sale or provision by KindedBio of Services to Vaxart pursuant to this Agreement.

3.2 Invoicing. According to the payment schedule in any applicable WO, KindredBio shall submit to Vaxart a written invoice detailing the fees due to KindredBio for the performance of the applicable Services. KindredBio, at its sole discretion, may issue separate invoices in connection with Services being concurrently performed by KindredBio under applicable Work Orders.

3.3 Payment. Within [***] of receipt of an invoice issued pursuant to Section 3.2, except to the extent disputed in good faith and within [***] of receipt of invoice by Vaxart, Vaxart shall pay to KindredBio the amount set forth in the applicable invoice. Notwithstanding the foregoing, KindredBio shall not be entitled to payment for invoiced amounts in excess of the fees specified in the applicable WO, unless KindredBio has obtained Vaxart's prior written consent to such excess amounts. If any portion of an invoice is disputed by Vaxart in accordance with this Section 3.3, Vaxart will pay to KindredBio for the undisputed amount, and the Parties will use good faith efforts to resolve the disputed amount as provided in Article 9. Any payment due under this Agreement not received within the times noted above shall bear interest at the lesser of (a) the maximum rate permitted by law, or (b) [***] per month on the outstanding balance compounded monthly. In addition to all other remedies available to KindredBio in the event of default or breach by Vaxart, if Vaxart fails to make payments as required under this Agreement, KindredBio may refuse to perform all further or additional Services until the amounts due and owing are paid in full.

## ARTICLE 4: RECORD KEEPING; INSPECTIONS

4.1 Records.

4.1.1 KindredBio shall maintain complete and accurate records in appropriate detail for patent and regulatory purposes, fully and properly reflecting all Services performed hereunder and all information, data, results, and materials used or generated in performance of the Services so as to permit Vaxart to audit the results of the Services and KindredBio's compliance with this Agreement, including, without limitation, such data and materials as are required by an applicable WO or by Applicable Laws (collectively, "Records").

4.1.2 KindredBio shall maintain all Records in a secure area reasonably protected from fire and other natural hazards, theft and destruction. To the extent practical, Records shall be kept separately from documentation and materials associated with other KindredBio activities or services.

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[***] = Certain information contained in this document, marked by brackets, has been omitted because it is both not material and would be competitively harmful if publicly disclosed.

4.1.3 KindredBio shall maintain Records for [***] or such other longer amount of time as is required by Applicable Laws or the applicable WO. If, after the applicable retention period, KindredBio provides to Vaxart at least [***] prior written notice of KindredBio's intention to destroy any Records, along with a summary of such Records containing sufficient detail for Vaxart to determine the content of such Records, KindredBio may destroy such Records, if Vaxart does not request the Records to be delivered to Vaxart, at Vaxart's expense, within such 60-day period. Upon Vaxart's request at any time, and at Vaxart's expense, KindredBio shall deliver to Vaxart all original Records, or if requested by Vaxart, certified or authenticated complete, legible copies of such Records; provided that KindredBio may retain a copy of such Records as needed for its own internal purposes, including for regulatory purposes or for the preparation of taxes or other financial documents.

4.1.4 Access to all Records for inspection and copying shall be made available by KindredBio to Vaxart or to Vaxart's designee at any time during the annual scheduled quality audit, but during normal business hours of KindredBio, unless otherwise agreed to in writing by the Parties, and so as not to disrupt KindredBio's business, as reasonably determined by KindredBio.

4.1.5 All Records shall be the sole property of Vaxart and, subject to Section 4.1.3 and subject to Article 8, shall not be used by KindredBio for any purpose other than for performing Services or as otherwise permitted under this Agreement or under any applicable WO.

4.2 Regulatory Inspections.

4.2.1 KindredBio shall notify Vaxart within [***] of receipt of any notice or other indication of any government or regulatory authority inspection, investigation, or other inquiry, or other notice or communication of any type, involving Services, Materials, Products, or Records.

4.2.2 The Parties shall cooperate with each other during any such inspection, investigation, or other inquiry, including allowing, upon reasonable request, a representative of Vaxart to attend and to participate during such inspection, investigation, or other inquiry, and including the prompt provision by KindredBio to Vaxart of copies of all documents related to any such inspection, investigation, or other inquiry.

4.2.3 The Parties shall discuss any response to observations or notifications received in connection with any such inspection, investigation, or other inquiry, and each Party shall give the other Party a reasonable opportunity to comment upon any proposed response before it is made.

4.2.4 KindredBio shall arrange for access by Vaxart or by Vaxart's designee to the facilities of any of KindredBio Affiliates or any other Third Party involved in the performance of any Services during any scheduled inspections of such facilities or records by any government or regulatory authority.

4.3 Access to Facilities. In addition to Vaxart's rights under Section 4.2, representatives of Vaxart may, upon reasonable notice and during normal business hours of KindredBio, unless otherwise agreed to in writing by the Parties, and so as not to disrupt KindredBio's business, as reasonably determined by KindredBio, visit any facilities where Services are provided and consult informally, during such visits and by telephone, concerning such Services.

[***] = Certain information contained in this document, marked by brackets, has been omitted because it is both not material and would be competitively harmful if publicly disclosed.

**ARTICLE 5: OWNERSHIP; INTELLECTUAL PROPERTY**

5.1 Ownership and Assignment.

5.1.1 Except as otherwise expressly provided in this Agreement, KindredBio agrees and acknowledges that all documents, Reports, Records, and any other documentation or data originating with KindredBio but created for or in connection with the Services, no matter the medium (for example, physical or electronic raw data, laboratory notebooks, specimens and protocols), equipment, and other property produced, conceived, or developed as a result of Services performed under this Agreement (collectively, "Work Product") are and will remain the sole property of Vaxart, and, upon completion of such Services, and subject to Section 4.1.3, KindredBio shall transfer and convey to Vaxart or Vaxart's designee, or hold Work Product, as instructed by Vaxart.

5.1.2 Vaxart shall remain the sole owner of all right, title, and interest in and to, or licensee of, as applicable, all Confidential Information of Vaxart, and any and all Intellectual Property of Vaxart as of the Effective Date ("Vaxart Pre-Existing IP"). Except as provided in Section 5.3, KindredBio shall have no right, title, or interest hereunder in Vaxart Pre-Existing IP.

