

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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KENNETH GORDON, Individually and on	:	Civil Action No. 1:19-cv-01108-FB-LB
Behalf of All Others Similarly Situated,	:	
	:	<u>CLASS ACTION</u>
Plaintiff,	:	
	:	STIPULATION AND AGREEMENT OF
vs.	:	SETTLEMENT
	:	
VANDA PHARMACEUTICALS, INC., and	:	
MIHAEL H. POLYMEROPOULOS,	:	
	:	
Defendants.	:	
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This Stipulation and Agreement of Settlement dated as of May 5, 2022 (the “Stipulation” or the “Settlement”), is made and entered into by and among: (i) Teamsters Local Union No. 727 Pension Fund (“Lead Plaintiff” or “Plaintiff”), on behalf of itself and each of the putative Class Members; and (ii) Defendants Vanda Pharmaceuticals, Inc. (“Vanda” or the “Company”) and Mihael H. Polymeropoulos, M.D. (collectively, “Defendants”), by and through their counsel of record in the above-captioned litigation (“Litigation”). The Stipulation is intended to fully, finally, and forever resolve, discharge, and settle the Released Claims (as defined herein), subject to the approval of the Court and the terms and conditions set forth in this Stipulation.

WHEREAS:

A. On February 25, 2019, the initial complaint in this case, captioned *Gordon v. Vanda Pharmaceuticals Inc., et al.*, No. 1:19-cv-01108, was filed in the United States District Court for the Eastern District of New York and the case was ultimately assigned to the Honorable Frederic Block. The Complaint asserted claims for alleged violations of the Securities Exchange Act of 1934 (the “Exchange Act”).

B. On May 24, 2019, the Court appointed Teamsters Local Union No. 727 Pension Fund to serve as lead plaintiff.

C. On July 23, 2019, Plaintiff filed an Amended Complaint (“Complaint”), which is the operative complaint. Like the initial complaint, the Complaint asserted claims for alleged violations of the Exchange Act against Vanda and certain of its current and former executives.

D. On March 23, 2020, Defendants moved to dismiss the Complaint, which the parties fully briefed.

E. On March 10, 2021, the Court granted Defendants' motion in part and denied it in part, dismissing claims against three former Vanda executives who were named as defendants in the Complaint and sustaining claims against Vanda and Dr. Polymeropoulos.

F. Thereafter, the parties diligently pursued discovery, including the production of approximately 494,000 pages of documents and the completion of four depositions.

G. On October 29, 2021, Plaintiff filed its motion for class certification, which motion is fully briefed and pending oral argument.

H. After mediation before Jed D. Melnick, Esq., a nationally recognized mediator, the Settling Parties have agreed to settle the claims raised in the Litigation pursuant to the terms and provisions of this Stipulation.

I. Plaintiff is entering into this Stipulation based on its belief that the terms of the Settlement are fair, reasonable and adequate and in the best interests of Lead Plaintiff and the Class Members. Defendants have determined that it is desirable and beneficial that the Litigation be finally and fully settled in the manner and upon the terms and conditions set forth in the Stipulation.

J. The terms of this Stipulation shall not be deemed to constitute an admission (a) by Lead Plaintiff as to the lack of merit of any of Lead Plaintiff's claims or (b) by Defendants as to the lack of merit of any defenses or affirmative defenses.

IT IS HEREBY STIPULATED AND AGREED by and among Lead Plaintiff (for itself and the Class Members) and Defendants, by and through their respective counsel or attorneys of record, that, subject to the approval of the Court, in consideration of the various commitments contained herein, the Litigation and the Released Claims shall be finally and fully compromised, settled, and released, and the Litigation shall be dismissed with prejudice, as to all Settling Parties, upon and subject to the terms and conditions of the Stipulation, as follows.

1. Definitions

As used in the Stipulation the following terms have the meanings specified below:

1.1 “Authorized Claimant” means any Class Member whose claim for recovery has been allowed pursuant to the terms of the Stipulation.

1.2 “Claims Administrator” means the firm of Epiq Class Action & Claims Solutions, Inc.

1.3 “Class” means, for purposes of this Settlement only, all persons and entities who purchased or otherwise acquired Vanda common stock between November 4, 2015 and February 11, 2019, inclusive, and who were allegedly damaged thereby. Excluded from the Class are Defendants, the officers and directors of Vanda at all relevant times, members of their immediate families, any entity in which any Defendant has or had a controlling interest, and the legal representatives, heirs, successors-in-interest or assigns of any such excluded party. Also excluded from the Class are any Persons who timely and validly request exclusion from the Class as ordered by the Court.

1.4 “Class Period” means the period from November 4, 2015 to February 11, 2019, inclusive.

1.5 “Class Member” or “Member of the Class” means a Person who falls within the definition of the Class as set forth in ¶1.3 above.

1.6 “Defendants” means Vanda and Mihael H. Polymeropoulos.

1.7 “Defendants’ Counsel” means the law firm of Paul, Weiss, Rifkind, Wharton & Garrison LLP.

1.8 “Effective Date,” or the date upon which this Settlement becomes “effective,” means three (3) business days after the date by which all of the events and conditions specified in ¶7.1 of the Stipulation have been met and have occurred.

1.9 “Escrow Agent” means the law firm of Robbins Geller Rudman & Dowd LLP or its successor.

1.10 “Final” means when the last of the following with respect to the Judgment approving the Stipulation, substantially in the form of Exhibit B attached hereto, shall occur: (i) the expiration of the time to file a motion to alter or amend the Judgment under Federal Rule of Civil Procedure 59(e) without any such motion having been filed; (ii) the time in which to appeal the Judgment has passed without any appeal having been taken; and (iii) if a motion to alter or amend is filed or if an appeal is taken, immediately after the determination of that motion or appeal so that it is no longer subject to any further judicial review or appeal whatsoever, whether by reason of affirmance by a court of last resort, lapse of time, voluntary dismissal of the appeal or otherwise in such a manner as to permit the consummation of the Settlement substantially in accordance with the terms and conditions of this Stipulation. For purposes of this paragraph, an “appeal” shall include any motion for reconsideration or rehearing or petition for a writ of certiorari or other writ that may be filed in connection with approval or disapproval of this Settlement, but shall not include any appeal which concerns only the issue of Lead Plaintiff’s counsel’s attorneys’ fees and expenses, payments to Lead Plaintiff for its time and expenses, the Plan of Allocation of the Net Settlement Fund, as hereinafter defined, or the procedures for determining Authorized Claimants’ recognized claims.

1.11 “Judgment” means the Final Judgment and Order of Dismissal with Prejudice to be rendered by the Court, substantially in the form attached hereto as Exhibit B.

1.12 “Lead Counsel” means Robbins Geller Rudman & Dowd LLP, 58 South Service Road, Suite 200, Melville, New York 11747.

1.13 “Lead Plaintiff” means Teamsters Local Union No. 727 Pension Fund.

1.14 “Litigation” or “Action” means the civil action captioned *Gordon v. Vanda Pharmaceuticals, Inc., et al.*, No. 1:19-cv-01108-FB-LB (E.D.N.Y.).

1.15 “Net Settlement Fund” means the Settlement Fund less any attorneys’ fees, expenses, and interest and any award to Lead Plaintiff, provided for herein or approved by the Court and less Notice and Administration Expenses, Taxes and Tax Expenses, and other Court-approved deductions.

1.16 “Person” means an individual, corporation, partnership, limited partnership, association, joint stock company, estate, legal representative, trust, unincorporated association, government or any political subdivision or agency thereof, and any business or legal entity and their spouses, heirs, predecessors, successors, representatives, or assignees.

1.17 “Plan of Allocation” means a plan or formula of allocation of the Net Settlement Fund whereby the Net Settlement Fund shall be distributed to Authorized Claimants. Any Plan of Allocation is not part of the Stipulation and neither Defendants nor their Related Parties shall have any responsibility or liability with respect thereto.

1.18 “Proof of Claim and Release” means the Proof of Claim and Release form for submitting a claim, which, subject to approval of the Court, shall be substantially in the form attached hereto as Exhibit A-2.

1.19 “Related Parties” means each of a Defendant’s respective present and former parents, subsidiaries, divisions, controlling persons, associates, entities and affiliates and the respective present and former employees, members, partners, principals, officers, directors,

controlling shareholders, agents, attorneys, advisors, accountants, auditors, consultants, and insurers of each of them; and the predecessors, successors, estates, heirs, executors, trusts, trustees, administrators, agents, representatives and assigns of each of them, in their capacity as such.

1.20 “Released Claims” means any and all claims, demands, rights, causes of action or liabilities of every nature and description whatsoever (including Unknown Plaintiffs’ Claims as set forth below), that could have been asserted in any forum, whether foreign or domestic, whether based on or arising under federal, state, local, or foreign statutory or common law, rule or regulation, whether fixed or contingent, foreseen or unforeseen, matured or unmatured, accrued or unaccrued, liquidated or unliquidated, whether direct, representative, class or individual in nature, based on, arising from or relating to: (i) the purchase or acquisition of the common stock of Vanda during the Class Period; and (ii) any of the allegations, acts, transactions, facts, events, matters, occurrences, representations or omissions involved, set forth, alleged or referred to, in this Action, or which could have been alleged in this Action. Released Claims does not include claims to enforce the Settlement.

1.21 “Released Persons” means each and all of the Defendants and their Related Parties.

1.22 “Releasing Plaintiff Party” or “Releasing Plaintiff Parties” means Lead Counsel, and each and every plaintiff, Class Member, and counsel to any plaintiff, and each of their respective past or present trustees, officers, directors, partners, employees, contractors, accountants, auditors, principals, agents, attorneys, predecessors, successors, assigns, representatives, affiliates, insurers, parents, subsidiaries, general or limited partners or partnerships, and limited liability companies; and the spouses, members of the immediate families, representatives, and heirs of any Releasing Plaintiff Party who is an individual, as well as any trust of which any Releasing Plaintiff Party is the settlor or which is for the benefit of any of their

immediate family members. Releasing Plaintiff Parties does not include any Person who timely and validly sought exclusion from the Class.

1.23 “Settlement Amount” means Eleven Million Five Hundred Thousand Dollars (\$11,500,000.00) in cash to be paid by wire transfer or check sent by overnight mail to the Escrow Agent pursuant to ¶2.2 of this Stipulation.

1.24 “Settlement Fund” means the Settlement Amount plus all interest and accretions thereto.

1.25 “Settling Parties” means, collectively, Defendants, Lead Plaintiff, and the Class.

1.26 “Tax” or “Taxes” means any and all taxes, fees, levies, duties, tariffs, imposts, and other charges of any kind (together with any and all interest, penalties, additions to tax and additional amounts imposed with respect thereto) imposed by any governmental authority.

1.27 “Unknown Plaintiffs’ Claims” means any Released Claims which Lead Plaintiff, Class Members, or Releasing Plaintiff Parties do not know or suspect to exist in his, her or its favor at the time of the release of the Released Persons which, if known by him, her or it, might have affected his, her or its settlement with and release of the Released Persons, or might have affected his, her or its decision with respect to this Settlement, including, without limitation, any decision not to object to this Settlement or seek exclusion from the Class. With respect to any and all Released Claims, the Settling Parties stipulate and agree that, upon the Effective Date, Lead Plaintiff shall expressly waive and each of the Class Members and Releasing Plaintiff Parties shall be deemed to have, and by operation of the Judgment shall have, expressly waived the provisions, rights, and benefits of California Civil Code §1542, which provides:

A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if known by him or her, would have materially affected his or her settlement with the debtor or released party.

The Lead Plaintiff shall expressly waive and each of the Class Members and Releasing Plaintiff Parties shall be deemed to have, and by operation of the Judgment shall have, expressly waived any and all provisions, rights, and benefits conferred by any law of any state or territory of the United States, or principle of common law, which is similar, comparable or equivalent to California Civil Code §1542. Lead Plaintiff, Class Members, and Releasing Plaintiff Parties may hereafter discover facts in addition to or different from those which he, she or it now knows or believes to be true with respect to the subject matter of the Released Claims, but Lead Plaintiff shall expressly settle and release and each Class Member and Releasing Plaintiff Party, upon the Effective Date, shall be deemed to have, and by operation of the Judgment shall have, fully, finally, and forever settled and released any and all Released Claims, known or unknown, suspected or unsuspected, contingent or non-contingent, whether or not concealed or hidden, which now exist, or heretofore have existed, upon any theory of law or equity now existing or coming into existence in the future, including, but not limited to, conduct which is negligent, intentional, with or without malice, or a breach of any duty, law or rule, without regard to the subsequent discovery or existence of such different or additional facts. Lead Plaintiff acknowledges, and the Class Members and Releasing Plaintiff Parties shall be deemed by operation of the Judgment to have acknowledged, that the foregoing waiver was separately bargained for and an essential element of the Settlement of which this release is a part.

1.28 “Unknown Defendants’ Claims” means claims referenced in ¶4.4 below which Defendants do not know or suspect to exist in his, her, or its favor at the time of the release of Lead Plaintiff, the Class Members, and Lead Plaintiff’s counsel which, if known by him, her, or it, might have affected his, her or its settlement with and release of Lead Plaintiff, Class Members, and Lead Plaintiff’s counsel. With respect to any and all such claims, the Settling Parties stipulate and agree

that, upon the Effective Date, Defendants shall expressly waive the provisions, rights, and benefits of California Civil Code §1542, quoted above, as well as any and all provisions, rights, and benefits conferred by any law of any state or territory of the United States, or principle of common law, which is similar, comparable or equivalent to California Civil Code §1542. Defendants may hereafter discover facts in addition to or different from those which he, she, or it now knows or believes to be true with respect to the subject matter of the claims referenced in ¶4.4 below, but Defendants shall expressly release any and all such claims, known or unknown, suspected or unsuspected, contingent or non-contingent, whether or not concealed or hidden, which now exist, or heretofore have existed, upon any theory of law or equity now existing or coming into existence in the future, including, but not limited to, conduct which is negligent, intentional, with or without malice, or a breach of any duty, law or rule, without regard to the subsequent discovery or existence of such different or additional facts.

1.29 “Vanda” means Vanda Pharmaceuticals, Inc.

2. The Settlement

a. The Settlement Amount

2.1 Other than as set forth in ¶2.2 below, the obligations incurred pursuant to this Stipulation are: (a) subject to approval by the Court and the Judgment becoming Final; and (b) in full and final disposition of the Litigation and settlement of all Released Claims subject to the terms and conditions set forth herein.

2.2 Defendants shall cause their directors and officers liability insurance carriers (the “D&O Insurers”) to pay the Settlement Amount by wire transfer or check sent by overnight mail in accordance with instructions to be provided by the Escrow Agent within fourteen (14) calendar days after the later of: (a) the entry of an order granting preliminary settlement approval; and (b)

the receipt of complete payment instructions and tax information. Alternatively, if the entire Settlement Amount is not timely paid to the Escrow Agent, Lead Counsel may terminate the Settlement but only if (i) Lead Counsel has notified Defendants' Counsel in writing of Lead Counsel's intention to terminate the Settlement, and (ii) the entire Settlement Amount is not transferred to the Escrow Agent within three (3) calendar days after Lead Counsel has provided such written notice. The Escrow Agent shall deposit the Settlement Amount plus any accrued interest in a segregated escrow account (the "Escrow Account") maintained by the Escrow Agent.

2.3 The Settlement Amount paid by Defendants' D&O Insurers is the sole monetary responsibility under this Stipulation, and Class Members who do not timely seek to exclude themselves from the Class shall not look to any of the Defendants or their respective Released Persons for satisfaction of any and all Released Claims. The Defendants are not responsible for payment of Notice and Administration Expenses as defined below, or any out-of-pocket expenses, other than out of the Settlement Amount, as provided herein. The Released Persons shall have no responsibility for, interest in, or liability whatsoever with respect to: (i) any act, omission, or determination by Lead Counsel or the Claims Administrator, or any of their respective designees, in connection with the administration of the Settlement or otherwise; (ii) the management, investment, or distribution of the Settlement Fund; (iii) the Plan of Allocation; (iv) the determination, administration, calculation, or payment of any claims asserted against the Settlement Fund; (v) any loss suffered by, or fluctuation in value of, the Settlement Fund; or (vi) the payment or withholding of any Taxes, expenses, and/or costs incurred in connection with the taxation of the Settlement Fund, distributions or other payments from the Escrow Account, or the filing of any federal, state, or local returns.

2.4 Other than the obligation to cause the payment of the Settlement Amount in accordance with the terms of ¶2.2, Defendants and Released Persons shall have no obligation to make any other payments into the Escrow Account, to any Class Member or to Plaintiff pursuant to the Stipulation.

b. The Escrow Agent

2.5 The Escrow Agent shall invest the Settlement Amount deposited pursuant to ¶2.2 hereof in United States Agency or Treasury Securities or other instruments backed by the Full Faith & Credit of the United States Government or an Agency thereof, or fully insured by the United States Government or an Agency thereof and shall reinvest the proceeds of these instruments as they mature in similar instruments at their then-current market rates. All risks related to the investment of the Settlement Fund in accordance with the investment guidelines set forth in this paragraph shall be borne by the Settlement Fund and the Released Persons shall have no responsibility for, interest in, or liability whatsoever with respect to investment decisions or the actions of the Escrow Agent, or any transactions executed by the Escrow Agent.

2.6 The Escrow Agent shall not disburse the Settlement Fund except as provided in the Stipulation, by an order of the Court, or with the written agreement of counsel for Defendants.

2.7 Subject to further order(s) and/or directions as may be made by the Court, or as provided in the Stipulation, the Escrow Agent is authorized to execute such transactions as are consistent with the terms of the Stipulation. The Released Persons shall have no responsibility for, interest in, or liability whatsoever with respect to the actions of the Escrow Agent, or any transaction executed by the Escrow Agent.

2.8 All funds held by the Escrow Agent shall be deemed and considered to be in *custodia legis* of the Court, and shall remain subject to the jurisdiction of the Court, until such time as such funds shall be distributed pursuant to the Stipulation and/or further order(s) of the Court.