5.1.3 Subject to Section 5.4 and Section 5.2, KindredBio shall retain all right, title, and interest in and to all Confidential Information of KindredBio and any and all (a) Intellectual Property owned or controlled by KindredBio prior to or on the Effective Date ("Pre-Existing KindredBio IP") and (b) Intellectual Property that (i) is independently made by KindredBio in performance of Services for Vaxart pursuant to this Agreement, (ii) is made without the use or benefit of the Materials, Work Product, Vaxart Confidential Information, Vaxart Pre-Existing IP, or any other property or Intellectual Property of Vaxart under this Agreement, and (iii) relates to general processes of manufacturing, packaging, analytical testing, or analysis (collectively, "KindredBio IP"). Except as provided for in any section of this Agreement, including Section 5.2 and Section 5.4, Vaxart shall have no right, title, or interest hereunder in Pre-Existing KindredBio IP or KindredBio IP. As used in this Section 5.1.3, "control" or "controlled" means, with respect to any Pre-Existing KindredBio IP or KindredBio IP, that KindredBio owns or has a valid license to such Pre-Existing KindredBio IP or KindredBio IP and has the ability, right, and authority to grant to Vaxart access, a license, or a sublicense (as applicable) to such Pre-Existing KindredBio IP or KindredBio IP on the terms and conditions set forth herein without violating the terms of any agreement or other arrangement with any Third Party existing at the time KindredBio would be first required hereunder to grant to Vaxart such access, license or sublicense.

5.1.4 As between KindredBio and Vaxart, Vaxart shall own, and KindredBio hereby assigns to Vaxart, all right, title, and interest it has or may have in and to all Intellectual Property (other than Pre-Existing KindredBio IP or KindredBio IP) created or arising in connection with, or related to, Materials, Product, the performance of any Services, or the preparation of any Reports, Records and Work Product (and all tangible embodiments of any of the foregoing), regardless of whether such Intellectual Property was conceived, reduced to practice, or otherwise created or authored solely by KindredBio (and/or its Affiliates), or jointly by KindredBio (and/or its Affiliates) and Vaxart, and/or jointly by KindredBio (and/or its Affiliates) and a Third Party ("Vaxart Inventions"). KindredBio shall disclose in writing to Vaxart from time to time any and all Vaxart Inventions. KindredBio shall, and shall cause its Affiliates and representatives to, sign and deliver to Vaxart all writings and do all things as may be necessary or appropriate to vest in Vaxart all right, title, and interest in and to the Vaxart Inventions and permit Vaxart or its designees to practice and enforce the Vaxart Inventions.

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[***] = Certain information contained in this document, marked by brackets, has been omitted because it is both not material and would be competitively harmful if publicly disclosed.

5.2 Further Assurances. KindredBio shall reasonably assist Vaxart, at Vaxart's reasonable expense, to further evidence, file, and/or record any assignments of, and to perfect, obtain, maintain, enforce, and defend any rights in and to, Vaxart Inventions. If any part of Vaxart Inventions cannot be fully exploited without violating intellectual property rights owned or licensed by KindredBio and not assigned hereunder, to the extent KindredBio has the right to do so, KindredBio hereby grants to Vaxart a perpetual, irrevocable, worldwide, paid-up, royalty-free, non- exclusive, sublicensable right and license to use KindredBio IP or Pre-Existing KindredBio IP or any other Intellectual Property as incorporated in any Vaxart Inventions, and to fully exploit and exercise all such intellectual property rights to allow the full use and exploitation by Vaxart of Products and Vaxart Inventions.

5.3 Retained Rights. No rights are granted to KindredBio, under any Intellectual Property owned or controlled by Vaxart, including any Vaxart Pre-Existing IP and Vaxart Inventions, except to the extent strictly necessary for KindredBio to perform Services and to fulfill its obligations under this Agreement, or as otherwise mutually agreed by the Parties in a writing signed by both Parties. Upon completion of such Services or fulfillment of such obligations under this Agreement, or expiration or termination of this Agreement, the limited rights granted to KindredBio under this Section 5.3 shall immediately terminate.

5.4 License. KindredBio hereby grants to Vaxart, for the term of this Agreement and thereafter, a worldwide, perpetual, fully-paid, royalty-free, sublicensable, non-exclusive right and license to use the Pre-Existing KindredBio IP and KindredBio IP and trade secrets solely in connection with the activities contemplated by this Agreement and for the research and development of products incorporating or utilizing any end products or results and proceeds produced from the Services, Materials, Reports, Records, Vaxart Inventions, or Vaxart Confidential Information.

**ARTICLE 6: REPRESENTATIONS; DISCLAIMERS; INDEMNIFICATION; LIMITATIONS**

6.1 KindredBio Representations. KindredBio hereby represents and warrants to Vaxart that:

6.1.1 KindredBio has the full right, power, and authority, and has obtained all approvals, permits, or consents necessary, to enter into this Agreement and to perform all of its obligations hereunder.

[***] = Certain information contained in this document, marked by brackets, has been omitted because it is both not material and would be competitively harmful if publicly disclosed.

6.1.2 KindredBio has not, prior to the Effective Date, entered into and shall not, following the Effective Date, enter into any agreement and has not granted any now existing, or agreed to grant any future, license, right, or privilege, which agreement, license, right, or privilege conflicts in any way with this Agreement, with the Services, or with any of KindredBio's obligations hereunder.

6.1.3 KindredBio shall provide all Services in a good and workmanlike manner in accordance with industry standards and Applicable Laws (including cGMP, if applicable under the relevant Work Order).

6.1.4 The Product delivered by KindredBio to Vaxart under this Agreement:
(i) shall conform to the Specifications in effect at the date of manufacture; (ii) shall be manufactured, packaged, labeled, handled, stored and shipped in compliance with all Applicable Laws, including cGMPs (if applicable under the relevant Work Order), and in accordance with the Quality Agreement; (iii) shall be manufactured with Materials (other than Vaxart-supplied Materials) that conform to the applicable specifications for such Materials.

6.1.5 Except as otherwise disclosed to Vaxart, KindredBio is not currently involved in any litigation, and is not aware of any pending litigation matters, related to KindredBio's role in providing any services to any Third Party.

6.1.6 Any Pre-Existing KindredBio IP or KindredBio IP used by KindredBio to perform Services (i) is KindredBio's (or its Affiliate's) unencumbered property, or is licensed to KindredBio, (ii) may be lawfully used by KindredBio in all manners set forth in this Agreement, and (iii) to KindredBio's knowledge, does not infringe and will not infringe any Third Party Rights.