2.9 Prior to the Effective Date and without further order of the Court, up to Two Hundred Fifty Thousand Dollars (\$250,000) of the Settlement Fund may be used by Lead Counsel to pay reasonable costs and expenses actually incurred in connection with providing notice to the Class, locating Class Members, soliciting claims, assisting with the submission of claims, processing Proof of Claim and Release forms, administering and distributing the Net Settlement Fund to Authorized Claimants, and paying escrow fees and costs, if any (“Notice and Administration Expenses”). After the Effective Date, Lead Counsel may pay all further reasonable Notice and Administration Expenses, regardless of amount, without further order of the Court.

2.10 It shall be Lead Counsel’s sole responsibility to disseminate the Notice (as defined below) and summary notice to the Class in accordance with this Stipulation and as ordered by the Court. Other than as set forth in ¶9.8, Defendants and Released Persons shall not bear any cost or responsibility for class notice, administration, or the allocation of the Net Settlement Fund among Authorized Claimants. Class Members shall have no recourse as to the Released Persons with respect to any claims they may have that arise from any failure of the notice process.

c. Taxes

2.11 (a) The Settling Parties and the Escrow Agent agree to treat the Settlement Fund as being at all times a “qualified settlement fund” within the meaning of Treas. Reg. §1.468B-1. In addition, the Escrow Agent shall timely make such elections as necessary or advisable to carry out the provisions of this ¶2.11, including the “relation-back election” (as defined in Treas. Reg. §1.468B-1) back to the earliest permitted date. Such elections shall be made in compliance

with the procedures and requirements contained in such regulations. It shall be the responsibility of the Escrow Agent to timely and properly prepare and deliver the necessary documentation for signature by all necessary parties, and thereafter to cause the appropriate filing to occur.

(b) For the purpose of §1.468B of the Internal Revenue Code of 1986, as amended, and the regulations promulgated thereunder, the “administrator” shall be the Escrow Agent. The Escrow Agent shall timely and properly file all informational and other tax returns necessary or advisable with respect to the Settlement Fund (including, without limitation, the returns described in Treas. Reg. §1.468B-2(k)). Such returns (as well as the election described in ¶2.11(a) hereof) shall be consistent with this ¶2.11 and in all events shall reflect that all Taxes (including any estimated Taxes, interest or penalties) on the income earned by the Settlement Fund shall be paid out of the Settlement Fund as provided in ¶2.11(c) hereof.

(c) All (a) Taxes (including any estimated Taxes, interest or penalties) arising with respect to the income earned by the Settlement Fund, including any Taxes or tax detriments that may be imposed upon the Released Persons or their counsel with respect to any income earned by the Settlement Fund for any period during which the Settlement Fund does not qualify as a “qualified settlement fund” for federal or state income tax purposes, and (b) expenses and costs incurred in connection with the operation and implementation of this ¶2.11 (including, without limitation, expenses of tax attorneys and/or accountants and mailing and distribution costs and expenses relating to filing (or failing to file) the returns described in this ¶2.11) (“Tax Expenses”), shall be paid out of the Settlement Fund; in all events the Released Persons and their counsel shall have no liability or responsibility for the Taxes or the Tax Expenses. Taxes and Tax Expenses shall be treated as, and considered to be, a cost of administration of the Settlement Fund and shall be timely paid by the Escrow Agent out of the Settlement Fund without prior order from the Court

and the Escrow Agent shall be authorized (notwithstanding anything herein to the contrary) to withhold from distribution to Authorized Claimants any funds necessary to pay such amounts, including the establishment of adequate reserves for any Taxes and Tax Expenses (as well as any amounts that may be required to be withheld under Treas. Reg. §1.468B-2(l)(2)); neither the Released Persons nor their counsel are responsible nor shall they have any liability for any Taxes or Tax Expenses. The parties hereto agree to cooperate with the Escrow Agent, each other, and their tax attorneys and accountants to the extent reasonably necessary to carry out the provisions of this ¶2.11.

d. Termination of Settlement

2.12 In the event that the Stipulation is not approved or the Stipulation is terminated, canceled, or fails to become effective for any reason, the Settlement Fund less Notice and Administration Expenses or Taxes or Tax Expenses paid, incurred, or due and owing in connection with the Settlement provided for herein, shall be refunded pursuant to written instructions from Defendants' Counsel in accordance with ¶7.4 herein.

3. Preliminary Approval Order and Settlement Hearing

3.1 Promptly after execution of the Stipulation, Lead Counsel shall submit the Stipulation together with its Exhibits to the Court and shall apply for entry of an order (the "Preliminary Approval Order"), substantially in the form of Exhibit A attached hereto, requesting, *inter alia*, the preliminary approval of the Settlement set forth in the Stipulation, and approval for the mailing of a settlement notice (the "Notice") and publication of a summary notice, substantially in the forms of Exhibits A-1 and A-3 attached hereto. The Notice shall include the general terms of the Settlement set forth in the Stipulation, the proposed Plan of Allocation, the general terms of

the Fee and Expense Application, as defined in ¶6.1 hereof, and the date of the Settlement Hearing as defined below.

3.2 Lead Counsel shall request that after notice is given, the Court hold a hearing (the “Settlement Hearing”) and approve the Settlement of the Litigation as set forth herein. At or after the Settlement Hearing, Lead Counsel also will request that the Court approve the proposed Plan of Allocation and the Fee and Expense Application and Lead Plaintiff’s request for an award in connection with its representation of the Class.

4. Releases

4.1 Upon the Effective Date, Lead Plaintiff shall, and each and every of the Class Members and Releasing Plaintiff Parties shall be deemed to have, and by operation of the Judgment shall have, fully, finally, and forever released, relinquished, and discharged all Released Claims against the Released Persons (including Unknown Plaintiffs’ Claims), whether or not such Class Member executes and delivers the Proof of Claim and Release or shares in the Settlement Fund. Claims to enforce the terms of this Stipulation are not released.

4.2 The Proof of Claim and Release to be executed by Class Members shall release all Released Claims against the Released Persons and shall be substantially in the form contained in Exhibit A-2 attached hereto.

4.3 Upon the Effective Date, all Class Members, Releasing Plaintiff Parties and anyone claiming through or on behalf of any of them, will be forever barred and enjoined from commencing, instituting, prosecuting or continuing to prosecute any action or other proceeding in any court of law or equity, arbitration tribunal, or administrative forum, asserting the Released Claims against any of the Released Persons.

4.4 Upon the Effective Date, each of the Released Persons shall be deemed to have, and by operation of the Judgment shall have, fully, finally, and forever released, relinquished, and discharged Lead Plaintiff, each and all of the Class Members, and Lead Plaintiff's counsel from all claims and causes of action of every nature and description (including Unknown Defendants' Claims) whether arising under federal, state, common or foreign law, that arise out of or relate in any way to the institution, prosecution, or settlement of the claims against Defendants, except for claims relating to the enforcement of the Settlement.

4.5 Upon the Effective Date, to the fullest extent permitted by law, (i) all Persons shall be permanently enjoined, barred and restrained from commencing, instituting, prosecuting, or maintaining any claims, actions, or causes of action for contribution, indemnity or otherwise against any of the Released Persons seeking as damages or otherwise the recovery of all or part of any liability, judgment, or settlement which they pay or are obligated to pay or agree to pay to the Releasing Plaintiff Parties arising out of, relating to or concerning any acts, facts, statements or omissions that were or could have been alleged in the Litigation, both known and Unknown Claims, whether arising under state, federal or foreign law, as claims, cross-claims, counterclaims, third-party claims or otherwise, in the Court or any other federal, state, or foreign court, or in any arbitration proceeding, administrative agency proceeding, tribunal, or any other proceeding or forum; and (ii) all Released Persons shall be permanently enjoined, barred and restrained from commencing, instituting, prosecuting, or maintaining any claims, actions, or causes of action for contribution, indemnity or otherwise against any Persons seeking as damages or otherwise the recovery of all or part of any liability, judgment or settlement which they pay or are obligated to pay or agree to pay to the Releasing Plaintiff Parties arising out of, relating to, or concerning any acts, facts, statements or omissions that were or could have been alleged in the Litigation, both

known and Unknown Claims, whether arising under state, federal or foreign law, as claims, cross-claims, counterclaims, third-party claims or otherwise, in the Court or any other federal, state, or foreign court, or in any arbitration proceeding, administrative agency proceeding, tribunal, or any other proceeding or forum.

5. Administration and Calculation of Claims, Final Awards and Supervision and Distribution of the Settlement Fund

5.1 The Claims Administrator, subject to such supervision and direction of the Court as may be necessary or as circumstances may require, shall administer and calculate the claims submitted by Class Members and shall oversee distribution of the Net Settlement Fund to Authorized Claimants.

5.2 The Settlement Fund shall be applied as follows:

(a) to pay all Notice and Administration Expenses;

(b) to pay the Taxes and Tax Expenses described in ¶2.11 hereof;

(c) to pay attorneys' fees and expenses of counsel for the Lead Plaintiff (the "Fee and Expense Award"), and to pay an award to Lead Plaintiff in connection with its representation of the Class, if and to the extent allowed by the Court; and

(d) after the Effective Date, to distribute the Net Settlement Fund to Authorized Claimants as allowed by the Stipulation, the Plan of Allocation, or the Court.

5.3 After the Effective Date, and in accordance with the terms of the Stipulation, the Plan of Allocation, or such further approval and further order(s) of the Court as may be necessary or as circumstances may require, the Net Settlement Fund shall be distributed to Authorized Claimants, subject to and in accordance with the following.

5.4 Within ninety (90) days after the mailing of the Notice or such other time as may be set by the Court, each Person claiming to be an Authorized Claimant shall be required to submit

to the Claims Administrator a completed Proof of Claim and Release, substantially in the form of Exhibit A-2 attached hereto, signed under penalty of perjury and supported by such documents as are specified therein. Any Person who files a Proof of Claim and Release shall reasonably cooperate with the Claims Administrator, including by promptly responding to any inquiry made by the Claims Administrator.

5.5 All Members of the Class (except Persons who request exclusion) shall be bound by all determinations and judgments in the Litigation concerning the Settlement, including, but not limited to, the releases provided for therein, whether favorable or unfavorable to the Class, regardless of whether such Persons seek or obtain by any means, including, without limitation, by submitting a Proof of Claim and Release form or any similar document, any distribution from the Settlement Fund or the Net Settlement Fund.

5.6 Lead Counsel shall cause to be provided to Defendants' Counsel copies of all Requests for Exclusion, and any written revocation of Requests for Exclusion, as expeditiously as possible and in any event no later than fourteen (14) days prior to the Settlement Hearing.

5.7 Except as otherwise ordered by the Court, all Class Members who fail to timely submit a valid Proof of Claim and Release or a Request for Exclusion within the applicable period, or such other period as may be ordered by the Court, or otherwise allowed, shall be forever barred from receiving any payments pursuant to the Stipulation and the Settlement set forth herein, but will in all other respects be subject to and bound by the provisions of the Stipulation, the releases contained herein, and the Judgment. Notwithstanding the foregoing, Lead Counsel shall have the discretion (but not an obligation) to accept late-submitted claims for processing by the Claims Administrator so long as the distribution of the Net Settlement Fund to Authorized Claimants is not materially delayed thereby.

5.8 The Net Settlement Fund shall be distributed to the Authorized Claimants substantially in accordance with the Plan of Allocation set forth in the Notice and approved by the Court. If there is any balance remaining in the Net Settlement Fund after a reasonable period of time after the date of the initial distribution of the Net Settlement Fund, Lead Counsel shall, if feasible, reallocate (which reallocation may occur on multiple occasions) such balance among Authorized Claimants in an equitable and economic fashion. Thereafter, any *de minimis* balance which still remains in the Net Settlement Fund shall be donated to the Humane Society.

5.9 The Defendants and their Related Parties shall have no responsibility for, interest in, or liability whatsoever with respect to the distribution of the Net Settlement Fund, the Plan of Allocation, the determination, administration, or calculation of claims, the payment or withholding of Taxes or Tax Expenses, or any losses incurred in connection therewith. No Person shall have any claim of any kind against the Defendants or their Related Parties with respect to the matters set forth in ¶¶5.1-5.11 hereof; and the Class Members, Releasing Plaintiff Parties, Lead Plaintiff, and Lead Counsel release the Defendants and their Related Parties from any and all liability and claims arising from or with respect to the administration, investment or distribution of the Settlement Fund.

5.10 No Person shall have any claim against Lead Plaintiff, Lead Counsel or the Claims Administrator, or any other Person designated by Lead Counsel based on determinations or distributions made substantially in accordance with the Stipulation and the Settlement contained herein, the Plan of Allocation, or further order(s) of the Court.

5.11 It is understood and agreed by the Settling Parties that any proposed Plan of Allocation of the Net Settlement Fund, including, but not limited to, any adjustments to an Authorized Claimant's claim set forth therein, is not a part of the Stipulation and is to be considered

by the Court separately from the Court's consideration of the fairness, reasonableness, and adequacy of the Settlement set forth in the Stipulation, and any order or proceeding relating to the Plan of Allocation shall not operate to terminate or cancel the Stipulation or affect the finality of the Court's Judgment approving the Stipulation and the Settlement set forth therein.

6. Lead Plaintiff's Counsel's Attorneys' Fees and Expenses

6.1 Lead Counsel may submit an application or applications (the "Fee and Expense Application") for: (a) an award of attorneys' fees; plus (b) expenses or charges in connection with prosecuting the Litigation; plus (c) any interest on such attorneys' fees and expenses at the same rate and for the same periods as earned by the Settlement Fund (until paid) as may be awarded by the Court. Lead Counsel reserves the right to make additional applications for fees and expenses incurred.

6.2 The fees and expenses, as awarded by the Court, shall be paid to Lead Counsel, as ordered, immediately after the Court executes the Judgment and an order awarding such fees and expenses. Lead Counsel may thereafter allocate the attorneys' fees among other plaintiffs' counsel, if any, in a manner in which they in good faith believe reflects the contributions of such counsel to the initiation, prosecution, and resolution of the Litigation.

6.3 In the event that the Effective Date does not occur, or the Judgment or the order making the Fee and Expense Award is reversed or modified, or the Stipulation is canceled or terminated for any other reason, and such reversal, modification, cancellation or termination becomes Final and not subject to review, and in the event that the Fee and Expense Award has been paid to any extent, then Lead Counsel shall within five (5) business days from receiving notice from the Defendants' Counsel or from a court of appropriate jurisdiction, refund to the Settlement Fund such fees and expenses previously paid to them from the Settlement Fund plus

interest thereon at the same rate as earned on the Settlement Fund in an amount consistent with such reversal or modification. Lead Counsel agrees that its law firm and its partners and/or shareholders are subject to the jurisdiction of the Court for the purpose of enforcing the provisions of this paragraph.

6.4 The procedure for and the allowance or disallowance by the Court of any applications by any plaintiffs' counsel for attorneys' fees and expenses, or the expenses of the Lead Plaintiff, to be paid out of the Settlement Fund, are not part of the Settlement set forth in the Stipulation, and are to be considered by the Court separately from the Court's consideration of the fairness, reasonableness and adequacy of the Settlement set forth in the Stipulation, and any order or proceeding relating to the Fee and Expense Application, or Lead Plaintiff's expense application, or any appeal from any order relating thereto or reversal or modification thereof, shall not operate to terminate or cancel the Stipulation, or affect or delay the finality of the Judgment approving the Stipulation and the Settlement of the Litigation set forth therein.

6.5 Any fees and/or expenses awarded by the Court shall be paid solely from the Settlement Fund. Defendants and their Related Parties shall have no responsibility for any payment of attorneys' fees and/or expenses to plaintiffs' counsel or Lead Plaintiff.

6.6 Defendants and their Related Parties shall have no responsibility for the allocation among plaintiffs' counsel, and/or any other Person who may assert some claim thereto, of any Fee and Expense Award that the Court may make in the Litigation.

7. Conditions of Settlement, Effect of Disapproval, Cancellation or Termination

7.1 The Effective Date of the Stipulation shall be conditioned on the occurrence of all of the following events:

- (a) the Settlement Amount has been deposited into the Escrow Account;

(b) the Court has entered the Preliminary Approval Order, as required by ¶3.1 hereof, substantially in the form set forth in Exhibit A attached hereto;

(c) the Court has granted final approval to the Settlement as described herein, following notice to the Class and a hearing, as required by Rule 23 of the Federal Rules of Civil Procedure, and entered the Judgment, or a judgment substantially in the form of Exhibit B attached hereto;

(d) Defendants have not exercised their option to terminate the Stipulation pursuant to ¶7.3 hereof; and

(e) the Judgment has become Final, as defined in ¶1.10 hereof.

7.2 Upon the Effective Date, any and all remaining interest or right of the Defendants or the Defendants' insurers in or to the Settlement Fund, if any, shall be absolutely and forever extinguished and the releases herein shall be effective. If the conditions specified in ¶7.1 hereof are not met, then the Stipulation shall be canceled and terminated subject to ¶7.4 hereof unless Lead Counsel and counsel for the Defendants mutually agree in writing to proceed with the Stipulation.

7.3 Defendants shall have the option to terminate the Settlement in the event that Class Members representing more than a certain percentage of Vanda common shares subject to this Settlement exclude themselves from the Class in accordance with the Notice, as set forth in a confidential separate agreement (the "Supplemental Agreement") to be executed between the Lead Plaintiff and Defendants, by and through their counsel, concurrently with this agreement. The terms of the Supplemental Agreement shall not be disclosed in any other manner other than the statements herein and in the Notice, or as otherwise provided in the Supplemental Agreement unless and until the Court otherwise directs or a dispute arises between Lead Plaintiff and

Defendants concerning its interpretation or application. If submission of the Supplemental Agreement to the Court is required for resolution of a dispute or is otherwise ordered by the Court, the parties will undertake to have the Court review the Supplemental Agreement *in camera* without filing it on the docket. If the Court requires that the Supplemental Agreement be filed, the parties shall request that it be filed under seal or with the percentage redacted.

7.4 Unless otherwise ordered by the Court, in the event the Stipulation shall terminate, or be canceled, or shall not become effective for any reason, within five (5) business days after written notification of such event is sent by counsel for the Defendants or Lead Counsel to the Escrow Agent, the Settlement Fund (including accrued interest), less expenses which have either been disbursed pursuant to ¶¶2.9 and 2.11 hereof, or are chargeable to the Settlement Fund pursuant to ¶¶2.9 and 2.11 hereof, shall be refunded by the Escrow Agent pursuant to written instructions from Defendants' Counsel. The Escrow Agent or its designee shall apply for any tax refund owed on the Settlement Amount and pay the proceeds, after deduction of any fees or expenses incurred in connection with such application(s) for refund, pursuant to written instructions from Defendants' Counsel.

7.5 In the event that the Stipulation is not approved by the Court or the Settlement set forth in the Stipulation is terminated or fails to become effective in accordance with its terms, the Settling Parties shall be restored to their respective positions in the Litigation as of March 16, 2022. In such event, the terms and provisions of the Stipulation, with the exception of ¶¶1.1-1.29, 2.9-2.12, 6.3-6.4, 7.4-7.6, 8.1 and 9.6 hereof, shall have no further force and effect with respect to the Settling Parties and shall not be used in this Litigation or in any other proceeding for any purpose, and any judgment or order entered by the Court in accordance with the terms of the Stipulation shall be treated as vacated, *nunc pro tunc*. No order of the Court or modification or

reversal on appeal of any order of the Court concerning the Plan of Allocation or the amount of any attorneys' fees, expenses, and interest awarded by the Court to any of plaintiffs' counsel or award to the Lead Plaintiff shall operate to terminate or cancel this Stipulation or constitute grounds for cancellation or termination of the Stipulation.

7.6 If the Effective Date does not occur, or if the Stipulation is terminated pursuant to its terms, neither Lead Plaintiff nor its counsel shall have any obligation to repay any amounts disbursed pursuant to ¶¶2.9 or 2.11. In addition, any expenses already incurred pursuant to ¶¶2.9 or 2.11 hereof at the time of such termination or cancellation but which have not been paid, shall be paid by the Escrow Agent in accordance with the terms of the Stipulation prior to the balance being refunded in accordance with ¶¶2.12 and 7.4 hereof.

7.7 Defendants warrant and represent that they are not "insolvent" within the meaning of 11 U.S.C. §101(32) as of the time the Stipulation is executed and will not be as of the time the payments of the Settlement Amount are actually transferred or made as reflected in the Stipulation. This representation is made by Defendants and not by Defendants' Counsel. In the event of a final order of a court of competent jurisdiction, not subject to any further proceedings, determining the transfer of the Settlement Fund, or any portion thereof, by or on behalf of any Defendant to be a voidable preference, voidable transfer, fraudulent transfer, or similar transaction under Title 11 of the United States Code (Bankruptcy), or applicable state law, and any portion thereof is required to be refunded and such amount is not promptly deposited in the Settlement Fund by or on behalf of any other Defendant, then, at the election of Lead Plaintiff, as to that Defendant for whom the transfer was voided, the Settlement may be terminated and the Judgment entered in favor of that Defendant pursuant to the Settlement shall be null and void. In such instance, the releases given and the Judgments entered in favor of other Defendants shall remain in full force and effect.

Alternatively, at the election of Lead Plaintiff, the Settling Parties shall jointly move the Court to vacate and set aside the release given and the Judgment entered in favor of the Defendants and that the Defendants and Lead Plaintiff and the Members of the Class shall be restored to their litigation positions as of March 16, 2022, and the Settlement Fund shall be promptly returned.

8. No Admission of Wrongdoing

8.1 Neither the Settlement, this Stipulation (whether or not consummated), including the Exhibits hereto and the Plan of Allocation contained therein (or any other plan of allocation that may be approved by the Court), the negotiations leading to the execution of this Stipulation and the Settlement, nor any proceedings taken pursuant to or in connection with this Stipulation, and/or approval of the Settlement (including any arguments proffered in connection therewith):

(a) shall be offered or received against any Defendant as evidence of or construed as or deemed to be evidence of any presumption, concession, or admission by any Defendant of the truth of any allegations by Lead Plaintiff or any Member of the Class or the validity of any claim that has been or could have been asserted in the Litigation, or the deficiency of any defense that has been or could have been asserted in the Litigation or in any other litigation, including, but not limited to, litigation of the Released Claims, or of any liability, negligence, fault, or wrongdoing of any kind of any of the Defendants;

(b) shall be referred to for any other reason as against any of the Defendants, in any civil, criminal, or administrative action or proceeding, other than in such proceedings as may be necessary to effectuate the provisions of this Stipulation;

(c) shall be offered or received against any Defendant as evidence of a presumption, concession, or admission of any fault, misrepresentations, or omission with respect to any statement or written document approved or made by any Defendant, or against Lead Plaintiff

or any Member of the Class as evidence of any infirmity in the claims of Lead Plaintiff and the Class;

(d) shall be offered or received against any Defendant as evidence of a presumption, concession, or admission of any liability, negligence, fault, or wrongdoing, or in any way referred to for any other reason as against any of the parties to this Stipulation, in any other civil, criminal, or administrative action or proceeding; provided, however, that if this Stipulation is approved by the Court, Defendants and their Related Parties may refer to it to effectuate the release granted them hereunder; or

(e) shall be construed against Defendants, Lead Plaintiff, or the Class as evidence of a presumption, concession, or admission that the consideration to be given hereunder represents the amount which could be or would have been recovered after trial or in any proceeding other than this Settlement.

9. Miscellaneous Provisions

9.1 The Settling Parties (a) acknowledge that it is their intent to consummate this agreement; and (b) agree to cooperate to the extent reasonably necessary to effectuate and implement all terms and conditions of the Stipulation and to exercise their best efforts to accomplish the foregoing terms and conditions of the Stipulation.

9.2 The Settling Parties intend this Settlement to be a final and complete resolution of all disputes between them with respect to the Litigation. The Settlement compromises claims which are contested and shall not be deemed an admission by any Settling Party as to the merits of any claim or defense. The Final Judgment will contain a finding that, during the course of the Litigation, the parties and their respective counsel at all times complied with the requirements of Federal Rule of Civil Procedure 11. The Settling Parties agree that the Settlement Amount and

the other terms of the Settlement were negotiated in good faith by the Settling Parties, and reflect a settlement that was reached voluntarily after consultation with competent legal counsel.

9.3 Lead Plaintiff and its counsel and the Defendants and their counsel shall not make any accusations of wrongful or actionable conduct by any party concerning the prosecution, defense, and resolution of the Action, and shall not otherwise suggest that the Settlement embodied in this Stipulation constitutes an admission of any claim or defense alleged. The Settling Parties reserve their right to rebut, in a manner that such party determines to be appropriate, any contention made in any public forum regarding the Litigation, including that the Litigation was brought or defended in bad faith or without a reasonable basis.

9.4 Neither this Stipulation nor the Settlement contained herein, nor any act performed or document executed pursuant to or in furtherance of the Stipulation or the Settlement: (a) is or may be deemed to be or may be used as an admission of, or evidence of, the validity of any Released Claim, or of any wrongdoing or liability of the Defendants or their respective Related Parties, or (b) is or may be deemed to be or may be used as an admission of, or evidence of, any fault or omission of any of the Defendants or their respective Related Parties in any civil, criminal, or administrative proceeding in any court, administrative agency, or other tribunal. The Defendants and/or their respective Related Parties may file this Stipulation and/or the Judgment from this Action in any other action that may be brought against them in order to support a defense or counterclaim based on principles of *res judicata*, collateral estoppel, release, good faith settlement, judgment bar or reduction, or any theory of claim preclusion or issue preclusion or similar defense or counterclaim.

9.5 All agreements made and orders entered during the course of the Litigation relating to the confidentiality of information shall survive this Stipulation.

9.6 Whether or not this Stipulation is approved by the Court and whether or not the Settlement embodied in this Stipulation is consummated, the parties and their counsel shall use their best efforts to keep all negotiations, discussions, acts performed, agreements, drafts, documents signed and proceedings had in connection with this Stipulation confidential. Notwithstanding the foregoing, the parties agree that this Stipulation may be filed publicly as part of any motion for preliminary or final approval of the Settlement.

9.7 All of the Exhibits to the Stipulation are material and integral parts hereof and are fully incorporated herein by this reference. Notwithstanding the foregoing, in the event that there exists a conflict or inconsistency between the terms of this Stipulation and the terms of any exhibit attached thereto, the terms of this Stipulation shall prevail.

9.8 Defendants shall determine the form of notice to be provided for the purpose of satisfying the requirements of the Class Action Fairness Act and will identify those who will receive notice as provided for therein. Defendants shall be responsible for mailing such notice within the time provided for in 28 U.S.C. § 1715(b) and for all expenses and costs related thereto.

9.9 The Stipulation may be amended or modified only by a written instrument signed by or on behalf of all Settling Parties or their respective successors-in-interest.

9.10 The waiver by any party of any breach of this Stipulation by any other party shall not be deemed a waiver of any other prior or subsequent breach of this Stipulation.

9.11 Other than the Supplemental Agreement, this Stipulation and the Exhibits attached hereto constitute the entire agreement among the parties hereto and no representations, warranties or inducements have been made to any party concerning the Stipulation or its Exhibits other than the representations, warranties, and covenants contained and memorialized in such documents.

Except as otherwise provided herein or in a separate written agreement, each party shall bear its own costs.

9.12 Lead Counsel, on behalf of the Class, is expressly authorized by the Lead Plaintiff to take all appropriate action required or permitted to be taken by the Class pursuant to the Stipulation to effectuate its terms and also is expressly authorized to enter into any modifications or amendments to the Stipulation on behalf of the Class which it deems appropriate.

9.13 Each counsel or other Person executing the Stipulation or any of its Exhibits on behalf of any party hereto hereby warrants that such Person has the full authority to do so.

9.14 The Stipulation may be executed in one or more counterparts. All executed counterparts and each of them shall be deemed to be one and the same instrument. A complete set of executed counterparts shall be filed with the Court. Signatures sent by facsimile or pdf'd via e-mail shall be deemed originals.

9.15 All notices, requests, demands, claims, and other communications hereunder shall be in writing and shall be deemed duly given (i) when delivered personally to the recipient or by email, (ii) one (1) business day after being sent to the recipient by UPS overnight courier service (charges prepaid), or (iii) seven (7) business days after being mailed to the recipient by certified or registered mail, return receipt requested and postage prepaid, and addressed to the intended recipient as set forth below:

If to Plaintiff or Lead Counsel:

ROBBINS GELLER RUDMAN
& DOWD LLP
MICHAEL G. CAPECI
mcapeci@rgrdlaw.com
58 South Service Road, Suite 200
Melville, NY 11747

If to Defendants' Counsel:

PAUL, WEISS, RIFKIND, WHARTON
& GARRISON LLP
AUDRA J. SOLOWAY
asoloway@paulweiss.com
EMILY M. MILLER
emiller@paulweiss.com
1285 Avenue of the Americas
New York, NY 10019

9.16 The Stipulation shall be binding upon, and inure to the benefit of, the successors and assigns of the parties hereto.

9.17 The Court shall retain jurisdiction with respect to implementation and enforcement of the terms of the Stipulation, and all Settling Parties submit to the jurisdiction of the Court for purposes of implementing and enforcing the Settlement embodied in the Stipulation and matters related to the Settlement. Any such actions, motions, or disputes arising under or to enforce this Stipulation or any portion thereof shall be commenced and maintained only in this Court.

9.18 Pending approval of the Court of the Stipulation and its Exhibits, all proceedings in this Litigation shall be stayed and all Members of the Class shall be barred and enjoined from prosecuting any of the Released Claims against any of the Released Persons.

9.19 This Stipulation and the Exhibits hereto shall be considered to have been negotiated, executed and delivered, and to be wholly performed, in the State of New York, and the rights and obligations of the parties to the Stipulation shall be construed and enforced in accordance with, and governed by, the internal, substantive laws of the State of New York without giving effect to that State's choice-of-law principles.

9.20 This Stipulation shall not be construed more strictly against one party than another merely by virtue of the fact that it, or any part of it, may have been prepared by counsel for one of the parties, it being recognized that it is the result of arm's-length negotiations between all parties

and that all parties have contributed substantially and materially to the preparation of this Stipulation.

9.21 The headings herein are used for the purpose of convenience only and are not meant to have legal effect.

9.22 Nothing in the Stipulation, or the negotiations relating thereto, is intended to or shall be deemed to constitute a waiver of any applicable privilege or immunity, including, without limitation, attorney-client privilege, joint defense privilege, or work product protection.

9.23 Unless otherwise provided, the Settling Parties may agree to reasonable extensions of time to carry out any of the provisions of this Stipulation without further order of the Court.

IN WITNESS WHEREOF, the parties hereto have caused the Stipulation to be executed, by their duly authorized attorneys.

DATED: May 5, 2022

ROBBINS GELLER RUDMAN
& DOWD LLP
SAMUEL H. RUDMAN
DAVID A. ROSENFELD
MICHAEL G. CAPECI



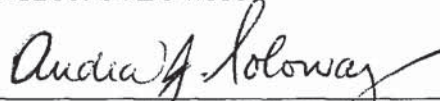
MICHAEL G. CAPECI

58 South Service Road, Suite 200
Melville, NY 11747
Telephone: 631/367-7100
631/367-1173 (fax)
srudman@rgrdlaw.com
drosenfeld@rgrdlaw.com
mcapeci@rgrdlaw.com

Lead Counsel for Lead Plaintiff

DATED: May 5, 2022

PAUL, WEISS, RIFKIND, WHARTON
& GARRISON LLP
DANIEL J. KRAMER
AUDRA J. SOLOWAY



AUDRA J. SOLOWAY

1285 Avenue of the Americas
New York, NY 10019-6064
Telephone: 212/373-3000
dkramer@paulweiss.com
asoloway@paulweiss.com

Attorneys for Defendants

EXHIBIT A

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

<hr/>		X
KENNETH GORDON, Individually and on	:	Civil Action No. 1:19-cv-01108-FB-LB
Behalf of All Others Similarly Situated,	:	
	:	<u>CLASS ACTION</u>
Plaintiff,	:	
	:	[PROPOSED] ORDER PRELIMINARILY
vs.	:	APPROVING SETTLEMENT AND
	:	PROVIDING FOR NOTICE
VANDA PHARMACEUTICALS, INC., and	:	
MIHAEL H. POLYMEROPOULOS,	:	EXHIBIT A
	:	
Defendants.	:	
<hr/>		X

WHEREAS, an action is pending before this Court entitled *Gordon v. Vanda Pharmaceuticals, Inc., et al.*, No. 1:19-cv-01108-FB-LB (the “Litigation”);

WHEREAS, Lead Plaintiff having made a motion, pursuant to Federal Rule of Civil Procedure 23(e), for an order preliminarily approving the Settlement of this Litigation, in accordance with a Stipulation and Agreement of Settlement dated as of May 5, 2022 (the “Stipulation”), which, together with the Exhibits annexed thereto, sets forth the terms and conditions for a proposed Settlement of the Litigation between the Settling Parties and for dismissal of the Litigation with prejudice upon the terms and conditions set forth therein; and the Court having read and considered (1) the motion for preliminary approval of the Settlement, and the papers filed and arguments made in connection therewith, and (2) the Stipulation and the Exhibits annexed thereto; and

WHEREAS, unless otherwise defined, all terms used herein have the same meanings as set forth in the Stipulation.

NOW, THEREFORE, IT IS HEREBY ORDERED:

1. The Court has reviewed the Stipulation and does hereby preliminarily approve the Settlement set forth therein as fair, reasonable, and adequate, subject to further consideration at the Settlement Hearing described in ¶7 below.

2. Pursuant to Rules 23(a) and (b)(3) of the Federal Rules of Civil Procedure, and for purposes of this Settlement only, the Litigation is hereby preliminarily certified as a class action on behalf of all persons and entities who purchased or otherwise acquired Vanda common stock between November 4, 2015 and February 11, 2019, inclusive, and who were allegedly damaged thereby. Excluded from the Class are: Defendants, the officers and directors of Vanda at all relevant times, members of their immediate families, any entity in which any Defendant has or had

a controlling interest, and the legal representatives, heirs, successors-in-interest or assigns of any such excluded party.

3. Also excluded from the Class are those Persons who timely and validly request exclusion from the Class pursuant to the requirements described below and in the Notice of Pendency and Proposed Settlement of Class Action (“Notice”) to be sent to Class Members pursuant to this Order.

4. The Court finds, for the purposes of the Settlement only, that the prerequisites for a class action under Rules 23(a) and (b)(3) of the Federal Rules of Civil Procedure have been satisfied in that: (a) the number of Class Members is so numerous that joinder of all members is impracticable; (b) there are questions of law and fact common to the Class; (c) the claims of the Lead Plaintiff are typical of the claims of the Class it seeks to represent; (d) Lead Plaintiff and Lead Counsel have and will fairly and adequately represent the interests of the Class; (e) the questions of law and fact common to the Members of the Class predominate over any questions affecting only individual Class Members; and (f) a class action is superior to other available methods for the fair and efficient adjudication of the controversy.

5. Pursuant to Rule 23 of the Federal Rules of Civil Procedure, and for the purposes of the Settlement only, Lead Plaintiff is preliminarily certified as the class representative and Lead Counsel Robbins Geller Rudman & Dowd LLP is preliminarily certified as class counsel.

6. The Court preliminarily finds that the proposed Settlement should be approved as: (i) the result of serious, extensive arm’s-length and non-collusive negotiations; (ii) falling within a range of reasonableness warranting final approval; (iii) having no obvious deficiencies; and (iv) warranting notice of the proposed Settlement to Class Members and further consideration of the Settlement at the Settlement Hearing described in ¶7 below.