6.1.7 KindredBio, in performance of its obligations under this Agreement, will not use the services of any person (a) debarred or suspended under 21 U.S.C. §335(a) or under other Applicable Laws, (b) who has been convicted of or under indictment for a crime for which an person could be debarred under 21 U.S.C. § 335(a) or (b), or (c) has been convicted of or under indictment for a criminal offense that falls within the scope of 42 U.S.C. §§ 1320a-7, 1395ccc, 1395c-5, and/or regulations promulgated thereunder. If KindredBio or any person involved in the performance of Services is debarred or becomes subject to debarment proceedings, (i) KindredBio shall provide written notice thereof to Vaxart as soon as practicable (and in any event within [***]), and (ii) Vaxart may terminate this Agreement immediately without penalty.

6.1.8 KindredBio will maintain during the term of this Agreement all licenses, permits and similar authorizations required by Applicable Laws for KindredBio to perform the Services.

Except for the representations and warranties of KindredBio set forth in this Agreement, KindredBio makes no representations or warranties, written, oral, express or implied, with respect to this Agreement, a Work Order, or the Quality Agreement or any Services (including any Product or other results and proceeds of Services) provided to Vaxart; in particular, ALL WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE, INCLUDING, WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NONINFRINGEMENT, ARE HEREBY DISCLAIMED BY KINDREDBIO. NO WARRANTIES OF KINDREDBIO MAY BE CHANGED BY ANY
REPRESENTATIVES OF KINDREDBIO. Vaxart accepts the Services subject to the terms hereof.

[***] = Certain information contained in this document, marked by brackets, has been omitted because it is both not material and would be competitively harmful if publicly disclosed.

6.2 Vaxart Representations. Vaxart hereby represents and warrants to KindredBio that:

6.2.1 Vaxart has the full right, power, and authority, and has obtained all approvals, permits, or consents necessary, to enter into this Agreement and to perform all of its obligations hereunder.

6.2.2 Vaxart has not, prior to the Effective Date, entered into and shall not, following the Effective Date, enter into any agreement and has not granted any now existing, or agreed to grant any future, license, right, or privilege, which agreement, license, right or privilege conflicts in any way with this Agreement, with the Services, or with any of Vaxart's obligations hereunder.

6.2.3 Vaxart shall be responsible for compliance with all Applicable Laws as they apply to the use of any Services (including Product or any results and proceeds of Services), and Vaxart understands that KindredBio makes no representation or warranty with respect to, and shall have no responsibility for, the sale, marketing, distribution, or use of the Bulk Drug Substance or any other Components or Materials supplied by Vaxart, the content of the labeling, or as to printed materials specified by Vaxart, or its consignees or agents.

6.2.4 Any Vaxart Pre-Existing IP, or information, data, or materials provided to KindredBio (including any Vaxart-supplied Materials), used to perform Services (i) is Vaxart's (or its Affiliate's) unencumbered property, or is licensed to Vaxart, (ii) may be lawfully used by Vaxart in all manners set forth in this Agreement, and (iii) to Vaxart's knowledge, does not infringe and will not infringe any Third Party Rights.

6.2.5 Vaxart has the right to provide to KindredBio access to or possession of any information, data, or materials for the performance of the Services under this Agreement (including any Vaxart-supplied Materials), and it has granted, and has the authority to grant, to KindredBio all necessary rights to use such information, data, and materials for the Services.

6.3 DISCLAIMER. EXCEPT AS OTHERWISE PROVIDED IN THIS AGREEMENT OR AS PROVIDED IN AN APPLICABLE WORK ORDER, THE VAXART CONFIDENTIAL INFORMATION (INCLUDING ANY MATERIALS) SUPPLIED BY VAXART TO KINDREDBIO HEREUNDER IS BEING SUPPLIED "AS IS," AND VAXART MAKES NO WARRANTIES WITH REGARD THERETO, AND DISCLAIMS ALL IMPLIED WARRANTIES, INCLUDING, WITHOUT LIMITATION, WARRANTIES OF MERCHANTABILITY, NONINFRINGEMENT AND FITNESS FOR A PARTICULAR PURPOSE.

6.4 KindredBio Indemnification. KindredBio shall defend, indemnify, and hold harmless Vaxart, and its officers, directors, employees, and agents, from and against any and all liabilities, claims, suits, actions, and expenses, including reasonable attorneys' fees (collectively, "Damages"), as a result of a third party claim, to the extent arising out of or in any way attributable to negligence or willful misconduct by KindredBio, or the inaccuracy or breach of any representation or warranty made by KindredBio under this Agreement or any breach of this Agreement by KindredBio.

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[***] = Certain information contained in this document, marked by brackets, has been omitted because it is both not material and would be competitively harmful if publicly disclosed.

6.5 Vaxart Indemnification. Vaxart shall defend, indemnify, and hold harmless KindredBio, and its officers, directors, employees, and agents, from and against any and all Damages, as a result of a third party claim, to the extent arising out of or in any way attributable to (i) negligence or willful misconduct by Vaxart, (ii) the inaccuracy or breach of any representation or warranty made by Vaxart under this Agreement or any breach of this Agreement by Vaxart, (iii) Vaxart's storage, promotion, labeling, marketing, distribution, use, or sale of Materials, Bulk Drug Substance, or Product, (iv) any claim that the use, sale, production, development, marketing, or distribution of Bulk Drug Substance or other Materials by KindredBio or Vaxart violates any patent, trademark, copyright, or other proprietary rights of any Third Party, except to the extent such claim arises from or relates to the use of Pre-Existing KindredBio IP or KindredBio IP in connection with the performance of the Services hereunder.

6.6 Indemnification Process. In the event that any claim, action, or proceeding is threatened or asserted involving a matter that is subject to a claim for indemnification under Section 6.4 or under Section 6.5, then the Party seeking indemnification (the "Indemnified Party") shall notify the indemnifying party (the "Indemnifying Party") within [***] of knowledge of such claim, action, or proceeding; provided that no delay in giving, or failure to give, such notice will adversely affect any of the other rights or remedies of the Indemnified Party or alter or relieve the Indemnifying Party of its obligation to indemnify the Indemnified Party to the extent that such delay or failure has not materially prejudiced the Indemnifying Party. Within [***] thereafter, the Indemnifying Party will notify the Indemnified Party if either (a) it intends to join in the defense of such claim, action, or proceeding, at the Indemnifying Party's own cost and expense, or (b) if the Indemnifying Party agrees in writing to be bound by and to promptly pay the full amount of any final judgment from which no further appeal may be taken, and if the Indemnified Party is reasonably assured of the Indemnifying Party's ability to satisfy such agreement, then at the option of the Indemnifying Party, the Indemnifying Party may take over the defense of such claim, action, or proceeding, except that, in such case, the Indemnified Party shall have the right to approve any attorney or counsel selected by the Indemnifying Party (which approval shall not be unreasonably delayed or withheld) and to join in the defense of such claim, action, or proceeding at its own cost and expense. In no event shall either Party institute, settle, or otherwise resolve any claim or potential claim, action, or proceeding relating to the Services or arising out of this Agreement without the prior written consent of the other Party, which consent shall not unreasonably be withheld or delayed.