7. A hearing (the “Settlement Hearing”) shall be held before this Court on _____, 2022, at _____ [a date that is at least 100 calendar days from the date of this Order], at the United States District Court for the Eastern District of New York, United States Courthouse, 225 Cadman Plaza East, Brooklyn, NY 11201, to determine whether the proposed Settlement of the Litigation on the terms and conditions provided for in the Stipulation is fair, reasonable, and adequate to the Class and should be approved by the Court; whether the proposed Final Judgment and Order of Dismissal with Prejudice as provided under the Stipulation should be entered; whether the proposed Plan of Allocation is fair, reasonable, and adequate and should be approved; to determine whether the Class should be finally certified for purposes of the Settlement only; to determine whether Lead Plaintiff and Lead Counsel should be finally appointed as Class Representative and Class Counsel, respectively, for purposes of the Settlement only; to determine the amount of fees and expenses that should be awarded to Lead Counsel; to determine the amount to be awarded to Lead Plaintiff Teamsters Local Union No. 727 Pension Fund; and to address such other matters relating to this Settlement as may properly be before the Court. The Court may adjourn the Settlement Hearing without further notice to the Members of the Class.

8. The Court approves, as to form, substance, and requirements, the Notice, the Proof of Claim and Release form (the “Proof of Claim”), and Summary Notice annexed hereto as Exhibits A-1, A-2, and A-3, respectively, and finds that the mailing and distribution of the Notice and publishing of the Summary Notice substantially in the manner and form set forth in ¶¶10-11 of this Order: (a) constitute the best notice to Class Members practicable under the circumstances; (b) are reasonably calculated, under the circumstances, to describe the terms and effect of the Stipulation and of the Settlement and to apprise Class Members of their right to object to the proposed Settlement; (c) are reasonable and constitute due, adequate, and sufficient notice to all

persons entitled to receive such notice; and (d) satisfy all applicable requirements of the Federal Rules of Civil Procedure (including Rules 23(c)-(e)), the United States Constitution (including the Due Process Clause), Section 21D(a)(7) of the Securities Exchange Act of 1934, 15 U.S.C. §78u-4(a)(7), as added by the Private Securities Litigation Reform Act of 1995, the Rules of this Court, and other applicable law.

9. The firm of Epiq Class Action & Claims Solutions, Inc. (“Claims Administrator”) is hereby appointed to supervise and administer the notice procedure as well as the processing of claims as more fully set forth below.

10. Not later than _____, 2022 [ten (10) business days after the Court signs and enters this Order] (the “Notice Date”), the Claims Administrator shall commence mailing the Notice and Proof of Claim, substantially in the forms annexed hereto, by First-Class Mail to all Class Members who can be identified with reasonable effort, and to be posted on its website at www.vandasecuritieslitigation.com.

11. Not later than fourteen (14) calendar days after the Notice Date, the Claims Administrator shall cause the Summary Notice to be published once in the national edition of *The Wall Street Journal* and once over a national newswire service.

12. At least seven (7) calendar days prior to the Settlement Hearing, Lead Counsel shall serve on Defendants’ Counsel and file with the Court proof, by affidavit or declaration, of such mailing and publishing.

13. This notice shall instruct nominees who purchased or acquired Vanda common stock for the beneficial ownership of Class Members during the Class Period to send the Notice and the Proof of Claim to all such beneficial owners of Vanda common stock within ten (10) business days after receipt thereof, or send a list of the names and addresses of such beneficial

owners to the Claims Administrator within ten (10) business days of receipt thereof, in which event the Claims Administrator shall promptly mail the Notice and Proof of Claim to such beneficial owners. Lead Counsel shall, if requested, reimburse banks, brokerage houses or other nominees solely for their reasonable out-of-pocket expenses incurred in providing timely and adequate notice to beneficial owners who are Class Members out of the Settlement Fund, which expenses would not have been incurred except for the sending of such notice, subject to further order of this Court with respect to any dispute concerning such compensation.

14. All Members of the Class shall be bound by all determinations and judgments in the Litigation concerning the Settlement, whether favorable or unfavorable to the Class.

15. Class Members who wish to participate in the Settlement shall complete and submit Proofs of Claim in accordance with the instructions contained therein. Unless the Court orders otherwise, all Proofs of Claim must be postmarked or submitted electronically no later than ninety (90) calendar days from the Notice Date. Any Class Member who files a Proof of Claim shall reasonably cooperate with the Claims Administrator, including by promptly responding to any inquiry made by the Claims Administrator. Any Class Member who does not timely submit a Proof of Claim within the time provided for, shall be barred from sharing in the distribution of the proceeds of the Settlement Fund but shall nonetheless be bound by the Stipulation, the Judgment, and the Releases therein, unless otherwise ordered by the Court. Notwithstanding the foregoing, Lead Counsel may, in its discretion, accept late-submitted claims for processing by the Claims Administrator so long as distribution of the Net Settlement Fund to Authorized Claimants is not materially delayed thereby.

16. The Proof of Claim submitted by each Class Member must: (i) be properly completed, signed and submitted in a timely manner in accordance with the preceding paragraph;

(ii) be accompanied by adequate supporting documentation for the transactions reported in it, in the form of broker confirmation slips, broker account statements, an authorized statement from the broker containing the transactional information found in a broker confirmation slip, or such other documentation deemed adequate by the Claims Administrator or Lead Counsel; (iii) if the person executing the Proof of Claim is acting in a representative capacity, include a certification of his or her current authority to act on behalf of the Claimant; (iv) be complete and contain no deletions or modifications of any of the printed matter contained therein; and (v) be signed under penalty of perjury. As part of the Proof of Claim, each Claimant shall submit to the jurisdiction of the Court with respect to the claim submitted.

17. Any Member of the Class may enter an appearance in the Litigation, at their own expense, individually or through counsel of their own choice. If they do not enter an appearance, they will be represented by Lead Counsel.

18. Any Person falling within the definition of the Class may, upon request, be excluded or “opt out” from the Class. Any such Person must submit to the Claims Administrator a request for exclusion (“Request for Exclusion”), by First-Class Mail such that it is received no later than _____, 2022 [a date twenty-one (21) calendar days before the Settlement Hearing]. A Request for Exclusion must be signed and state (a) the name, address, and telephone number of the Person requesting exclusion; (b) the Person’s purchases, acquisitions and sales of Vanda common stock between November 4, 2015 and February 11, 2019, inclusive, including the dates, the number of shares of Vanda common stock purchased, acquired or sold, and price paid or received for each such purchase, acquisition or sale; and (c) that the Person wishes to be excluded from the Class. The request for exclusion shall not be effective unless it provides the required information and is made within the time stated above, or the exclusion is otherwise

accepted by the Court. All Persons who submit valid and timely Requests for Exclusion in the manner set forth in this paragraph shall have no rights under the Stipulation, shall not share in the distribution of the Net Settlement Fund, and shall not be bound by the Stipulation or any final judgment.

19. Any Person who is excluded from the Class by virtue of having submitted a valid and timely Request for Exclusion may, at any point up to three days before the Settlement Hearing, submit a written Revocation of Request for Exclusion following the same instructions in ¶18 above.

20. Lead Counsel shall cause to be provided to Defendants' Counsel copies of all Requests for Exclusion, and any written revocation of Requests for Exclusion, as expeditiously as possible and in any event no later than _____, 2022 [a date fourteen (14) calendar days before the Settlement Hearing].

21. Any Member of the Class who does not request exclusion may appear and show cause why the proposed Settlement of the Litigation should or should not be approved as fair, reasonable, and adequate, why a judgment should or should not be entered thereon, why the Plan of Allocation should or should not be approved, why attorneys' fees and expenses should or should not be awarded to Lead Counsel, or why the expenses of Lead Plaintiff should or should not be awarded; provided, however, that no Class Member or any other Person shall be heard or entitled to contest such matters, unless that Person has delivered by hand or sent by First-Class Mail written objections and copies of any papers and briefs such that they are received, not simply postmarked, on or before _____, 2022 [a date twenty-one (21) calendar days before the Settlement Hearing], by Robbins Geller Rudman & Dowd LLP, Michael G. Capeci, 58 South Service Road, Suite 200, Melville, NY 11747; and Paul, Weiss, Rifkind, Wharton & Garrison LLP, Audra J. Soloway, 1285

Avenue of the Americas, New York, NY 10019, and filed said objections, papers, and briefs with the Clerk of the United States District Court for the Eastern District of New York, United States Courthouse, 225 Cadman Plaza East, Brooklyn, NY 11201, on or before _____, 2022 [a date twenty-one (21) calendar days before the Settlement Hearing]. Any objections must: (i) state the name, address, and telephone number of the objector and must be signed by the objector; (ii) state that the objector is objecting to the proposed Settlement, Plan of Allocation, or application for attorneys' fees or expenses in this Action; (iii) state the objection(s) and the specific reasons for each objection, including any legal and evidentiary support the objector wishes to bring to the Court's attention; (iv) include documents sufficient to prove the objector's membership in the Class, such as the number of shares of Vanda common stock purchased or acquired during the Class Period, as well as the dates and prices of each such purchase or acquisition; and (v) identify all other objections the objector and/or the objector's counsel has made to any other class action. The Court will consider a Class Member's objection only if the Class Member has complied with the above requirements. Any Member of the Class who does not make his, her or its objection in the manner provided shall be deemed to have waived such objection and shall forever be foreclosed from making any objection to the fairness or adequacy of the proposed Settlement as set forth in the Stipulation, to the Plan of Allocation, or to the award of attorneys' fees and expenses to Lead Counsel or award to Lead Plaintiff, unless otherwise ordered by the Court. Class Members submitting written objections are not required to attend the Settlement Hearing, but any Class Member wishing to be heard orally in opposition to the approval of the Settlement, the Plan of Allocation, and/or the application for an award of attorneys' fees and expenses must file a written objection and indicate in the written objection their intention to appear at the hearing.

22. All funds held by the Escrow Agent shall be deemed and considered to be in *custodia legis* of the Court, and shall remain subject to the jurisdiction of the Court, until such time as such funds shall be distributed pursuant to the Stipulation and/or further order(s) of the Court.

23. All opening briefs and supporting documents in support of the Settlement, the Plan of Allocation, and any application by Lead Counsel for attorneys' fees and expenses and for an award to Lead Plaintiff shall be filed and served by _____, 2022 [a date thirty-five (35) calendar days before the Settlement Hearing]. Replies to any objections shall be filed and served by _____, 2022 [a date seven (7) calendar days before the Settlement Hearing].

24. Neither the Defendants and their Related Parties nor the Defendants' Counsel shall have any responsibility for the Plan of Allocation or any application for attorneys' fees or expenses submitted by Lead Counsel or Lead Plaintiff, and such matters will be considered separately from the fairness, reasonableness, and adequacy of the Settlement.

25. At or after the Settlement Hearing, the Court shall determine whether the Plan of Allocation proposed by Lead Counsel, and any application for attorneys' fees or payment of expenses, shall be approved.

26. All reasonable expenses incurred in identifying and notifying Class Members, as well as administering the Settlement Fund, shall be paid as set forth in the Stipulation. In the event the Settlement is not approved by the Court, or otherwise fails to become effective, neither Lead Plaintiff nor any of its counsel shall have any obligation to repay any amounts incurred and properly disbursed pursuant to ¶¶2.9 or 2.11 of the Stipulation.

27. Neither this Order, the Stipulation, nor any of its terms or provisions, nor any of the negotiations or proceedings connected with it, nor any act performed or document executed pursuant to or in furtherance of the Stipulation or the Settlement or this Order, shall be construed

as an admission or concession by the Defendants or any other Released Persons of the truth of any of the allegations in the Litigation, or of any liability, fault, or wrongdoing of any kind, or offered or received in evidence, or otherwise used by any person in the Litigation, or in any other action or proceeding, whether civil, criminal, or administrative, in any court, administrative agency, or other tribunal, except in connection with any proceeding to enforce the terms of the Stipulation or this Order. The Defendants or their respective Related Parties may file the Stipulation, this Order, and/or the Judgment in any other action that may be brought against them in order to support a defense or counterclaim based on principles of *res judicata*, collateral estoppel, release, good faith settlement, judgment bar or reduction, or any theory of claim preclusion or issue preclusion or similar defense or counterclaim.

28. The Court reserves the right to adjourn the date of the Settlement Hearing without further notice to the Members of the Class, and retains jurisdiction to consider all further applications arising out of or connected with the proposed Settlement. The Court may approve the Settlement, with such modifications as may be agreed to by the Settling Parties, if appropriate, without further notice to the Class.

29. If the Stipulation and the Settlement set forth therein is not approved or consummated for any reason whatsoever, the Stipulation and Settlement and all proceedings had in connection therewith shall be without prejudice to the rights of the Settling Parties *status quo ante* as set forth in ¶7.5 of the Stipulation.

30. Until otherwise ordered by the Court, all proceedings in the Action are stayed other than proceedings necessary to carry out or enforce the terms and conditions of the Stipulation. Pending final determination of whether the proposed Settlement should be approved, neither the Lead Plaintiff nor any Class Member, directly or indirectly, representatively, or in any other

capacity, shall commence or prosecute against any of the Defendants or any other Released Persons, any action or proceeding in any court or tribunal asserting any of the Released Claims.

31. Except to the extent the parties may agree to resolve through mediation or arbitration any disputes that may arise prior to the entry of judgment, the Court retains exclusive jurisdiction over the Action to consider all further matters arising out of or connected with the Settlement.

IT IS SO ORDERED.

DATED: _____

THE HONORABLE LOIS BLOOM
UNITED STATES MAGISTRATE JUDGE

EXHIBIT A-1

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

KENNETH GORDON, Individually and on Behalf of All Others Similarly Situated,	:	Civil Action No. 1:19-cv-01108-FB-LB
	:	
Plaintiff,	:	<u>CLASS ACTION</u>
	:	
vs.	:	NOTICE OF PENDENCY AND PROPOSED SETTLEMENT OF CLASS ACTION
	:	
VANDA PHARMACEUTICALS, INC., and MIHAEL H. POLYMEROPOULOS,	:	EXHIBIT A-1
	:	
Defendants.	:	
	:	

TO: ALL PERSONS AND ENTITIES WHO PURCHASED OR ACQUIRED THE COMMON STOCK OF VANDA PHARMACEUTICALS, INC. (“VANDA” OR THE “COMPANY”) DURING THE PERIOD FROM NOVEMBER 4, 2015 TO FEBRUARY 11, 2019, INCLUSIVE

PLEASE READ THIS NOTICE CAREFULLY AND IN ITS ENTIRETY. YOUR RIGHTS MAY BE AFFECTED BY PROCEEDINGS IN THIS LITIGATION. PLEASE NOTE THAT IF YOU ARE A CLASS MEMBER, YOU MAY BE ENTITLED TO SHARE IN THE PROCEEDS OF THE SETTLEMENT DESCRIBED IN THIS NOTICE. TO CLAIM YOUR SHARE OF THIS FUND, YOU MUST SUBMIT A VALID PROOF OF CLAIM AND RELEASE FORM (“PROOF OF CLAIM”) **POSTMARKED OR SUBMITTED ONLINE ON OR BEFORE _____, 2022.**

- Court-appointed Lead Plaintiff, Teamsters Local Union No. 727 Pension Fund (“Lead Plaintiff”¹), has reached a proposed settlement in the amount of \$11,500,000 in cash (the “Settlement”) on behalf of the proposed Class. The Settlement will resolve all claims against the Released Persons (as defined below) in this proposed class action (the “Action”).
- The Settlement, if approved by the Court, will resolve claims in the Action that Defendants misrepresented and/or failed to disclose certain information in violation of the Securities Exchange Act of 1934. It will resolve all claims against all of the Defendants in the Action; provide a cash payment to Class Members who timely submit valid claims; and release the Released Persons from liability.
- The Court in charge of the Action still has to decide whether to approve the Settlement. Cash payments will be made if the Court approves the Settlement and after any appeals are resolved. Please be patient.

¹ All capitalized terms used in this Notice that are not otherwise defined herein shall have the meanings provided in the Stipulation and Agreement of Settlement dated May 5, 2022 (the “Stipulation”), which is available on the website for the Action at www.vandasecuritieslitigation.com.

QUESTIONS? PLEASE CALL XXX-XXX-XXXX OR OUTSIDE U.S. AND CANADA
CALL XXX-XXX-XXXX OR VISIT www.vandasecuritieslitigation.com

SUMMARY OF THIS NOTICE

I. DESCRIPTION OF THE ACTION AND THE CLASS

This Notice relates to a proposed Settlement of claims in a pending securities class action lawsuit brought by investors alleging, among other things, that Defendants (set forth at page ___, note 2, below) violated the federal securities law by allegedly misrepresenting and/or failing to disclose alleged off-label promotion of Fanapt® and Hetlioz® and the status of clinical trials of tradipitant. The proposed Settlement, if approved by the Court, will settle claims of all persons and entities who purchased or otherwise acquired Vanda common stock from November 4, 2015 to February 11, 2019, inclusive, and were allegedly damaged thereby (the “Class”).

II. STATEMENT OF THE CLASS’S RECOVERY

Subject to Court approval, and as described more fully on page ___ below, Lead Plaintiff, on behalf of the proposed Class, has agreed to settle all claims in the Action in exchange for a cash payment of \$11,500,000 (the “Settlement Amount”). The claims that will be resolved by the Settlement include any and all claims (including Unknown Plaintiffs’ Claims as set forth below) that could have been asserted based on, arising from or relating to: (i) the purchase or acquisition of the common stock of Vanda during the Class Period; and (ii) any of the allegations, acts, transactions, facts, events, matters, occurrences, representations or omissions involved, set forth, alleged or referred to, in this Action, or which could have been alleged in this Action. The Settlement Amount will be deposited into an interest-bearing escrow account (the “Settlement Fund”). Based on the Plan of Allocation being proposed, the estimated average recovery for Vanda common stock in the Class is \$0.39 per share. Class Members should note, however, that the foregoing average recoveries are only estimates. A Class Member’s actual recovery will depend on several things,

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including: (1) the number of claims filed; (2) when, in what quantities and for how much Class Members purchased and/or acquired Vanda common stock during the Class Period; and (3) whether Class Members sold Vanda stock and, if so, when and for how much. The Net Settlement Fund (the Settlement Fund less taxes, tax expenses, notice and administration costs, attorneys' fees and litigation expenses awarded to Lead Counsel and any award to Lead Plaintiff) will be distributed in accordance with a plan of allocation (the "Plan of Allocation") that will be approved by the Court and will determine how the Net Settlement Fund shall be allocated to the Members of the Class. The proposed Plan of Allocation is included in this Notice (*see* page ___ below).

III. STATEMENT OF POTENTIAL OUTCOME OF THE CASE

The Settling Parties do not agree on whether Lead Plaintiff would have prevailed on its claims against the Defendants. Nor do they agree on the average amount of damages per share that might be recoverable if Lead Plaintiff were to prevail on the claims of the Class. Defendants deny that they have engaged in any wrongdoing as alleged by Lead Plaintiff, deny any liability whatsoever for any of the claims that Lead Plaintiff alleged in the Complaint, and deny that the price of Vanda common stock was artificially inflated by misstatements and omissions alleged by Lead Plaintiff. The issues on which the Settling Parties disagree include: (i) whether either of the Defendants failed to make required disclosures during the Class Period; (ii) whether or not Defendants' conduct caused any harm to Class Members for which any damages could be recovered if Lead Plaintiff was to have prevailed on each claim alleged; (iii) the amounts by which the price of Vanda common stock was artificially inflated, if at all, during the Class Period; (iv) the extent to which external factors, such as general market, economic and industry conditions,

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influenced the trading price of Vanda common stock during the Class Period; (v) who, if anyone, can be included in the Class; (vi) the amount, if any, of any alleged damages suffered by purchasers or acquirers of Vanda common stock during the Class Period; and (vii) whether Defendants had other meritorious defenses to the alleged claims.

IV. STATEMENT OF ATTORNEYS' FEES AND LITIGATION EXPENSES SOUGHT

Lead Counsel (as defined on page ___ below) will apply to the Court for an award of attorneys' fees from the Settlement Fund in an amount not to exceed one-third of the Settlement Amount and an award of litigation expenses incurred in connection with the prosecution and resolution of the Action, in an amount not to exceed \$250,000, plus interest on both amounts from the date of funding at the same rate as earned by the Settlement Fund. If the Court approves the attorneys' fees and expense application in full, the average amount of fees and expenses will be approximately \$0.14 per share. In addition, Lead Counsel will apply for an award to the Lead Plaintiff in connection with its representation of the proposed Class pursuant to the Private Securities Litigation Reform Act of 1995, in an amount not to exceed \$10,000.

V. IDENTIFICATION OF ATTORNEYS' REPRESENTATIVES

Lead Plaintiff and the Class are being represented by the Court-appointed Lead Counsel: Robbins Geller Rudman & Dowd LLP, 58 South Service Road, Suite 200, Melville, New York 11747, Telephone: 631/367-7100.

VI. REASONS FOR SETTLEMENT

For Lead Plaintiff, the principal reason for the Settlement is the immediate benefit of a substantial cash recovery for the Class. This benefit must be compared to the risk that no recovery

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or a smaller recovery might be achieved after the Court decides the pending motion for class certification, any summary judgment motions and after a contested trial and likely appeals are resolved, possibly years into the future. For the Defendants, who deny all allegations of liability and deny that any Class Members were damaged, it is desirable and beneficial that the Action be finally and fully settled in the manner and upon the terms and conditions set forth in the Settlement.

[END OF COVER PAGE]

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YOUR LEGAL RIGHTS AND OPTIONS IN THE SETTLEMENT:	
ACTIONS YOU MAY PURSUE	EFFECT OF TAKING THIS ACTION
SUBMIT A PROOF OF CLAIM FORM POSTMARKED NO LATER THAN _____, 2022.	This is the only way to potentially get a payment from the Settlement.
EXCLUDE YOURSELF FROM THE CLASS BY SUBMITTING A WRITTEN REQUEST FOR EXCLUSION RECEIVED NO LATER THAN _____, 2022.	Get no payment. This is the only option that allows you to ever be part of any other lawsuit against the Defendants concerning the claims that were, or could have been, asserted in this case. It is also the <i>only</i> way for Class Members to remove themselves from the Class. If you are considering excluding yourself from the Class, please note that there is a risk that any new claims asserted against the Defendants may no longer be timely and would be time-barred. You should talk to a lawyer before you request exclusion from the Class for the purpose of bringing a separate lawsuit. See page ___ below.
OBJECT TO THE SETTLEMENT BY SUBMITTING A WRITTEN OBJECTION RECEIVED NO LATER THAN _____, 2022.	Write to the Court and explain why you do not like the Settlement, the proposed Plan of Allocation, and/or the request for attorneys' fees and expenses. In order to object, you must remain a Member of the Class, may not exclude yourself, and you will be bound by the Court's determinations.
GO TO THE HEARING ON _____, 2022, AT _ : _ M., AND FILE A NOTICE OF INTENTION TO APPEAR SO THAT IT IS RECEIVED NO LATER THAN _____, 2022.	Ask to speak in Court about the fairness of the Settlement, the proposed Plan of Allocation, or the request for attorneys' fees and expenses.
DO NOTHING.	You will not be eligible to receive a payment from the Settlement, you will give up your rights, and you will still be bound by the Settlement.

WHAT THIS NOTICE CONTAINS

Why did I get this notice package? Page ____

What is this lawsuit about and what has happened so far? Page ____

QUESTIONS? PLEASE CALL XXX-XXX-XXXX OR OUTSIDE U.S. AND CANADA
CALL XXX-XXX-XXXX OR VISIT www.vandasecuritieslitigation.com

Why is this a class action?	Page ____
Why is there a settlement?	Page ____
How do I know if I am part of the Settlement?	Page ____
Are there exceptions to being included in the Class?	Page ____
What if I am not sure if I am included?	Page ____
What does the Settlement provide?	Page ____
How much will my payment be?	Page ____
How can I get a payment?	Page ____
When would I get my payment?	Page ____
What am I giving up by staying in the Class?	Page ____
How do I “opt out” (exclude myself) from the proposed Settlement?	Page ____
If I do not exclude myself, can I sue the Defendants and other Released Persons for the same thing later?	Page ____
If I exclude myself, can I get money from the proposed Settlement?	Page ____
Do I have a lawyer in this case?	Page ____
How will the lawyers be paid?	Page ____
How do I tell the Court that I do not like something about the proposed Settlement?	Page ____
What is the difference between objecting and requesting exclusion?	Page ____
When and where will the Court decide whether to approve the proposed Settlement?	Page ____
Do I have to come to the hearing?	Page ____
May I speak at the hearing and submit additional evidence?	Page ____
What happens if I do nothing at all?	Page ____
Are there more details about the proposed Settlement and the lawsuit?	Page ____
Plan of Allocation of Net Settlement Fund	Page ____

QUESTIONS? PLEASE CALL XXX-XXX-XXXX OR OUTSIDE U.S. AND CANADA
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What if I bought common stock on someone else's behalf?

Page ____

QUESTIONS? PLEASE CALL XXX-XXX-XXXX OR OUTSIDE U.S. AND CANADA
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BASIC INFORMATION

1. Why did I get this notice package?

You or someone in your family may have purchased or otherwise acquired Vanda common stock during the Class Period.

The Court directed that this Notice be sent to Class Members because they have a right to know about the proposed Settlement of this class action lawsuit, and about all of their options, before the Court decides whether to approve the Settlement. If approved, the Settlement will end all of the Class's claims against the Defendants. The Court will consider whether to approve the Settlement at a Settlement Hearing on _____, 2022, at ___:___ .m. If the Court approves the Settlement, and after any appeals are resolved and the Settlement administration is completed, the claims administrator appointed by the Court will make the payments that the Settlement allows.

The Court in charge of the case is the United States District Court for the Eastern District of New York, and the case is known as *Gordon v. Vanda Pharmaceuticals, Inc., et al.*, No. 1:19-cv-01108-FB-LB (E.D.N.Y.). This case was assigned to United States Magistrate Judge Lois Bloom. The company who is suing is called "Lead Plaintiff" and the company and person being sued are called "Defendants."

QUESTIONS? PLEASE CALL XXX-XXX-XXXX OR OUTSIDE U.S. AND CANADA
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2. What is this lawsuit about and what has happened so far?

Lead Plaintiff's claims in the Action are stated in the Amended Complaint dated July 23, 2019 (the "Complaint"). Lead Plaintiff alleged that Defendants² violated the Securities Exchange Act of 1934 (the "Exchange Act").

On March 23, 2020, Defendants moved to dismiss the Complaint. On March 10, 2021, the Court issued an order granting in part and denying in part Defendants' motion to dismiss, dismissing claims against three former Vanda executives who were named as defendants in the Complaint and sustaining claims against Vanda and Dr. Polymeropoulos. On April 23, 2021, Defendants filed an answer to the Complaint and asserted a number of defenses thereto.

During fact discovery, the parties produced and reviewed over 494,000 pages of documents and completed four depositions.

On October 29, 2021, Lead Plaintiff filed a motion for class certification which was fully briefed by the parties and remained under submission at the time the parties reached an agreement in principle to settle the Action.

The parties participated in a mediation of the Action before Jed D. Melnick, Esq., a nationally recognized mediator, and thereafter reached an agreement to settle the claims raised in the Action pursuant to the terms and provisions of the Stipulation, subject to approval by the Court.

The Settling Parties entered into the Stipulation on May 5, 2022. On _____, 2022, the Court preliminarily approved the Settlement, authorized this Notice to be sent to potential Class

² The Defendants are Vanda and its Chief Executive Officer, Mihael H. Polymeropoulos.

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Members, and scheduled the Settlement Hearing to consider whether to grant final approval to the Settlement.

3. Why is this a class action?

In a class action, one or more people called class representatives (in this case Lead Plaintiff on behalf of the Class) sue on behalf of people or entities, known as “Class Members,” who have similar claims. A class action allows one court to resolve in a single case many similar claims that, if brought separately by individuals, might be so small that they would not be economical to litigate and thus would never be brought. One court resolves the issues for all class members, except for those who exclude themselves, or “opt out,” from the Class (*see* page ___ below).

4. Why is there a settlement?

The Court has not decided the Action in favor of Lead Plaintiff or the Defendants. The Settlement will end all the claims against the Defendants in the Action and avoid the uncertainties and costs of further litigation and any future trial. Assuming the Settlement is approved, affected investors will be eligible to receive compensation once the claims made against the Net Settlement Fund are validated and calculated.

As described above, Lead Plaintiff, through Lead Counsel, conducted an extensive investigation of the claims and underlying events and transactions relating to the Action, including a review and analysis of more than 494,000 pages of produced documents. Further, Lead Plaintiff and Lead Counsel participated in protracted and hard-fought arm’s-length negotiations and a mediation before an experienced mediator prior to entering into the Settlement.

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The Defendants deny all allegations of liability contained in the Complaint and deny that they are liable to the Class. The Settlement should not be seen as an admission or concession on the part of the Defendants regarding the truth or validity of the allegations or claims in the Action, the lack of merit of any defenses or affirmative defenses, or their fault or liability for alleged damages by any Member of the Class.

WHO IS IN THE SETTLEMENT

5. How do I know if I am part of the Settlement?

The Court has issued an Order, for the purposes of the Settlement only, that everyone who fits the following description, and is not excluded by definition from the Class (*see* Question 6 below), is a Member of the Class, or a “Class Member,” unless they take steps to exclude themselves:

All persons and entities who purchased or otherwise acquired Vanda common stock between November 4, 2015 and February 11, 2019, inclusive, and who were allegedly damaged thereby (the “Class Period”).

Receipt of this Notice does not mean that you are a Class Member. Please check your records or contact your broker to see if you purchased or otherwise acquired Vanda common stock during the Class Period as described above.

6. Are there exceptions to being included in the Class?

There are some people who are excluded from the Class by definition. Excluded from the Class are Defendants, the officers and directors of Vanda at all relevant times, members of their immediate families, any entity in which any Defendant has or had a controlling interest, and the legal representatives, heirs, successors-in-interest or assigns of any such excluded party.

QUESTIONS? PLEASE CALL XXX-XXX-XXXX OR OUTSIDE U.S. AND CANADA
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You are a Class Member only if you (or your broker on your behalf) directly purchased or otherwise acquired Vanda common stock during the Class Period as described above, or if you are a legal representative, heir, successor or assign of someone who did so.

7. What if I am not sure if I am included?

If you are not sure whether you are included, you can ask for free help by writing to or calling the Claims Administrator: *Vanda Securities Litigation*, Claims Administrator, c/o **[insert name and address]**, within the U.S. and Canada: XXX-XXX-XXXX, or outside the U.S. and Canada: XXX-XXX-XXXX, www.vandasecuritieslitigation.com. Or you can fill out and return the Proof of Claim and Release form (“Proof of Claim”) described on page ___, in Question 10, to see if you qualify.

THE SETTLEMENT BENEFITS – WHAT YOU MAY RECEIVE

8. What does the Settlement provide?

In the Settlement, Defendants have agreed to pay or cause to be paid \$11,500,000.00 in cash, which will be deposited in an interest-bearing escrow account for the benefit of the Class (the “Settlement Fund”). The Settlement Fund will be divided, after deduction of Court-awarded attorneys’ fees and expenses, any award to Lead Plaintiff, settlement administration costs and any applicable taxes and tax expenses, among all Class Members who timely submit valid Proofs of Claim that are accepted for payment by the Court (“Authorized Claimants”).

9. How much will my payments be?

The Plan of Allocation, discussed on pages ___ below, explains how the Net Settlement Fund will be allocated among purchasers and/or acquirers of Vanda common stock and how

QUESTIONS? PLEASE CALL XXX-XXX-XXXX OR OUTSIDE U.S. AND CANADA
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claimants' "Recognized Losses" will be calculated. Your share of the Net Settlement Fund will depend on several things, including: (i) the quantity of Vanda common stock you bought or otherwise acquired; (ii) how much you paid for such stock; (iii) when you bought or otherwise acquired such stock; (iv) whether or when you sold such stock (and, if so, for how much you sold it); and (v) the amount of Recognized Losses of other Authorized Claimants.

It is unlikely that you will get a payment for your entire Recognized Loss, given the number of potential Class Members. After all Class Members have sent in their Proofs of Claim, the payment any Authorized Claimant will get will be their *pro rata* share of the Net Settlement Fund based on the Plan of Allocation approved by the Court. In general, an Authorized Claimant's share will be his, her or its Recognized Loss divided by the total of all Authorized Claimants' Recognized Losses and then multiplied by the total amount in the Net Settlement Fund. See the Plan of Allocation beginning on page ___ for more information.

HOW YOU GET A PAYMENT – SUBMITTING A PROOF OF CLAIM

10. How can I get a payment?

To qualify for a payment, you must timely send in a valid Proof of Claim with supporting documents (DO NOT SEND ORIGINALS of your supporting documents). A Proof of Claim is enclosed with this Notice. You may also get copies of the Proof of Claim on the Internet at the following website: www.vandasecuritieslitigation.com. Please read the instructions carefully, fill out the Proof of Claim, include all the documents the form asks for, sign it, and mail it to the Claims Administrator by First-Class Mail, ***postmarked on or before*** ____, 2022. *The Claims Administrator needs all of the information requested in the Proof of Claim in order to determine if you are eligible to receive a distribution from the Net Settlement Fund.*

QUESTIONS? PLEASE CALL XXX-XXX-XXXX OR OUTSIDE U.S. AND CANADA
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Any Class Member who fails to submit a Proof of Claim by the date identified above shall be barred from receiving any distribution from the Net Settlement Fund or payment pursuant to the Stipulation unless, by order of the Court or the discretion of Lead Counsel, late-filed Proofs of Claim are accepted, but shall in all other respects be bound by all the terms of the Settlement, including the terms of the Judgment and all releases provided for herein and therein, and will be permanently barred and enjoined from bringing any action, claim or other proceeding of any kind against any Released Person concerning the Released Claims.

11. When would I get my payment?

The Court will hold a hearing on _____, 2022, at ___:___ .m., to decide whether to, among other things, approve the Settlement and the proposed Plan of Allocation. All Proofs of Claim must be submitted to the Claims Administrator, *postmarked on or before* _____, 2022. If the Court approves the Settlement, there may still be appeals which would delay payment, perhaps for more than a year. It also takes time for all the Proofs of Claim to be processed. Please be patient.

12. What am I giving up by staying in the Class?

Unless you exclude yourself, you will stay in the Class, which means that as of the date that the Settlement becomes effective under the terms of the Stipulation (the “Effective Date”), you will forever give up and release all “Released Claims” (as defined below) against the “Released Persons” (as defined below). You will not in the future be able to bring a case asserting any Released Claim against any Released Person.

(a) “Related Parties” means each of a Defendant’s respective present and former parents, subsidiaries, divisions, controlling persons, associates, entities and affiliates and

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the respective present and former employees, members, partners, principals, officers, directors, controlling shareholders, agents, attorneys, advisors, accountants, auditors, consultants, and insurers of each of them; and the predecessors, successors, estates, heirs, executors, trusts, trustees, administrators, agents, representatives and assigns of each of them, in their capacity as such.