6.7 Waiver of Claims. KindredBio makes no representation or warranty, and Vaxart expressly waives all claims against KindredBio or KindredBio Affiliates, or any of their respective agents or employees, arising out of or in connection with any claims relating to the stability, efficacy, safety, or toxicity of Product developed, formulated, packaged, manufactured, or produced in accordance with this Agreement.

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[***] = Certain information contained in this document, marked by brackets, has been omitted because it is both not material and would be competitively harmful if publicly disclosed.

6.8 Limitation of Damages. SUBJECT TO THE LAST SENTENCE OF THIS SECTION 6.8, NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS AGREEMENT, A WORK ORDER, OR THE QUALITY AGREEMENT, UNDER NO CIRCUMSTANCES SHALL EITHER PARTY BE LIABLE TO THE OTHER PARTY OR TO ANY THIRD PARTY FOR ANY LOSS OF USE, REVENUE, PROFIT, OR SALES, OR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, EXEMPLARY, OR PUNITIVE DAMAGES OF ANY KIND OR NATURE IN CONNECTION WITH THIS AGREEMENT, A WORK ORDER, OR THE QUALITY AGREEMENT, OR ANY SERVICES (INCLUDING PRODUCT OR OTHER RESULTS AND PROCEEDS OF SERVICES) PROVIDED TO VAXART UNDER THIS AGREEMENT, A WORK ORDER, OR THE QUALITY AGREEMENT, WHETHER ARISING OUT OF OR RELATED TO BREACH OF CONTRACT OR WARRANTY, STRICT OR PRODUCT LIABILITY, STATUTORY VIOLATIONS, TORT (INCLUDING NEGLIGENCE), OR OTHERWISE, REGARDLESS OF WHETHER SUCH DAMAGES WERE FORESEEABLE, AND REGARDLESS OF WHETHER OR NOT SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, AND NOTWITHSTANDING THE FAILURE OF ANY AGREED OR OTHER REMEDY OF ITS ESSENTIAL PURPOSE, INCLUDING, BUT NOT LIMITED TO, THE COST OF COVER OR THE COST OF A RECALL IN CONNECTION WITH, OR BY REASON OF, THE PERFORMANCE OF SERVICES (INCLUDING THE PRODUCTION OF PRODUCT). THE LIMITATIONS IN THIS SECTION 6.8 SHALL NOT LIMIT A PARTY'S INDEMNIFICATION OBLIGATIONS UNDER SECTION 6.4 OR SECTION 6.5, AS APPLICABLE, OR ANY LIABILITY ARISING FROM A BREACH OF ARTICLE 8.

6.9 Limitation of Liability. SUBJECT TO THE LAST SENTENCE OF THIS SECTION 6.9, NOTWITHSTANDING ANYTHING TO THE CONTRARY SET FORTH IN THIS AGREEMENT, A WORK ORDER, OR THE QUALITY AGREEMENT, IN NO EVENT SHALL KINDREDBIO'S AGGREGATE LIABILITY (INCLUDING, WITHOUT LIMITATION, FOR ANY CLAIMS, ACTIONS, LOSSES, DAMAGES, INJURIES, DEFECTS, COSTS, EXPENSES, OR OTHER LIABILITIES) ARISING OUT OF OR RELATED TO THIS AGREEMENT, A WORK ORDER, OR THE QUALITY AGREEMENT, WHETHER ARISING OUT OF OR RELATED TO BREACH OF CONTRACT OR WARRANTY, STRICT OR PRODUCT LIABILITY, STATUTORY VIOLATIONS, TORT (INCLUDING NEGLIGENCE), OR OTHERWISE, EXCEED THE LESSER OF [***] DOLLARS ($[***]) ([***]) OR THE AMOUNT PAID BY VAXART TO KINDREDBIO HEREUNDER. THE LIMITATIONS IN THIS SECTION 6.9 SHALL NOT LIMIT KINDREDBIO'S INDEMNIFICATION OBLIGATIONS UNDER SECTION 6.4 OR LIABILITY ARISING FROM A BREACH OF ARTICLE 8.

**ARTICLE 7: TERM AND TERMINATION**

7.1 Term. The term of this Agreement shall commence on the Effective Date and, unless sooner terminated by mutual agreement of the Parties or pursuant to any other provision of this Agreement, shall terminate five (5) years from the Effective Date, or upon the completion, expiration, or termination of all Work Orders, whichever is longer, unless renewed by the Parties in a writing signed by both Parties.

7.2 Default. Either Party may terminate this Agreement for any material breach by the other Party, provided that the terminating Party gives the breaching Party notice of such breach and, if the breach is susceptible of a cure, such breach remains uncured after the expiration of thirty (30) days after such notice was given (or such additional time reasonably necessary to cure a non- monetary default, provided the breaching Party has commenced a cure within the thirty (30) day period and is diligently pursuing completion of such cure).

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[***] = Certain information contained in this document, marked by brackets, has been omitted because it is both not material and would be competitively harmful if publicly disclosed.

7.3 Convenience. Vaxart may terminate this Agreement or any Work Order at any time and for any reason upon ninety (90) days' prior written notice to KindredBio.

7.4 Effect of Termination or Expiration. Termination or expiration of this Agreement through any means and for any reason shall not relieve the Parties of any obligation accruing prior thereto and shall be without prejudice to the rights and remedies of either Party with respect to any antecedent breach of this Agreement. Any termination by KindredBio shall not relieve KindredBio of its obligation to complete any Services initiated prior to the date of termination. Subject to Section 7.5, if this Agreement is terminated prior to the commencement by KindredBio of any Services, KindredBio shall refund to Vaxart any amounts that may have been paid by Vaxart to KindredBio for such Services.