(b) “Released Claims” means any and all claims, demands, rights, causes of action or liabilities of every nature and description whatsoever (including Unknown Plaintiffs’ Claims as set forth below), that could have been asserted in any forum, whether foreign or domestic, whether based on or arising under federal, state, local, or foreign statutory or common law, rule or regulation, whether fixed or contingent, foreseen or unforeseen, matured or unmatured, accrued or unaccrued, liquidated or unliquidated, whether direct, representative, class or individual in nature, based on, arising from or relating to: (i) the purchase or acquisition of the common stock of Vanda during the Class Period; and (ii) any of the allegations, acts, transactions, facts, events, matters, occurrences, representations or omissions involved, set forth, alleged or referred to, in this Action, or which could have been alleged in this Action. Released Claims does not include claims to enforce the Settlement.

(c) “Released Persons” means each and all of the Defendants and their Related Parties.

(d) “Releasing Plaintiff Party” or “Releasing Plaintiff Parties” means Lead Counsel, and each and every plaintiff, Class Member, and counsel to any plaintiff, and each of their respective past or present trustees, officers, directors, partners, employees, contractors, accountants, auditors, principals, agents, attorneys, predecessors, successors, assigns, representatives, affiliates, insurers, parents, subsidiaries, general or limited partners or

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partnerships, and limited liability companies; and the spouses, members of the immediate families, representatives, and heirs of any Releasing Plaintiff Party who is an individual, as well as any trust of which any Releasing Plaintiff Party is the settlor or which is for the benefit of any of their immediate family members. Releasing Plaintiff Parties does not include any Person who timely and validly sought exclusion from the Class.

(e) “Unknown Plaintiffs’ Claims” means any Released Claims which Lead Plaintiff, Class Members, Defendants, or Releasing Plaintiff Parties do not know or suspect to exist in his, her or its favor at the time of the release of the Released Persons which, if known by him, her or it, might have affected his, her or its settlement with and release of the Released Persons, or might have affected his, her or its decision with respect to this Settlement, including, without limitation, any decision not to object to this Settlement or seek exclusion from the Class. With respect to any and all Released Claims, the Settling Parties stipulate and agree that, upon the Effective Date, Lead Plaintiff shall expressly waive and each of the Class Members and Releasing Plaintiff Parties shall be deemed to have, and by operation of the Judgment shall have, expressly waived the provisions, rights, and benefits of California Civil Code §1542, which provides:

A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if known by him or her, would have materially affected his or her settlement with the debtor or released party.

The Lead Plaintiff shall expressly waive and each of the Class Members and Releasing Plaintiff Parties shall be deemed to have, and by operation of the Judgment shall have, expressly waived any and all provisions, rights, and benefits conferred by any law of any state or territory of the United States, or principle of common law, which is similar, comparable or equivalent to

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California Civil Code §1542. Lead Plaintiff, Class Members, and Releasing Plaintiff Parties may hereafter discover facts in addition to or different from those which he, she or it now knows or believes to be true with respect to the subject matter of the Released Claims, but Lead Plaintiff shall expressly settle and release and each Class Member, upon the Effective Date, shall be deemed to have, and by operation of the Judgment shall have, fully, finally, and forever settled and released any and all Released Claims, known or unknown, suspected or unsuspected, contingent or non-contingent, whether or not concealed or hidden, which now exist, or heretofore have existed, upon any theory of law or equity now existing or coming into existence in the future, including, but not limited to, conduct which is negligent, intentional, with or without malice, or a breach of any duty, law or rule, without regard to the subsequent discovery or existence of such different or additional facts. Lead Plaintiff acknowledges, and the Class Members and Releasing Plaintiff Parties shall be deemed by operation of the Judgment to have acknowledged, that the foregoing waiver was separately bargained for and an essential element of the Settlement of which this release is a part.

EXCLUDING YOURSELF FROM THE SETTLEMENT

If you want to keep any right you may have to sue or continue to sue the Released Persons on your own about the Released Claims, then you must take steps to exclude yourself from the Class. Excluding yourself is known as “opting out” of the Class. The Defendants may withdraw from and terminate the Settlement if potential Class Members who purchased or acquired in excess of a certain amount of Vanda common stock opt out from the Class.

If you timely and properly request exclusion from the Class, you will retain any rights you have to sue the Defendants yourself with respect to the Released Claims to the extent those claims are viable under the statute of limitations applicable to claims under the Exchange Act. You should

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note that if you exclude yourself from the Class, you may forfeit any claims you may have against the Defendants and Released Persons relating to your purchases or acquisitions of Vanda common stock during the Class Period to the extent the five-year statute of repose under the Exchange Act has expired. Before you decide to request exclusion from the Class, you are urged to consult your counsel, at your own expense, to fully evaluate your rights and the consequences of excluding yourself from the Class.

13. How do I “opt out” (exclude myself) from the proposed Settlement?

To “opt out” (exclude yourself) from the Class, you must deliver or mail a signed letter by First-Class Mail stating that you “request exclusion from the Class in *Gordon v. Vanda Pharmaceuticals, Inc., et al.*, No. 1:19-cv-01108-FB-LB (E.D.N.Y.)” Your letter **must** state the date(s), price(s) and number of shares of your purchases and acquisitions of Vanda common stock during the Class Period. This information is needed to determine whether you are a Class Member. In addition, you must include your name, address, telephone number, and your signature. You must submit your request for exclusion addressed to *Vanda Securities Litigation*, Claims Administrator, EXCLUSIONS, c/o **[insert name and address]**. The request for exclusion must be **received on or before _____, 2022. You cannot exclude yourself or opt out by telephone or by email.** Your request for exclusion must comply with these requirements in order to be valid. If you are excluded, you will not be eligible to get any payment from the Settlement proceeds and you cannot object to the Settlement, the proposed Plan of Allocation or the application for attorneys’ fees and expenses.

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14. If I do not exclude myself, can I sue the Defendants and the other Released Persons for the same thing later?

No. Unless you exclude yourself, you give up any rights you may have to sue the Defendants and the other Released Persons for all Released Claims. If you have a pending lawsuit against any of the Defendants, speak to your lawyer in that case **immediately**. You must exclude yourself from this Class to continue your own lawsuit. Remember, the exclusion deadline is _____, 2022.

15. If I exclude myself, can I get money from the proposed Settlement?

No. If you exclude yourself, do not send in a Proof of Claim to ask for any money, as any such Proof of Claim will be rejected.

THE LAWYERS REPRESENTING YOU

16. Do I have a lawyer in this case?

The law firm of Robbins Geller Rudman & Dowd LLP was appointed to represent all Class Members. These lawyers are called Lead Counsel. You will not be separately charged for the services of these lawyers. The Court will determine the amount of Lead Counsel's fees and expenses. Any fees and expenses awarded by the Court will be paid from the Settlement Fund. If you want to be represented by your own lawyer, you may hire one at your own expense.

17. How will the lawyers be paid?

Lead Counsel have not received any payment for their services in pursuing the claims against the Defendants on behalf of the Class since the Action was commenced in 2019, nor have they been paid to this point for any of their litigation expenses. At the Settlement Hearing

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described below, or at such other time as the Court may order, Lead Counsel will ask the Court to award them, from the Settlement Fund, attorneys' fees of no more than one-third of the Settlement Amount and litigation expenses that they have incurred in pursuing the Action in an amount not to exceed \$250,000, plus interest on both amounts from the date of funding at the same rate earned by the Settlement Fund. Lead Counsel will also request an award to Lead Plaintiff pursuant to the Private Securities Litigation Reform Act of 1995 in connection with its representation of the Class, in an amount not to exceed \$10,000.

OBJECTING TO THE SETTLEMENT

18. How do I tell the Court that I do not like something about the proposed Settlement?
--

If you are a Class Member and do not exclude yourself ("opt out") in accordance with Question 13 above, you can object to any part of the Settlement, the proposed Plan of Allocation, and/or the application by Lead Counsel for attorneys' fees and expenses and request for an award to Lead Plaintiff. You must write to the Court setting out your objection, giving reasons why you think the Court should not approve any part or all of the Settlement, the proposed Plan of Allocation, or the attorneys' fee and expense request.

To object, you must send a signed letter stating that you object to the proposed Settlement in the case known as *Gordon v. Vanda Pharmaceuticals, Inc., et al.*, No. 1:19-cv-01108-FB-LB (E.D.N.Y.). Any objections must: (i) state the name, address, and telephone number of the objector and must be signed by the objector; (ii) state that the objector is objecting to the proposed Settlement, Plan of Allocation, or application for attorneys' fees or expenses in this Action; (iii) state the objection(s) and the specific reasons for each objection, including any legal and

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evidentiary support the objector wishes to bring to the Court's attention; (iv) include documents sufficient to prove the objector's membership in the Class, such as the number of shares of Vanda common stock purchased or acquired during the Class Period, as well as the dates and prices of each such purchase or acquisition; and (v) identify all other objections the objector and/or the objector's counsel has made to any other class action. The Court will consider a Class Member's objection only if the Class Member has complied with the above requirements.

Unless otherwise ordered by the Court, any Class Member who does not object in the manner described in this Notice will be deemed to have waived any objection and will not be able to appear separately at the Settlement Hearing or to make any objection to the Settlement, the proposed Plan of Allocation, and/or the application for attorneys' fees and expenses. If you elect to "opt out," you will not be entitled to share in the Settlement proceeds and will not have a right to make an objection to the Settlement, proposed Plan of Allocation and/or the application for attorneys' fees and expenses.

Your objection must be filed with the United States District Court for the Eastern District of New York by hand or by mail such that it is *received on or before* _____, 2022, at the address set forth below. You must also serve the papers on Lead Counsel and Defendants' Counsel at the addresses set forth below so that the papers are *received on or before* _____, 2022.

COURT:

CLERK OF THE COURT
United States District Court
Eastern District of New York
United States Courthouse
225 Cadman Plaza East
Brooklyn, NY 11201

LEAD COUNSEL:

ROBBINS GELLER RUDMAN
& DOWD LLP
Michael G. Capeci
58 South Service Road, Suite 200
Melville, NY 11747

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COUNSEL FOR DEFENDANTS:

PAUL, WEISS, RIFKIND, WHARTON
& GARRISON LLP
Audra J. Soloway
1285 Avenue of the Americas
New York, NY 10019

19. What is the difference between objecting and requesting exclusion?

Objecting is simply telling the Court that you do not like something about the proposed Settlement. You can still recover from the Settlement. You can object only if you stay in the Class. Excluding yourself is telling the Court that you do not want to be part of the Class. If you exclude yourself, you have no right to object because the Action no longer affects you and you are no longer a Member of the Class.

THE COURT'S SETTLEMENT HEARING

20. When and where will the Court decide whether to approve the proposed Settlement?

The Court will hold a Settlement Hearing at ____ .m. on _____, 2022, in the United States District Court for the Eastern District of New York, United States Courthouse, 225 Cadman Plaza East, Brooklyn, NY 11201. At this hearing, the Court will consider whether the Settlement is fair, reasonable and adequate. The Court also will consider the proposed Plan of Allocation for the proceeds of the Settlement and Lead Counsel's application for attorneys' fees and expenses. The Court will take into consideration any written objections filed in accordance with the instructions set out above in the answer to Question 18. We do not know how long it will take the Court to make these decisions.

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You should also be aware that the Court may change the date and time of the Settlement Hearing without another notice being sent to Class Members. If you want to come to the hearing, you should check with Lead Counsel before coming to be sure that the date and/or time has not changed.

21. Do I have to come to the hearing?

No. Lead Counsel will answer any questions the Court may have. But, you are welcome to come at your own expense. If you validly submit an objection, it will be considered by the Court. You do not have to come to Court to talk about it.

22. May I speak at the hearing and submit additional evidence?

If you file an objection, you may ask the Court for permission to speak at the Settlement Hearing. To do so, you must include with your objection (*see* Question 18 above) a statement that it is your “notice of intention to appear in *Gordon v. Vanda Pharmaceuticals, Inc., et al.*, No. 1:19-cv-01108-FB-LB (E.D.N.Y.)” Persons who object and want to present evidence at the Settlement Hearing must also include in their written objection the identity of any witness they may call to testify and exhibits they intend to introduce at the Settlement Hearing. You cannot speak at the hearing if you exclude yourself from the Class or if you have not provided written notice of your intention to speak at the Settlement Hearing according to the procedures described above and in the answer to Question 18.

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IF YOU DO NOTHING

23. What happens if I do nothing at all?

If you do nothing, you will get no money from this Settlement and you will not be able to start a lawsuit, continue with a lawsuit, or be part of any other lawsuit against the Defendants and the Released Persons about the Released Claims in this case. To be eligible to share in the Net Settlement Fund you must submit a Proof of Claim (*see* Question 10). To start, continue or be a part of any other lawsuit against the Defendants and the other Released Persons about the Released Claims in this case you must exclude yourself from this Class (*see* Question 13).

GETTING MORE INFORMATION

24. Are there more details about the proposed Settlement and the lawsuit?

This Notice summarizes the proposed Settlement. More details are in the Stipulation, dated as of May 5, 2022. You may review the Stipulation filed with the Court and all documents filed in the Action during business hours at the Office of the Clerk of the United States District Court for the Eastern District of New York, United States Courthouse, 225 Cadman Plaza East, Brooklyn, NY 11201.

You also can call the Claims Administrator within the U.S. and Canada: XXX-XXX-XXXX, or outside the U.S. and Canada call: XXX-XXX-XXXX; call Lead Counsel Robbins Geller Rudman & Dowd LLP at: (800) 449-4900; write to *Gordon v. Vanda Pharmaceuticals, Inc., et al.*, No. 1:19-cv-01108-FB-LB (E.D.N.Y.), Claims Administrator, c/o **[insert name and address]**; or visit the website www.vandasecuritieslitigation.com, where you can download copies

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of this Notice and the Proof of Claim. Please do not call the Court, the Defendants or their counsel with questions about the Settlement.

PLAN OF ALLOCATION OF NET SETTLEMENT FUND

The Net Settlement Fund will be distributed to Class Members who, in accordance with the terms of the Stipulation, are entitled to a distribution from the Net Settlement Fund pursuant to any Plan of Allocation or any order of the Court and who submit a valid and timely Proof of Claim under the Plan of Allocation described below. The Plan of Allocation provides that you will be eligible to participate in the distribution of the Net Settlement Fund only if you have an overall net loss on all of your transactions in Vanda securities during the Class Period.

For purposes of determining the amount an Authorized Claimant may recover under the Plan of Allocation, Lead Counsel have conferred with their damages expert and developed a Plan of Allocation that reflects an assessment of the damages that they believe could have been recovered by Class Members had Lead Plaintiff prevailed at trial.

In the unlikely event there are sufficient funds in the Net Settlement Fund, each Authorized Claimant will receive an amount equal to its Recognized Claim, as defined below. If, however, and as is more likely, the amount in the Net Settlement Fund is not sufficient to permit payment of the Recognized Claim of each Authorized Claimant, then each Authorized Claimant shall be paid the percentage of the Net Settlement Fund that each Authorized Claimant's Recognized Claim bears to the total Recognized Claims of all Authorized Claimants. Payment in this manner shall be deemed conclusive against all Authorized Claimants.

The Plan of Allocation was developed based on an event study analysis, which determines how much artificial inflation was allegedly included in the price of Vanda common stock on each

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day during the Class Period by measuring how much the price declined as a result of disclosures that allegedly corrected the alleged misrepresentations and omissions. In this case, Lead Plaintiff alleges that the truth relating to the tradipitant allegations was concealed from August 1, 2018, and disclosed on February 5, 2019, after the market closed. Following this disclosure, on February 6, 2019, according to Lead Plaintiff's expert, Vanda's stock price declined \$4.97 per share, net of market and industry factors. According to Lead Plaintiff's expert, this price decline was statistically significant. Furthermore, Lead Plaintiff alleges that the truth relating to the Fanapt® and Hetlioz® allegations was concealed from November 4, 2015, and disclosed on February 11, 2019. Following this disclosure, on February 11, 2019, according to Lead Plaintiff's expert, Vanda's stock price declined \$1.06 per share, net of market and industry factors. According to Lead Plaintiff's expert, this price decline was also statistically significant.

Based on the above, the Recognized Loss amounts will be calculated as follows:

For shares of Vanda common stock purchased or acquired from November 4, 2015, through February 11, 2019, inclusive, and:

- I. Sold from November 4, 2015, through February 10, 2019, inclusive, the Recognized Loss per share shall be the lesser of:
 - a. the inflation per share in Table A at the time of purchase less the inflation per share in Table A at the time of sale; or
 - b. the difference between the purchase price per share and the sales price per share.
- II. Sold on February 11, 2019, at a sales price of \$18.95 per share (Vanda's February 10, 2019 closing price) or above, the Recognized Loss per share shall be the lesser of:
 - a. the inflation per share in Table A at the time of purchase less the inflation per share in Table A at the time of sale; or
 - b. the difference between the purchase price per share and the sales price per share.

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- III. Sold on February 11, 2019, at a sales price below \$18.95 per share (Vanda’s February 8, 2019 closing price), the Recognized Loss per share shall be the lesser of:
 - a. the inflation per share in Table A at the time of purchase; or
 - b. the difference between the purchase price per share and the sales price per share.

- IV. If sold from February 12, 2019, through May 10, 2019, inclusive, the Recognized Loss per share shall be the least of:
 - a. the inflation per share in Table A at the time of purchase;
 - b. the difference between the purchase price per share and the sales price per share; or
 - c. the difference between the purchase price per share and the average closing price per share up to the date of sale as set forth in Table B below.

- V. If retained at the close of trading on May 10, 2019, the Recognized Loss per share shall be the lesser of:
 - a. the inflation per share in Table A at the time of purchase; or
 - b. the difference between the purchase price per share and \$18.23 per share (the 90-day average Vanda closing price following the final corrective disclosure).

TABLE A:

Purchase Period	Inflation
November 4, 2015 through July 31, 2018	\$1.06
August 1, 2018 through February 5, 2019	\$6.03
February 6, 2019 through February 11, 2019	\$1.06

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Table B:

Date	Closing Price	Average Closing Price from February 11, 2019 Through Sale Date	Date	Closing Price	Average Closing Price from February 11, 2019 Through Sale Date
2/11/2019	\$18.00	\$18.00	3/28/2019	\$18.78	\$19.17
2/12/2019	\$18.41	\$18.21	3/29/2019	\$18.40	\$19.15
2/13/2019	\$18.42	\$18.28	4/1/2019	\$18.36	\$19.13
2/14/2019	\$20.12	\$18.74	4/2/2019	\$18.17	\$19.10
2/15/2019	\$21.11	\$19.21	4/3/2019	\$18.30	\$19.08
2/19/2019	\$20.14	\$19.37	4/4/2019	\$18.60	\$19.07
2/20/2019	\$20.36	\$19.51	4/5/2019	\$18.85	\$19.06
2/21/2019	\$20.03	\$19.57	4/8/2019	\$18.42	\$19.05
2/22/2019	\$20.80	\$19.71	4/9/2019	\$17.93	\$19.02
2/25/2019	\$20.64	\$19.80	4/10/2019	\$17.90	\$18.99
2/26/2019	\$20.16	\$19.84	4/11/2019	\$17.55	\$18.96
2/27/2019	\$20.62	\$19.90	4/12/2019	\$17.67	\$18.93
2/28/2019	\$20.24	\$19.93	4/15/2019	\$17.41	\$18.90
3/1/2019	\$20.22	\$19.95	4/16/2019	\$17.42	\$18.86
3/4/2019	\$19.84	\$19.94	4/17/2019	\$16.64	\$18.82
3/5/2019	\$19.75	\$19.93	4/18/2019	\$16.65	\$18.77
3/6/2019	\$19.15	\$19.88	4/22/2019	\$16.79	\$18.73
3/7/2019	\$18.75	\$19.82	4/23/2019	\$17.31	\$18.70
3/8/2019	\$18.58	\$19.75	4/24/2019	\$16.82	\$18.67
3/11/2019	\$18.98	\$19.72	4/25/2019	\$16.62	\$18.63
3/12/2019	\$18.87	\$19.68	4/26/2019	\$17.16	\$18.60
3/13/2019	\$19.06	\$19.65	4/29/2019	\$17.19	\$18.57
3/14/2019	\$18.64	\$19.60	4/30/2019	\$16.29	\$18.53
3/15/2019	\$18.29	\$19.55	5/1/2019	\$16.00	\$18.49
3/18/2019	\$18.22	\$19.50	5/2/2019	\$15.79	\$18.44
3/19/2019	\$18.35	\$19.45	5/3/2019	\$15.89	\$18.39
3/20/2019	\$17.90	\$19.39	5/6/2019	\$16.50	\$18.36
3/21/2019	\$18.44	\$19.36	5/7/2019	\$16.07	\$18.32
3/22/2019	\$17.59	\$19.30	5/8/2019	\$16.12	\$18.29
3/25/2019	\$17.76	\$19.25	5/9/2019	\$16.35	\$18.26
3/26/2019	\$18.16	\$19.21	5/10/2019	\$16.28	\$18.23
3/27/2019	\$18.35	\$19.19			

The date of a purchase, acquisition or sale is the “contract” or “trade” date, not the “settlement” date. For Class Members who held Vanda publicly traded common stock at the beginning of the Class Period or made multiple purchases, acquisitions or sales during the Class Period, the First-In, First-Out (“FIFO”) method will be applied to such holdings, purchases, acquisitions, and sales for purposes of calculating a claim. Under the FIFO method, sales of Vanda

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common stock during the Class Period will be matched, in chronological order, first against shares of common stock held at the beginning of the Class Period. The remaining sales of common stock during the Class Period will then be matched, in chronological order, against common stock purchased or acquired during the Class Period.

A claimant's "Recognized Claim" under the Plan of Allocation will be the sum of his, her, or its Recognized Loss Amounts. The Net Settlement Fund will be distributed to Authorized Claimants on a *pro rata* basis based on the relative size of their Recognized Claims. Specifically, a "Distribution Amount" will be calculated for each Authorized Claimant, which will be the Authorized Claimant's Recognized Claim divided by the total Recognized Claims of all Authorized Claimants, multiplied by the total amount in the Net Settlement Fund. If any Authorized Claimant's Distribution Amount calculates to less than \$10.00, it will not be included in the calculation and no distribution will be made to that Authorized Claimant.

A Class Member will be eligible to receive a distribution from the Net Settlement Fund only if a Class Member had a net overall loss, after all profits from transactions in all Vanda common stock described above during the Class Period are subtracted from all losses. However, the proceeds from sales of common stock that have been matched against the common stock held at the beginning of the Class Period will not be used in the calculation of such net loss.

If there is any balance remaining in the Net Settlement Fund after a reasonable period of time after the date of the initial distribution of the Net Settlement Fund, Lead Counsel shall, if feasible, reallocate (which reallocation may occur on multiple occasions) such balance among Authorized Claimants in an equitable and economic fashion. Thereafter, any *de minimis* balance that still remains in the Net Settlement Fund will be donated to the Humane Society.

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Each claimant shall be deemed to have submitted to the jurisdiction of the Court with respect to his, her or its Proof of Claim. The Court has reserved jurisdiction to hear an appeal by any Class Member of the Claims Administrator's determination regarding a Class Member's claim and to allow, disallow, or adjust the claim of any Class Member on equitable grounds.

Payment pursuant to the Plan of Allocation set forth above shall be conclusive against all Authorized Claimants. Defendants, their respective counsel, and all other Related Parties will have no responsibility or liability whatsoever for the investment of the Settlement Fund, the distribution of the Net Settlement Fund, the Plan of Allocation or the payment of any claim. No Person shall have any claim against the Lead Plaintiff, Lead Counsel, any claims administrator, or other agent designated by Lead Counsel, or Defendants or Defendants' Counsel based on distributions made substantially in accordance with the Stipulation and the Settlement contained therein, the Plan of Allocation, or further orders of the Court.

SPECIAL NOTICE TO SECURITIES BROKERS AND OTHER NOMINEES

25. What if I bought Vanda common stock on someone else's behalf?
--

If you purchased or otherwise acquired Vanda common stock during the Class Period for the beneficial interest of a person or organization other than yourself, the Court has directed that, WITHIN TEN (10) BUSINESS DAYS OF YOUR RECEIPT OF THIS NOTICE, you either: (a) provide to the Claims Administrator the name and last known address of each person or organization for whom or which you purchased or otherwise acquired common stock during the Class Period (preferably in an MS Excel, .CSV, or .TXT format), setting forth (i) title/registration, (ii) street address, and (iii) city/state/zip; (b) provide computer-generated mailing labels; or (c) request additional copies of this Notice and the Proof of Claim form, which will be provided

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to you free of charge, and within ten (10) business days of receipt of such copies send them by First-Class Mail, postage prepaid, directly to the beneficial owners of those shares of Vanda common stock.

If you choose to follow alternative procedure (c), the Court has directed that, upon such mailing, you shall send a statement to the Claims Administrator confirming that the mailing was made as directed. You are entitled to reimbursement from the Settlement Fund of your reasonable expenses actually incurred in connection with the foregoing, including reimbursement of postage expenses and the cost of ascertaining the names and addresses of beneficial owners. Those expenses will be paid after request and submission of appropriate supporting documentation. All communications concerning the foregoing should be addressed to the Claims Administrator:

Vanda Securities Litigation
Claims Administrator
Attention: **[Insert]**
[Insert name and address]
Phone within the U.S. and Canada: XXX-XXX-XXXX;
Phone outside the U.S. and Canada: 1-XXX-XXX-XXXX
Fax: 1-XXX-XXX-XXXX
[insert email address]
www.vandasecuritieslitigation.com

PLEASE DO NOT CONTACT THE COURT FOR INFORMATION OR QUESTIONS ABOUT THE TERMS OF THE SETTLEMENT. INSTEAD, PLEASE DIRECT ALL QUESTIONS TO LEAD COUNSEL AND/OR THE CLAIMS ADMINISTRATOR, AS DIRECTED IN QUESTION 24 ABOVE.

DATED: _____, 2022

BY ORDER OF THE COURT
UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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EXHIBIT A-2

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

KENNETH GORDON, Individually and on Behalf of All Others Similarly Situated,	:	Civil Action No. 1:19-cv-01108-FB-LB
	:	
Plaintiff,	:	<u>CLASS ACTION</u>
	:	
vs.	:	PROOF OF CLAIM AND RELEASE
	:	
VANDA PHARMACEUTICALS, INC., and	:	EXHIBIT A-2
MIHAEL H. POLYMEROPOULOS,	:	
	:	
Defendants.	:	
	:	

I. GENERAL INSTRUCTIONS

1. To recover as a Member of the Class based on your claims in the action entitled *Gordon v. Vanda Pharmaceuticals, Inc., et al.*, No. 1:19-cv-01108-FB-LB (E.D.N.Y.) (the “Action”), you must complete and, on page ___ hereof, sign this Proof of Claim and Release form (“Proof of Claim”). If you fail to submit a timely and properly addressed (as set forth in paragraph 3 below) Proof of Claim, your claim may be rejected and you may not receive any recovery from the Net Settlement Fund created in connection with the proposed Settlement.

2. Submission of this Proof of Claim, however, does not assure that you will share in the proceeds of the Settlement of the Action.

3. YOU MUST MAIL OR SUBMIT ONLINE YOUR COMPLETED AND SIGNED PROOF OF CLAIM, ACCOMPANIED BY COPIES OF THE DOCUMENTS REQUESTED HEREIN, NO LATER THAN _____, 2022, ADDRESSED AS FOLLOWS:

Vanda Securities Litigation
Claims Administrator
c/o [INSERT]
[ADDRESS]
www.vandasecuritieslitigation.com

If you are NOT a Member of the Class (as defined in the Notice of Pendency and Proposed Settlement of Class Action (“Notice”)) DO NOT submit a Proof of Claim.

4. If you are a Member of the Class and you do not timely request exclusion in response to the Notice, you are bound by the terms of the Settlement and any judgment entered in the Action, including the releases provided therein, WHETHER OR NOT YOU SUBMIT A PROOF OF CLAIM.

II. CLAIMANT IDENTIFICATION

If you purchased or acquired Vanda Pharmaceuticals, Inc. (“Vanda”) common stock and held the certificate(s) in your name, you are the beneficial purchaser or acquirer as well as the record purchaser or acquirer. If, however, you purchased or acquired Vanda common stock and the certificate(s) were registered in the name of a third party, such as a nominee or brokerage firm, you are the beneficial purchaser or acquirer and the third party is the record purchaser or acquirer.

Use Part I of this form entitled “Claimant Identification” to identify each beneficial purchaser or acquirer of Vanda common stock that forms the basis of this claim, as well as the purchaser or acquirer of record if different. THIS CLAIM MUST BE FILED BY THE ACTUAL BENEFICIAL PURCHASER(S) OR ACQUIRER(S) OR THE LEGAL REPRESENTATIVE OF SUCH PURCHASER(S) OR ACQUIRER(S) OF THE VANDA COMMON STOCK UPON WHICH THIS CLAIM IS BASED.

All joint purchasers or acquirers must sign this claim. Executors, administrators, guardians, conservators, and trustees must complete and sign this claim on behalf of persons represented by them and their authority must accompany this claim and their titles or capacities must be stated. The Social Security (or taxpayer identification) number and telephone number of the beneficial owner may be used in verifying the claim. Failure to provide the foregoing information could delay verification of your claim or result in rejection of the claim.

III. CLAIM FORM

Use Part II of this form entitled “Schedule of Transactions in Vanda Common Stock” to supply all required details of your transaction(s) in Vanda common stock. If you need more space or additional schedules, attach separate sheets giving all of the required information in substantially the same form. Sign and print or type your name on each additional sheet.

On the schedules, provide all of the requested information with respect to *all* of your purchases or acquisitions and *all* of your sales of Vanda common stock which took place during the period from November 4, 2015 through and including May 10, 2019, whether such transactions resulted in a profit or a loss. You must also provide all of the requested information with respect to *all* of the Vanda common stock you held at the close of trading on November 3, 2015 and May 10, 2019. Failure to report all such transactions may result in the rejection of your claim.

List each transaction separately and in chronological order, by trade date, beginning with the earliest. You must accurately provide the month, day, and year of each transaction you list.

The date of covering a “short sale” is deemed to be the date of purchase of Vanda common stock. The date of a “short sale” is deemed to be the date of sale of Vanda common stock.

Copies of broker confirmations or other documentation of your transactions in Vanda common stock should be attached to your claim. Failure to provide this documentation could delay verification of your claim or result in rejection of your claim.

NOTICE REGARDING ELECTRONIC FILES: Certain claimants with large numbers of transactions may request, or may be requested, to submit information regarding their transactions in electronic files. All claimants **MUST** submit a manually signed paper Proof of Claim whether or not they also submit electronic copies. If you wish to file your claim electronically, you must contact the Claims Administrator at 1-XXX-XXX-XXXX to obtain the required file layout. No electronic files will be considered to have been properly submitted unless the Claims Administrator issues to the claimant a written acknowledgment of receipt and acceptance of electronically submitted data.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

Gordon v. Vanda Pharmaceuticals, Inc., et al.

No. 1:19-cv-01108-FB-LB

PROOF OF CLAIM AND RELEASE

Must Be Postmarked (if Mailed) or Received (if Filed Electronically) No Later Than:

_____, 2022

Please Type or Print

PART I: CLAIMANT IDENTIFICATION

Beneficial Owner's Name (First, Middle, Last)

Street Address

City

State or Province

Zip Code or Postal Code

Country

Social Security Number or
Taxpayer Identification Number

Individual
Corporation/Other

Area Code

Telephone Number (work)

Area Code

Telephone Number (home)

Record Owner's Name (if different from beneficial owner listed above)

PART II: SCHEDULE OF TRANSACTIONS IN VANDA COMMON STOCK

- A. Number of shares of Vanda common stock held at the close of trading on November 3, 2015: _____
- B. Purchases or acquisitions of Vanda common stock (November 4, 2015-May 10, 2019, inclusive):

Account #	Trade Date Month Day Year	Number of Shares Purchased or Acquired	Purchase or Acquisition Price per Share	Total Purchase or Acquisition Price
1. _____	1. _____	1. _____	1. _____	1. _____
2. _____	2. _____	2. _____	2. _____	2. _____
3. _____	3. _____	3. _____	3. _____	3. _____

- C. Sales of Vanda common stock (November 4, 2015-May 10, 2019, inclusive):

Account #	Trade Date Month Day Year	Number of Shares Sold	Sale Price per Share	Total Sales Price
1. _____	1. _____	1. _____	1. _____	1. _____
2. _____	2. _____	2. _____	2. _____	2. _____
3. _____	3. _____	3. _____	3. _____	3. _____

- D. Number of shares of Vanda common stock held at the close of trading on May 10, 2019: _____

If you require additional space, attach extra schedules in the same format as above. Sign and print your name on each additional page.

YOU MUST READ AND SIGN THE RELEASE ON PAGE __. FAILURE TO SIGN THE RELEASE MAY RESULT IN A DELAY IN PROCESSING OR THE REJECTION OF YOUR CLAIM.

IV. SUBMISSION TO JURISDICTION OF COURT AND ACKNOWLEDGMENTS

I (We) submit this Proof of Claim under the terms of the Stipulation and Agreement of Settlement described in the Notice. I (We) also submit to the jurisdiction of the United States District

Court for the Eastern District of New York, with respect to my (our) claim as a Class Member and for purposes of enforcing the release set forth herein. I (We) further acknowledge that I am (we are) bound by and subject to the terms of any judgment that may be entered in the Action. I (We) agree to furnish additional information to the Claims Administrator to support this claim (including transactions in other Vanda securities) if requested to do so. I (We) have not submitted any other claim covering the same purchases, acquisitions or sales of Vanda common stock during the Class Period and know of no other person having done so on my (our) behalf.

V. RELEASE

1. I (We) hereby acknowledge full and complete satisfaction of, and do hereby fully, finally, and forever settle, release, and discharge from the Released Claims each and all of the “Released Persons,” defined as each and all of the Defendants and their Related Parties. “Related Parties” means each of a Defendant’s respective present and former parents, subsidiaries, divisions, controlling persons, associates, entities and affiliates and the respective present and former employees, members, partners, principals, officers, directors, controlling shareholders, agents, attorneys, advisors, accountants, auditors, consultants, and insurers of each of them; and the predecessors, successors, estates, heirs, executors, trusts, trustees, administrators, agents, representatives and assigns of each of them, in their capacity as such.

2. “Released Claims” means any and all claims, demands, rights, causes of action or liabilities of every nature and description whatsoever (including Unknown Plaintiffs’ Claims as set forth below), that could have been asserted in any forum, whether foreign or domestic, whether based on or arising under federal, state, local, or foreign statutory or common law, rule or regulation, whether fixed or contingent, foreseen or unforeseen, matured or unmatured, accrued or unaccrued, liquidated or unliquidated, whether direct, representative, class or individual in nature, based on,

arising from or relating to: (i) the purchase or acquisition of the common stock of Vanda during the Class Period; and (ii) any of the allegations, acts, transactions, facts, events, matters, occurrences, representations or omissions involved, set forth, alleged or referred to, in this Action, or which could have been alleged in this Action. Released Claims does not include claims to enforce the Settlement.

3. “Unknown Plaintiffs’ Claims” means any Released Claims which Lead Plaintiff, Class Members, or Releasing Plaintiff Parties do not know or suspect to exist in his, her or its favor at the time of the release of the Released Persons which, if known by him, her or it, might have affected his, her or its settlement with and release of the Released Persons, or might have affected his, her or its decision with respect to this Settlement, including, without limitation, any decision not to object to this Settlement or seek exclusion from the Class. With respect to any and all Released Claims, the Settling Parties stipulate and agree that, upon the Effective Date, Lead Plaintiff shall expressly waive and each of the Class Members and Releasing Plaintiff Parties shall be deemed to have, and by operation of the Judgment shall have, expressly waived the provisions, rights, and benefits of California Civil Code §1542, which provides:

A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if known by him or her, would have materially affected his or her settlement with the debtor or released party.