7.5 Payment on Termination. In the event of termination of this Agreement or of a WO while a WO is still pending and has not been completed, Vaxart shall reimburse KindredBio for (a) all excipients and components used by KindredBio in relation to the Services ("Components") ordered prior to termination and not cancelable at no cost to KindredBio, (b) all work-in-process commenced by KindredBio, and (c) all completed Services (including finished Product). In the event of cancellation by Vaxart of the production of any Batch set forth in a Work Order or in the event of termination of this Agreement or a WO by KindredBio in accordance with this Agreement, in addition to Vaxart's obligations under the immediately preceding sentence, Vaxart shall pay the cancellation fees as hereinafter set forth: Vaxart is subject to (i) a charge of [***] of the applicable fees if a Batch is canceled or this Agreement or a WO is terminated less than [***] from the scheduled fill date, (ii) a charge of [***] of the applicable fees if a Batch is canceled or this Agreement or a WO is terminated less than [***] from the scheduled fill date, and (iii) a charge of [***] of the applicable fees if a Batch is canceled or this Agreement or a WO is terminated less than [***] from the scheduled fill date. In addition to the foregoing, in the event of termination of this Agreement or of a WO, Vaxart must compensate KindredBio for any Materials ordered or for testing completed. For purposes of the foregoing, one (1) week is equivalent to seven (7) days. Following expiration or termination of this Agreement or a WO, KindredBio shall deliver such materials EXW Vaxart's designated facility at Vaxart's expense and per Vaxart's instructions. Vaxart shall make payment for all expenses described in this Section 7.5 within [***] from the invoice date.

7.6 Survival. Any expiration or termination of this Agreement shall not relieve either Party from obligations that are expressly indicated, or that by their nature are contemplated, to survive such expiration or termination. The provisions of Article 1, Article 4, Article 5, Article 6, Article 8, Article 9, Article 10, and Sections 2.1.4, 2.1.5, 2.2.3, 7.4, 7.5, 7.6, and any other provisions or sections that, by their terms, would reasonably be expected to survive the term of this Agreement, shall survive the termination, cancellation, or expiration of this Agreement for any reason.

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[***] = Certain information contained in this document, marked by brackets, has been omitted because it is both not material and would be competitively harmful if publicly disclosed.

**ARTICLE 8: CONFIDENTIAL INFORMATION**

8.1 Confidential Information. From time to time during the term of this Agreement, either Party may provide to the other certain "Confidential Information," which means and refers to any information disclosed by the Disclosing Party (defined below) to the Recipient (defined below), whether disclosed in oral, written, electronic, or visual form, that is non-public, confidential, or proprietary, including, without limitation, information relating to the Disclosing Party's patents, patent application, trademark applications, process designs, process models, drawings, plans, designs, data, databases (and extracts therefrom), formulae, methods, know-how, and other Intellectual Property of any form or nature, its respective clients or client confidential information, its business, strategies, finances, marketing, products and processes and all price quotations, pricing, manufacturing or professional services proposals, information relating to composition, proprietary technology, and all other information relating to manufacturing capabilities and operations. In addition, all analyses, compilations, studies, reports, or other documents prepared by any Party's representatives containing Confidential Information will be considered Confidential Information. Samples or Materials provided hereunder, as well as any and all information derived from the analysis of samples or Materials, will also constitute Confidential Information. For the purposes of this Article 8, a Party or its Representative receiving Confidential Information under this Agreement is a "Recipient," and a Party or its Representative disclosing Confidential Information under this Agreement is the "Disclosing Party." Confidential Information does not include information that (i) is or becomes publicly available through no fault of Recipient; (ii) is already independently known to the Recipient, as evidenced by the Receiving Party's contemporaneous written records or by other reliable evidence; (iii) is disclosed to Recipient on a non-confidential basis by a third party with the legal right to do so; or (iv) is developed by Recipient independently from and without use of the Disclosing Party's Confidential Information, as evidenced by the Receiving Party's contemporaneous written records or by other reliable evidence.

8.1.1 Under this Agreement, (i) any and all Work Product, including Records and Reports, (ii) Materials and any information related to Materials, (iii) any Vaxart Inventions and (iv) any Vaxart Pre-Existing IP shall be deemed Vaxart's Confidential Information.

8.1.2 Under this Agreement, (i) any Pre-Existing KindredBio IP, and (ii) KindredBio IP shall be deemed KindredBio's Confidential Information.

8.2 Use of Confidential Information. Recipient will use Confidential Information disclosed to it solely for the purpose of meeting its obligations and exercising its rights under this Agreement. Recipient will keep the Confidential Information strictly confidential and will not disclose Confidential Information in any manner whatsoever, in whole or in part, other than to those of its representatives who (i) have a need to know Confidential Information for the purposes of this Agreement, (ii) have been advised of the confidential nature of Confidential Information, and (iii) have obligations of confidentiality and non-use to Recipient no less restrictive than those set forth in this Agreement. Additionally, Vaxart will have the right to disclose Confidential Information to sublicensees or other strategic partners or in connection with financings or similar transactions provided that the parties to whom Vaxart discloses this information are bound by obligations of confidentiality and non-use no less restrictive than those set forth in this Agreement. Recipient will protect Confidential Information disclosed to it by using all reasonable precautions to prevent the unauthorized disclosure, dissemination, or use of Confidential Information, which precautions will, in no event, be less than those exercised by Recipient with respect to its own Confidential Information of a similar nature. The Recipient shall promptly notify the Disclosing Party upon discovery of any use or disclosure of the Disclosing Party's Confidential Information in violation of this Agreement and shall take all such actions as are reasonably necessary to mitigate the unauthorized use or disclosure of the Disclosing Party's Confidential Information. The obligations of confidentiality and non-use set forth in this Article 8 will remain in effect for a period of [***] following the expiration or termination of this Agreement.

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[***] = Certain information contained in this document, marked by brackets, has been omitted because it is both not material and would be competitively harmful if publicly disclosed.

8.3 Exceptions to Confidentiality Obligations. Notwithstanding the foregoing and subject to any other right to disclose information as set forth under this Agreement, either Party may disclose Confidential Information if required by Applicable Laws, government requirements, or court order, provided that Recipient promptly notifies Disclosing Party of any such disclosure obligation and provides to Disclosing Party a reasonable opportunity to seek a protective order or other appropriate remedy or to waive compliance with the provisions of this Agreement.

8.4 Disclosures and Public Announcements. Neither Party shall issue any press release or other publicity materials, or make any public presentation or representation with respect to the existence of, or any of the terms or conditions of, this Agreement without the prior written consent of the other Party.

8.5 Termination and Return of Confidential Information. Upon the request of a Party, the other Party shall promptly return or destroy all Confidential Information in any form, except that a Party shall be permitted to retain a copy (or copies, as necessary) of such Confidential Information as required by Applicable Laws or as otherwise necessary for the purpose of meeting its obligations and exercising its rights under this Agreement.

## ARTICLE 9: DISPUTE RESOLUTION

9.1 Arbitration. Any dispute, claim or controversy arising out of or relating to this Agreement or the breach, termination, enforcement, interpretation, or validity thereof, including the determination of the scope or applicability of this Agreement to arbitrate, shall be determined by arbitration in San Francisco, California before one arbitrator. The arbitration shall be administered by JAMS pursuant to its "Comprehensive Arbitration Rules and Procedures" and in accordance with the "Expedited Procedures" in those Comprehensive Arbitration Rules and Procedures, or by another arbitration group, company, or panel as mutually agreed by the Parties in a signed writing. Judgment on any arbitration award may be entered in any court having jurisdiction. This clause shall not preclude the Parties from seeking provisional remedies, including injunctive relief, in aid of arbitration from a court of appropriate jurisdiction. In any arbitration arising out of or related to this Agreement, the arbitrator shall award to the prevailing Party, if any, the costs, including reasonable attorneys' fees, reasonably incurred by the prevailing Party in connection with the arbitration, including, without limitation, the preparation therefor**.**

## ARTICLE 10: MISCELLANEOUS

10.1 Assignment and Delegation. This Agreement and the Services contemplated hereunder are personal to KindredBio and, except as permitted in Section 2.1.3, shall not be assigned, transferred, or subcontracted by KindredBio without the prior written consent of Vaxart, which consent shall not be unreasonably withheld, conditioned or delayed. Any assignment, transfer or subcontracting of this Agreement in violation of this shall be Section 10.1 null and void. Vaxart may assign or transfer its rights and obligations, in whole or in part under this Agreement, provided that no such assignment or transfer shall relieve Vaxart of its obligations hereunder. This Agreement shall be binding upon and inure to the benefit of and be enforceable by the Parties and their respective successors and permitted assignees.

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[***] = Certain information contained in this document, marked by brackets, has been omitted because it is both not material and would be competitively harmful if publicly disclosed.

10.2 [Intentionally omitted.]

10.3 Entire Agreement. This Agreement, including Work Orders, Quality Agreements, and any other documents referenced herein or attached hereto, contains the entire agreement between the Parties relating to the subject matter hereof, and all prior understandings, representations, and warranties between the Parties are superseded by this Agreement.

10.4 Amendments. Changes and additional provisions to this Agreement shall be binding on the Parties only if mutually agreed upon, set forth in writing, and signed by the Parties.

10.5 Applicable Law. This Agreement shall be construed and interpreted in accordance with the laws of Delaware, and all rights and remedies shall be governed by such laws without regard to any conflicts of law rules or principles.

10.6 Severability. The Parties do not intend to violate any public policy or statutory or common law. However, if any sentence, paragraph, clause, or combination of this Agreement is in violation of any law or is found to be otherwise unenforceable, such sentence, paragraph, clause, or combination of the same shall be deleted, and the remainder of this Agreement shall remain binding and in full force and effect, provided that such deletion does not alter the basic purpose and structure of this Agreement.

10.7 Notices. All notices and communications related to this Agreement or that are provided pursuant to this Agreement shall be in writing and shall be effective if given: (a) by email, upon confirmation of receipt; (b) by registered or certified mail, return receipt requested, seventy- two (72) hours after such communication is deposited in the U.S. mails with postage prepaid, and addressed as set forth below; or (c) by any other means (including, without limitation, reputable overnight courier service) when delivered at the address specified below:

Notices to KindredBio:

Kindred Biosciences, Inc.
1555 Bayshore Highway, Suite 200
Burlingame, CA 94010
Attention: Denise Bevers, Chief Operating Officer
E-mail address: denise.bevers@kindredbio.com
With a copy to: documents@kindredbio.com;

Notices to Vaxart:
Vaxart, Inc.
385 Oyster Point Boulevard, suite 9A,
South San Francisco, CA 94080
Attn: Wouter Latour, MD, MBA, Chief Executive Officer E-mail: wlatour@vaxart.com

[***] = Certain information contained in this document, marked by brackets, has been omitted because it is both not material and would be competitively harmful if publicly disclosed.

With a copy to:

Vaxart, Inc.
385 Oyster Point Boulevard, suite 9A,
South San Francisco, CA 94080
Attn: Margaret Echerd, VP Finance E-mail:
mecherd@vaxart.com

Either Party may change its designated address, telephone number, designated contacts, or any other contact information for notices at any time by written notice to the other Party.

10.8 Independent Contractor. Nothing herein shall create any association, partnership, joint venture, fiduciary duty, or the relation of principal and agent between the Parties, it being understood that each Party is acting as an independent contractor, and neither Party shall have the authority to bind the other Party or the other Party's representatives in any way.

10.9 Waiver. No delay on the part of either Party in exercising any power or right hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any power or right hereunder preclude other or further exercise thereof or the exercise of any other power or right. No waiver of this Agreement or any provision hereof shall be enforceable against any Party unless in writing, signed by the Party against whom such waiver is claimed, and it shall be limited solely to the one event.

10.10 Interpretation; Construction. The titles of the sections of this Agreement are for convenience of reference only, and are not to be considered in construing this Agreement. Accordingly, in the case of any question with respect to the construction of this Agreement, it is to be construed as if such section headings had been omitted. This Agreement has been negotiated at arm's length among the Parties, each of whom is sophisticated and knowledgeable in the matters dealt with in this Agreement. Thus, any rule of law or legal decision that would require any ambiguities in this Agreement to be interpreted against the Party who drafted it, is not applicable and is hereby waived by each of Parties. The provisions of this Agreement shall be interpreted in a reasonable manner to give effect to the purpose and intent of the parties. Moreover, unless the context of this Agreement clearly requires otherwise: (i) references to the plural include the singular, the singular the plural, and the part the whole, (ii) references to one gender include all genders, (iii) "or" has the inclusive meaning frequently identified with the phrase "and/or," (iv) "including" has the inclusive meaning frequently identified with the phrase "including but not limited to" or "including without limitation," (v) references to "hereunder," "herein" or "hereof" relate to this Agreement as a whole, and (vi) references to a "business day" shall mean any weekday that is not a Saturday, Sunday, official federal holiday or official holiday in the State of California. Any reference in this Agreement to any statute, rule, regulation or agreement, including this Agreement, shall be deemed to include such statute, rule, regulation or agreement as it may be modified, varied, amended or supplemented from time to time.