The Lead Plaintiff shall expressly waive and each of the Class Members and Releasing Plaintiff Parties shall be deemed to have, and by operation of the Judgment shall have, expressly waived any and all provisions, rights, and benefits conferred by any law of any state or territory of the United States, or principle of common law, which is similar, comparable or equivalent to California Civil Code §1542. Lead Plaintiff, Class Members, and Releasing Plaintiff Parties may hereafter discover facts in addition to or different from those which he, she or it now knows or believes to be true with respect to the subject matter of the Released Claims, but Lead Plaintiff

shall expressly settle and release and each Class Member and Releasing Plaintiff Party, upon the Effective Date, shall be deemed to have, and by operation of the Judgment shall have, fully, finally, and forever settled and released any and all Released Claims, known or unknown, suspected or unsuspected, contingent or non-contingent, whether or not concealed or hidden, which now exist, or heretofore have existed, upon any theory of law or equity now existing or coming into existence in the future, including, but not limited to, conduct which is negligent, intentional, with or without malice, or a breach of any duty, law or rule, without regard to the subsequent discovery or existence of such different or additional facts. Lead Plaintiff acknowledges, and the Class Members and Releasing Plaintiff Parties shall be deemed by operation of the Judgment to have acknowledged, that the foregoing waiver was separately bargained for and an essential element of the Settlement of which this release is a part.

4. This release shall be of no force or effect unless and until the Court approves the Stipulation and Agreement of Settlement and the Settlement becomes effective on the Effective Date (as defined in the Stipulation and Agreement of Settlement).

5. I (We) hereby warrant and represent that I (we) have not assigned or transferred or purported to assign or transfer, voluntarily or involuntarily, any matter released pursuant to this release or any other part or portion thereof.

6. I (We) hereby warrant and represent that I (we) have included the information requested about all of my (our) transactions in Vanda common stock which are the subject of this claim, which occurred during the Class Period as well as the opening and closing positions in such securities held by me (us) on the dates requested in this Proof of Claim.

7. I (We) certify that I am (we are) not subject to backup withholding under the provisions of Section 3406(a)(1)(C) of the Internal Revenue Code. (Note: If you have been

notified by the Internal Revenue Service that you are subject to backup withholding, please strike out the prior sentence.)

I declare under penalty of perjury under the laws of the United States of America that all of the foregoing information supplied on this Proof of Claim by the undersigned is true and correct.

Executed this _____ day of _____
(Month/Year)

in _____
(City) (State/Country)

(Sign your name here)

(Type or print your name here)

(Capacity of person(s) signing,
e.g., Beneficial Purchaser or Acquirer, Executor
or Administrator)

**ACCURATE CLAIMS PROCESSING TAKES A SIGNIFICANT AMOUNT OF TIME.
THANK YOU FOR YOUR PATIENCE.**

Reminder Checklist:

- | | |
|---|--|
| <ol style="list-style-type: none"> 1. Please sign the above release and declaration. 2. If this claim is being made on behalf of Joint Claimants, then both must sign. 3. Remember to attach copies of supporting documentation, if available. 4. Do not send originals of certificates. 5. Keep a copy of your Proof of Claim and all supporting documentation for your records. | <ol style="list-style-type: none"> 6. If you desire an acknowledgment of receipt of your Proof of Claim, please send it Certified Mail, Return Receipt Requested. 7. If you move, please send your new address to:

<i>Vanda Securities Litigation</i>
Claims Administrator
c/o [INSERT]
[ADDRESS] 8. Do not use red pen or highlighter on the Proof of Claim or supporting documentation. |
|---|--|

**THIS PROOF OF CLAIM MUST BE SUBMITTED ONLINE OR, IF MAILED,
POSTMARKED NO LATER THAN _____, 2022 ADDRESSED AS FOLLOWS:**

Vanda Securities Litigation
Claims Administrator
c/o [INSERT]
[ADDRESS]
www.vandasecuritieslitigation.com

EXHIBIT A-3

TO: ALL PERSONS AND ENTITIES WHO PURCHASED OR ACQUIRED THE COMMON STOCK OF VANDA PHARMACEUTICALS, INC. (“VANDA”) DURING THE PERIOD FROM NOVEMBER 4, 2015 TO FEBRUARY 11, 2019, INCLUSIVE

THIS NOTICE WAS AUTHORIZED BY THE COURT. IT IS NOT A LAWYER SOLICITATION. PLEASE READ THIS NOTICE CAREFULLY AND IN ITS ENTIRETY.

YOU ARE HEREBY NOTIFIED, pursuant to an Order of the United States District Court for the Eastern District of New York, that a hearing will be held on _____, 2022, at _____, before the Honorable Lois Bloom, United States Magistrate Judge, at the United States District Court for the Eastern District of New York, United States Courthouse, 225 Cadman Plaza East, Brooklyn, NY 11201, for the purpose of determining: (1) whether the proposed Settlement of the above-captioned Action, as set forth in the settlement agreement reached between the parties, consisting of Eleven Million Five Hundred Thousand Dollars (\$11,500,000.00) in cash, should be approved as fair, reasonable, and adequate to the Members of the Class; (2) whether the release by Class Members of claims as set forth in the settlement agreement should be authorized; (3) whether the proposed plan to distribute the settlement proceeds (the “Plan of Allocation”) is fair, reasonable, and adequate; (4) whether the application by Lead Plaintiff’s counsel for an award of attorneys’ fees and expenses and award to Lead Plaintiff should be approved; and (5) whether the Judgment, in the form attached to the settlement agreement, should be entered.

Please note that the date, time and location of the settlement hearing are subject to change without further notice. If you plan to attend the hearing, you should check the docket or contact Lead Counsel (identified below) to be sure that no change to the date, time or location of the hearing has been made.

IF YOU PURCHASED OR ACQUIRED ANY OF THE COMMON STOCK OF VANDA DURING THE PERIOD FROM NOVEMBER 4, 2015 THROUGH FEBRUARY 11, 2019,

INCLUSIVE, YOUR RIGHTS WILL BE AFFECTED BY THE SETTLEMENT OF THIS LITIGATION.

If you have not received a detailed Notice of Pendency and Proposed Settlement of Class Action (“Notice”) and a copy of the Proof of Claim and Release form (“Proof of Claim”), you may obtain copies by writing to *Vanda Securities Litigation*, Claims Administrator, c/o _____, [ADDRESS], or on the internet at www.vandasecuritieslitigation.com.

If you are a Class Member, in order to share in the distribution of the Net Settlement Fund, you must submit a Proof of Claim by mail (*postmarked no later than* _____, 2022) or submitted electronically *no later than* _____, 2022, establishing that you are entitled to recovery. Unless the deadline is extended, your failure to submit your Proof of Claim by the above deadlines will preclude you from receiving any payment from the Settlement.

If you are a Class Member and you desire to be excluded from the Class, you must submit a request for exclusion such that it is *received no later than* _____, 2022, in the manner and form explained in the detailed Notice, referred to above. All Members of the Class who do not timely and validly request exclusion from the Class will be bound by the Settlement and any judgment and release entered in the Action pursuant to the Stipulation and Agreement of Settlement, whether or not you submit a Proof of Claim.

If you are a Class Member, you have the right to object to the Settlement, the Plan of Allocation, and/or the request by Lead Counsel for an award of attorneys’ fees and expenses. Any objection to the Settlement, the Plan of Allocation, or the fee and expense application must be made in the manner and form explained in the Notice and must be mailed to each of the following recipients, so that it is *received no later than* _____, 2022:

CLERK OF THE COURT
UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
UNITED STATES COURTHOUSE
225 Cadman Plaza East
Brooklyn, NY 11201

Lead Counsel:

ROBBINS GELLER RUDMAN
& DOWD LLP
MICHAEL G. CAPECI
58 South Service Road, Suite 200
Melville, NY 11747

Counsel for Defendants:

PAUL, WEISS, RIFKIND, WHARTON
& GARRISON LLP
AUDRA J. SOLOWAY
1285 Avenue of the Americas
New York, NY 10019

**PLEASE DO NOT CONTACT THE COURT, THE CLERK'S OFFICE OR
DEFENDANTS REGARDING THIS NOTICE.** If you have any questions about the
Settlement, you may contact Lead Counsel at the address listed above.

DATED: _____

BY ORDER OF THE COURT
UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

EXHIBIT B

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

_____	X	
KENNETH GORDON, Individually and on	:	Civil Action No. 1:19-cv-01108-FB-LB
Behalf of All Others Similarly Situated,	:	
	:	<u>CLASS ACTION</u>
Plaintiff,	:	
	:	[PROPOSED] FINAL JUDGMENT AND
vs.	:	ORDER OF DISMISSAL WITH PREJUDICE
	:	
VANDA PHARMACEUTICALS, INC., and	:	EXHIBIT B
MIHAEL H. POLYMERPOULOS,	:	
	:	
Defendants.	:	
_____	X	

WHEREAS, this matter came before the Court pursuant to the Order Preliminarily Approving Settlement and Providing for Notice (“Order”) dated _____, 2022, on the application of Lead Plaintiff for approval of the Settlement set forth in the Stipulation and Agreement of Settlement dated as of May 5, 2022 (the “Stipulation”). Due and adequate notice having been given to the Class as required in the Order, and the Court having considered all papers filed and proceedings had herein, and otherwise being fully informed in the premises and good cause appearing therefore, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that:

1. This Final Judgment and Order of Dismissal with Prejudice (“Judgment”) incorporates by reference: (a) the Stipulation; and (b) the Notice, Summary Notice, and Declaration of the Claims Administrator filed with this Court on _____. All terms used herein shall have the same meanings as set forth in the Stipulation, unless otherwise set forth herein.

2. This Court has jurisdiction over the subject matter of the Action and over all parties to the Action, including all Members of the Class.

3. Pursuant to Rule 23 of the Federal Rules of Civil Procedure, this Court hereby affirms its determinations in the Order and finally certifies for purposes of settlement only a Class defined as all persons and entities who purchased or otherwise acquired Vanda common stock between November 4, 2015 and February 11, 2019, inclusive, and who were allegedly damaged thereby. Excluded from the Class are: Defendants, the officers and directors of Vanda at all relevant times, members of their immediate families, any entity in which any Defendant has or had a controlling interest, and the legal representatives, heirs, successors-in-interest or assigns of any such excluded party. Also excluded from the Class are those Persons who timely and validly requested exclusion from the Class and are listed on Exhibit 1 hereto as having submitted an exclusion request allowed by the Court.

4. This Court hereby affirms its determinations in the Order and finds, for the purposes of the Settlement only, that the prerequisites for a class action under Rules 23(a) and (b)(3) of the Federal Rules of Civil Procedure have been satisfied in that: (a) the number of Class Members is so numerous that joinder of all members is impracticable; (b) there are questions of law and fact common to the Class; (c) the claims of the Lead Plaintiff are typical of the claims of the Class it seeks to represent; (d) Lead Plaintiff and Lead Counsel have and will fairly and adequately represent the interests of the Class; (e) the questions of law and fact common to the Members of the Class predominate over any questions affecting only individual Class Members; and (f) a class action is superior to other available methods for the fair and efficient adjudication of the controversy.

5. Pursuant to Rule 23 of the Federal Rules of Civil Procedure, and for purposes of settlement only, the Court hereby affirms its determinations in the Order and finally appoints Lead Plaintiff Teamsters Local Union No. 727 Pension Fund as Class Representative for the Class and Robbins Geller Rudman & Dowd LLP as Class Counsel for the Class.

6. The Notice of Pendency and Proposed Settlement of Class Action (“Notice”) was provided to all Members of the Class who could be identified through reasonable effort. The Notice provided the best form and method of notifying the Class of the pendency of the Litigation and the terms and conditions of the proposed Settlement, and said notice fully satisfied the requirements of the Federal Rules of Civil Procedure (including Rules 23(c)-(e)), the United States Constitution (including the Due Process Clause), Section 21D(a)(7) of the Securities Exchange Act of 1934, 15 U.S.C. §78u-4(a)(7), as added by the Private Securities Litigation Reform Act of 1995, the Rules of this Court, and other applicable law.

7. [There have been __ objections to the Settlement, each of which was addressed by the Court at the Settlement Hearing.]

8. Pursuant to Rule 23 of the Federal Rules of Civil Procedure, the Court hereby affirms its determinations in the Order, fully and finally approves the Settlement set forth in the Stipulation in all respects and finds that:

(a) the Stipulation and the Settlement contained therein, are, in all respects, fair, reasonable, and adequate and in the best interest of the Class;

(b) there was no collusion in connection with the Stipulation;

(c) the Stipulation was the product of informed, arm's-length negotiations among competent, able counsel;

(d) the record is sufficiently developed and complete to have enabled the Lead Plaintiff and Defendants to have adequately evaluated and considered their positions; and

(e) the Plan of Allocation treats Class Members equitably relative to each other.

9. Accordingly, the Court authorizes and directs implementation and performance of all the terms and provisions of the Stipulation, as well as the terms and provisions hereof. Except as to any individual claim of those Persons (identified in Exhibit 1 attached hereto) who have validly and timely requested exclusion from the Class, the Court hereby dismisses the Action and all Released Claims of the Class with prejudice. The Settling Parties are to bear their own costs, except as and to the extent provided in the Stipulation and herein.

10. The Releases set forth in Section 4 of the Stipulation, together with the definitions contained in the Stipulation relating thereto, are expressly incorporated herein by reference. Accordingly, this Court orders that:

(a) Upon the Effective Date, and as provided in the Stipulation, Lead Plaintiff shall, and each of the Class Members and Releasing Plaintiff Parties shall be deemed to have, and by operation of this Judgment shall have, fully, finally, and forever released, relinquished, and discharged any and all Released Claims (including Unknown Plaintiffs' Claims) against the Released Persons, whether or not such Class Member executes and delivers the Proof of Claim and Release form or shares in the Settlement Fund. Claims to enforce the terms of the Stipulation are not released.

(b) Lead Plaintiff and all Class Members and Releasing Plaintiff Parties, and anyone claiming through or on behalf of any of them, are hereby forever barred and enjoined from commencing, instituting, prosecuting or continuing to prosecute any action or other proceeding in any court of law or equity, arbitration tribunal, or administrative forum, asserting any of the Released Claims against any of the Released Persons.

(c) Upon the Effective Date, and as provided in the Stipulation, each of the Released Persons shall be deemed to have, and by operation of this Judgment shall have, fully, finally, and forever released, relinquished, and discharged Lead Plaintiff, each and all of the Class Members, and Lead Plaintiff's counsel from all claims and causes of action of every nature and description (including Unknown Defendants' Claims) whether arising under federal, state, common or foreign law, that arise out of or relate in any way to the institution, prosecution, or settlement of the claims against Defendants, except for claims relating to the enforcement of the Settlement.

11. Any Plan of Allocation submitted by Lead Counsel or any order entered regarding any attorneys' fee and expense application or Lead Plaintiff expense application shall in no way disturb or affect this Judgment and shall be considered separate from this Judgment.

12. Neither the Stipulation nor the Settlement contained therein, nor any act performed or document executed pursuant to or in furtherance of the Stipulation or the Settlement: (a) is or may be deemed to be or may be used as an admission of, or evidence of, the validity of any Released Claim, or of any wrongdoing or liability of the Defendants or their respective Related Parties, or (b) is or may be deemed to be or may be used as an admission of, or evidence of, any fault or omission of any of the Defendants or their respective Related Parties in any civil, criminal, or administrative proceeding in any court, administrative agency, or other tribunal. The Defendants and/or their respective Related Parties may file the Stipulation and/or this Judgment from this Action in any other action that may be brought against them in order to support a defense or counterclaim based on principles of *res judicata*, collateral estoppel, release, good faith settlement, judgment bar or reduction, or any theory of claim preclusion or issue preclusion or similar defense or counterclaim.

13. The Court finds that Defendants have satisfied their financial obligations under the Stipulation by paying or causing to be paid \$11,500,000.00 to the Settlement Fund, in accordance with ¶2.2 of the Stipulation.

14. Without affecting the finality of this Judgment in any way, this Court hereby retains continuing jurisdiction over: (a) implementation of this Settlement and any award or distribution of the Settlement Fund, including interest earned thereon; (b) disposition of the Settlement Fund; (c) hearing and determining applications for attorneys' fees, expenses, and interest in the Action; (d) all parties herein for the purpose of construing, enforcing, and administering the Stipulation; (e) the Class Members for all matters relating to the Action; and (f) other matters related or ancillary to the foregoing. The administration of the Settlement, and the decision of all disputed questions of law and fact with respect to the validity of any claim or right of any Person to

participate in the distribution of the Net Settlement Fund, shall remain under the authority of this Court.

15. The Court finds that during the course of the Action, the Settling Parties and their respective counsel at all times complied with the requirements of Federal Rule of Civil Procedure 11.

16. Any appeal or any challenge affecting the approval of (a) the Plan of Allocation submitted by Lead Counsel and/or (b) this Court's approval regarding any attorneys' fee and expense applications, including any awards to Plaintiff, shall in no way disturb or affect the finality of the other provisions of this Order and Final Judgment nor the Effective Date of the Settlement.

17. In the event that the Settlement does not become effective in accordance with the terms of the Stipulation, or the Effective Date does not occur, then this Judgment shall be rendered null and void to the extent provided by and in accordance with the Stipulation and shall be vacated and, in such event, all orders entered and releases delivered in connection herewith shall be null and void to the extent provided by and in accordance with the Stipulation and the Settlement Fund shall be returned in accordance with the Stipulation.

18. Without further order of the Court, the Settling Parties may agree to reasonable extensions of time to carry out any of the provisions of the Stipulation.

19. There is no just reason for delay in the entry of this Order and Final Judgment, and the Court directs immediate entry of this Judgment by the Clerk of the Court.

IT IS SO ORDERED.

DATED: _____

THE HONORABLE LOIS BLOOM
UNITED STATES MAGISTRATE JUDGE