10.11 Further Acts. Each Party shall perform all further acts and things and execute and deliver such further documents as may be necessary or as the other Party may reasonably require to implement or give effect to this Agreement.

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[***] = Certain information contained in this document, marked by brackets, has been omitted because it is both not material and would be competitively harmful if publicly disclosed.

10.12 Signatures; Counterparts. This Agreement may be signed in counterparts, including by PDF (Portable Document Format), electronic mail (e-mail), or facsimile and/or with electronic signatures, and each such counterpart shall be valid and binding on the Parties with the same effect as if original signatures had been exchanged, and each shall be deemed an original, but all counterparts, taken together, shall constitute one and the same instrument.

10.13 No Third-Party Beneficiaries. The Parties agree that, except as expressly provided in Section 6.4 and in Section 6.5, there are no third-party beneficiaries of any kind of this Agreement.

10.14 Injunctive Relief. Each Party acknowledges and agrees that any breach of this Agreement, including a breach of Article 5 or Article 8, will constitute immediate and irreparable harm to the other Party that cannot adequately and fully be compensated by money damages, and will warrant, in addition to all other rights and remedies afforded by law and this Agreement, injunctive relief, specific performance, or other equitable relief.

10.15 Insurance.

10.15.1 KindredBio is, and shall be during the term of this Agreement and for a period of three (3) years after expiration or termination of this Agreement, insured as follows: worker's compensation as required by Applicable Laws; employer's liability insurance not less than [***] dollars ($[***]), bodily injury and property damage insurance not less than [***] dollars ($[***]), (combined single limit, per occurrence); and Commercial General Liability Insurance, including Product Liability and Contractual Liability coverage, in amounts not less than [***] dollars ($[***]), (combined single limit, per occurrence). KindredBio shall make such insurance certificates evidencing the maintenance of such insurance available to Vaxart upon request.

10.15.2 Vaxart is, and shall be during the term of this Agreement and for a period of one (1) year beyond the expiration date of Product provided hereunder, insured as follows: Commercial General Liability Insurance, including Product Liability and Contractual Liability coverage, in amounts not less than five million dollars ($5,000,000), combined single limit. Vaxart shall make such insurance certificates evidencing the maintenance of such insurance available to KindredBio upon request.

10.16 Force Majeure Events. Failure of either Party to perform under this Agreement (except the obligation to make payments) shall not subject such Party to any liability to the other if such failure is caused by acts of God, acts of terrorism, fire, explosion, flood, drought, war, riot, sabotage, embargo, strikes or other labor trouble, compliance with any order or regulation of any government entity, or by any cause beyond the reasonable control of the affected Party, whether or not foreseeable, provided that written notice of such event is promptly given to the non-affected Party.

[*Remainder of Agreement Intentionally Left Blank; Signature Page Follows.*]

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[***] = Certain information contained in this document, marked by brackets, has been omitted because it is both not material and would be competitively harmful if publicly disclosed.

IN WITNESS WHEREOF, the Parties have executed this Agreement by their duly authorized representatives as of the Effective Date.

| **VAXART, INC..** | | **KINDRED BIOSCIENCES, INC.** | |
|---|---|---|---|
| By: | */s/ Wouter Latour* | By: | */s/ Richard Chin* |
| Name: | Wouter Latour | Name: | Richard Chin |
| Title: | CEO | Title: | CEO |

**[***] = Certain information contained in this document, marked by brackets, has been omitted because it is both not material and would be competitively harmful if publicly disclosed.**

## EXHIBIT A

## STATEMENT OF WORK #003 [***]

This Statement of Work 003 (the "SOW"), effective as of September 11, 2020 (the "SOW Effective Date"), is made pursuant to, and as part of, that certain Master Service Agreement (the "Agreement") effective April 17, 2020 between Kindred Biosciences, Inc., ("KindredBio") and Vaxart Inc. ("Vaxart" or "Company"). KindredBio and Vaxart are referred to herein individually as a "Party" and collectively as "Parties".

This SOW is a "Work Order" for purposes of the Agreement. Pursuant to Article 2 of the Agreement, this SOW (including any attachments hereto) shall be governed by the terms of the Agreement and, if applicable, any amendments to the Agreement agreed to by the Parties and set forth in this SOW under the section below, entitled "Amendments to Agreement." Any such modifications shall apply only to this SOW and not to any previous or subsequent SOW, unless expressly stated otherwise in such other SOW.

Amendments to Agreement – See below.

**Project Title**: [***]

**Services (including deliverables)**: KindredBio will provide the services and deliverables described in the Attachment to this document, which are aimed at manufacturing bulk vaccine for fabrication into clinical trial material.

**Term of Services**:

Expected Start Date of Services: Services will commence upon execution of this SOW. Preliminary work has been performed by KindredBio in advance of execution of this SOW as agreed by the Parties.

Expected End Date of Services: KindredBio will complete all Tasks listed in this SOW by [***]. Completion is subject to timely receipt of materials and equipment to be provided by Company.

[***]

Term of SOW: Notwithstanding the terms of the Agreement, the parties agree this SOW may be terminated solely for material breach, or upon mutual agreement and that neither party may terminate the Services herein for convenience.

**Materials & Services Provided by KindredBio**:

[***]

**Materials & Equipment Provided by Company**: [***]

**Dedicated Equipment & Supplies:** Any dedicated equipment and supplies required for Vaxart processes, including but not limited to downstream columns/equipment, shall be provided by Vaxart or Vaxart shall reimburse KindredBio for actual costs upon invoice. Dedicated equipment shall be owned by Vaxart.

**Fees**: The fees for Services pursuant to this SOW are listed in the Attachment according to the various Tasks comprising the Services.

**Invoicing**: KindredBio may invoice Company for the fees listed for each individual task under Task 6 in the Attachment upon completion of the tasks as defined in the Attachment to this SOW. All invoices shall be paid to Kindred in accordance the payment conditions stipulated in the Agreement.

IN WITNESS WHEREOF, the Parties have caused this SOW to be executed by their duly authorized representatives as of the SOW Effective Date.

| VAXART INC. | | KINDRED BIOSCIENCES, INC. | |
|---|---|---|---|
| By: | */s/ Andrei Floroiu* | By: | */s/ Richard Chin* |
| Name: | Andrei Floroiu | Name: | Richard Chin |
| Title: | CEO | Title: | CEO |
| Date: | 9/11/2020 | Date: | 9/11/2020 |

[***] = Certain information contained in this document, marked by brackets, has been omitted because it is both not material and would be competitively harmful if publicly disclosed.

**Attachment to Statement of Work #003 [***]**

**[***]**

The following list of Tasks are the activities KindredBio needs to perform to accomplish the scope of work of this SOW. The fees for each Task are as set forth below. The fees set forth below are inclusive of all costs associated with the Tasks.

Task 6: [***]

[***]

Payment for [***] shall be due within [***] of receipt of invoice.

[***]

Deliverables:

[***]

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[***] = Certain information contained in this document, marked by brackets, has been omitted because it is both not material and would be competitively harmful if publicly disclosed.

**EXHIBIT A**

**STATEMENT OF WORK #004 [***]**

This Statement of Work 004 (the "SOW"), effective as of September 11, 2020 (the "SOW Effective Date"), is made pursuant to, and as part of, that certain Master Service Agreement (the "Agreement") effective April 17, 2020 between Kindred Biosciences, Inc., ("KindredBio") and Vaxart Inc. ("Vaxart" or "Company"). KindredBio and Vaxart are referred to herein individually as a "Party" and collectively as "Parties".

This SOW is a "Work Order" for purposes of the Agreement. Pursuant to Article 2 of the Agreement, this SOW (including any attachments hereto) shall be governed by the terms of the Agreement and, if applicable, any amendments to the Agreement agreed to by the Parties and set forth in this SOW under the section below, entitled "Amendments to Agreement." Any such modifications shall apply only to this SOW and not to any previous or subsequent SOW, unless expressly stated otherwise in such other SOW.

Term of SOW: Notwithstanding the terms of the Agreement, the parties agree this SOW may be terminated solely for material breach, or upon mutual agreement and that neither party may terminate the Services herein for convenience [***].

Amendments to Agreement – See below.

**Project Title**: [***]

**Services (including deliverables)**: KindredBio will provide the services and deliverables described in the Attachment to this document [***]

**Term of Services**:

Expected Start Date of Services: Services will commence upon execution of this SOW. Preliminary work has been performed by KindredBio in advance of execution of this SOW as agreed by the Parties.

Expected End Date of Services: KindredBio will complete all Tasks listed in this SOW by [***]. Completion date is subject to timely receipt of materials and equipment to be provided by Company.

**Materials & Facility Provided by KindredBio**: [***]

**Materials & Equipment Provided by Company**: [***]

**Dedicated Equipment & Supplies:** Any dedicated equipment and supplies required for Vaxart processes, including but not limited to downstream columns/equipment, shall be provided by Vaxart or Vaxart shall reimburse KindredBio for actual costs upon invoice. Dedicated equipment shall be owned by Vaxart.

**Fees**: The fees for Services pursuant to this SOW are listed in the Attachment according to the various Tasks comprising the Services.

**Invoicing**: KindredBio may invoice Company for the fees listed for each individual task under Task 7 in the Attachment upon completion of the tasks as defined in the Attachment to this SOW. All invoices shall be paid to Kindred in accordance the payment conditions stipulated in the Agreement.

IN WITNESS WHEREOF, the Parties have caused this SOW to be executed by their duly authorized representatives as of the SOW Effective Date.

| VAXART INC. | | KINDRED BIOSCIENCES, INC. | |
|---|---|---|---|
| By: | */s/ Andrei Floroiu* | By: | */s/ Richard Chin* |
| Name: | Andrei Floroiu | Name: | Richard Chin |
| Title: | CEO | Title: | CEO |
| Date: | 9/11/2020 | Date: | 9/11/2020 |

**Attachment to Statement of Work #004 [***]**

**[***]**

The following list of Tasks are the activities KindredBio needs to perform to accomplish the scope of work of this SOW. The fees for each Task are as set forth below. The fees set forth below are inclusive of all costs associated with the Tasks.

Task 7: [***]

[***]

Payment for [***] shall be due within [***] of receipt of invoice.

[***]

Deliverables:

[***]

**Exhibit 31.1**

**CERTIFICATION**

I, Andrei Floroiu, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of Vaxart, Inc.;

2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) for the registrant and have:

   (a) designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

   (b) designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

   (c) evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

   (d) disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):

   (a) all significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and

   (b) any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: November 12, 2020

By: /s/ ANDREI FLOROIU

**Andrei Floroiu**
**President and Chief Executive Officer**
**(Principal Executive Officer and Principal Financial Officer)**

**Exhibit 32.1**

**CERTIFICATION**

Pursuant to the requirement set forth in Rule 13a-14(b) of the Securities Exchange Act of 1934, as amended (the "Exchange Act"), and Section 1350 of Chapter 63 of Title 18 of the United States Code (18 U.S.C. § 1350), Andrei Floroiu, President and Chief Executive Officer of Vaxart, Inc. (the "Company"), hereby certifies that, to his knowledge:

(1) The Company's Quarterly Report on Form 10-Q for the period ended September 30, 2020, to which this Certification is attached as Exhibit 32.1 (the "Periodic Report"), fully complies with the requirements of Section 13(a) or Section 15(d) of the Exchange Act; and

(2) The information contained in the Periodic Report fairly presents, in all material respects, the financial condition of the Company at the end of the period covered by the Periodic Report and results of operations of the Company for the period covered by the Periodic Report.

Date: November 12, 2020

By: /s/ ANDREI FLOROIU

**Andrei Floroiu**
**President and Chief Executive Officer**
**(Principal Executive Officer and Principal Financial Officer)**

A signed original of this written statement required by Section 906 of 18 U.S.C. § 1350 has been provided to Vaxart, Inc. and will be retained by Vaxart, Inc. and furnished to the Securities and Exchange Commission or its staff upon request.

This certification accompanies the Form 10-Q to which it relates, is not deemed filed with the Securities and Exchange Commission and is not to be incorporated by reference into any filing of the Company under the Securities Act of 1933, as amended, or the Exchange Act (whether made before or after the date of the Form 10-Q), irrespective of any general incorporation language contained in such filing.