UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

FORM 10-K

☒ **ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**

For the fiscal year ended May 31, 2020

or

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

For the transition period from_____ to _____

Commission file number 000-49908

CYTODYN INC.
(Exact name of registrant as specified in its charter)

Delaware	**83-1887078**
(State or other jurisdiction of incorporation or organization)	**(I.R.S. Employer Identification No.)**
1111 Main Street, Suite 660 Vancouver, Washington	**98660**
(Address of principal executive offices)	**(Zip Code)**

Registrant's Telephone Number, including area code: (360) 980-8524

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

Title of each class	Trading Symbol(s)	Name of each exchange on which registered
None.	None.	None.

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

Title of class
Common Stock, par value $0.001 per share

Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act. Yes ☐ No ☒

Indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or Section 15(d) of the Act. Yes ☐ No ☒

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

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

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

Large accelerated filer	☐	Accelerated filer	☒
Non-accelerated filer	☐	Smaller reporting company	☒
		Emerging growth company	☐

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

Indicate by check mark whether the registrant has filed a report on and attestation to its management's assessment of the effectiveness of its internal control over financial reporting under Section 404(b) of the Sarbanes-Oxley Act (15 U.S.C. 7262(b)) by the registered public accounting firm that prepared or issued its audit report. Yes ☐ No ☒

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

State the aggregate market value of the voting and non-voting common equity held bynon-affiliates computed by reference to the price at which the common equity was last sold, or the average bid and ask price of such common equity, as of the last business day of the registrant's most recently completed second fiscal quarter: $106,487,002 as of November 30, 2019.

As of July 31, 2020, the registrant had 568,242,391 shares of common stock outstanding.

DOCUMENTS INCORPORATED BY REFERENCE

Document	Parts Into Which Incorporated
Portions of the Proxy Statement for the 2020 Annual Meeting of Stockholders	**Part III**

CYTODYN INC.

FORM 10-K FOR THE YEAR ENDED MAY 31, 2020

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FORWARD-LOOKING STATEMENTS

This annual report contains certain forward-looking statements that involve risks, uncertainties and assumptions that are difficult to predict, including our clinical priorities and our current and proposed trials. Words and expressions reflecting optimism, satisfaction or disappointment with current prospects, as well as words such as "believes," "hopes," "intends," "estimates," "expects," "projects," "plans," "anticipates" and variations thereof, or the use of future tense, identify forward-looking statements, but their absence does not mean that a statement is not forward-looking. Our forward-looking statements are not guarantees of performance and actual results could differ materially from those contained in or expressed by such statements. In evaluating all such statements, we urge you to specifically consider various risk factors identified in this annual report, including the matters set forth under the heading "Risk Factors," any of which could cause actual results to differ materially from those indicated by our forward-looking statements.

Our forward-looking statements reflect our current views with respect to future events and are based on currently available financial, economic, scientific, and competitive data and information on current business plans. Forward-looking statements specifically include statements about leronlimab, its ability to have positive health outcomes, the possible results of clinical trials, studies or other programs or ability to continue those programs, the ability to obtain regulatory approval for commercial sales, the market for actual commercial sales, and the impact of health epidemics, including the ongoing COVID-19 pandemic, on our business and operations. You should not place undue reliance on our forward-looking statements, which are subject to risks and uncertainties relating to, among other things: (i) the sufficiency of the Company's cash position, (ii) the Company's ability to raise additional capital to fund its operations, (iii) the Company's ability to meet its debt obligations, if any, (iv) the Company's ability to enter into partnership or licensing arrangements with third-parties, (v) the Company's ability to identify patients to enroll in its clinical trials in a timely fashion, (vi) the Company's ability to achieve approval of a marketable product, (vii) the design, implementation and conduct of the Company's clinical trials, (viii) the results of the Company's clinical trials, including the possibility of unfavorable clinical trial results, (ix) the market for, and marketability of, any product that is approved, (x) the existence or development of vaccines, drugs, or other treatments that are viewed by medical professionals or patients as superior to the Company's products, (xi) regulatory initiatives, compliance with governmental regulations and the regulatory approval process, (xii) litigation affecting the Company or its products; (xiii) general economic and business conditions, (ix) changes in foreign, political, and social conditions, and (xv) various other matters, many of which are beyond the Company's control. Should one or more of these risks or uncertainties develop, or should underlying assumptions prove to be incorrect, actual results may vary materially and adversely from those anticipated, believed, estimated, or otherwise indicated by our forward-looking statements.

We intend that all forward-looking statements made in this annual report on Form10-K will be subject to the safe harbor protection of the federal securities laws pursuant to Section 27A of the Securities Act of 1933, as amended (the "Securities Act"), to the extent applicable. Except as required by law, we do not undertake any responsibility to update these forward-looking statements to take into account events or circumstances that occur after the date of this annual report. Additionally, we do not undertake any responsibility to update you on the occurrence of any unanticipated events that may cause actual results to differ from those expressed or implied by these forward-looking statements.

PART I

Item 1. Business.

Corporate History/Business Overview

CytoDyn Inc. was originally incorporated under the laws of Colorado on May 2, 2002 under the name RexRay Corporation (our previous name). Effective August 27, 2015, we completed a reincorporation from

Colorado to Delaware. Our principal business office is 1111 Main Street, Suite 660, Vancouver, Washington 98660. Our website can be found at www.cytodyn.com. We will make available on our website, free of charge, the proxy statements and reports on Forms 8-K, 10-K, and 10-Q that we file with the United States Securities and Exchange Commission ("SEC") as soon as reasonably practicable, after such material is electronically filed with or furnished to, the SEC. We do not intend to incorporate any contents from our website into this annual report. Unless the context otherwise requires, references in this annual report to "CytoDyn," the "Company," "we," "our," or "us" are to CytoDyn Inc. and its subsidiaries.

We are a late-stage biotechnology company focused on the clinical development and potential commercialization of leronlimab (PRO 140), a CCR5 antagonist to treat HIV infection, with the potential for multiple therapeutic indications. In November 2018, the United States Adopted Names Council adopted "leronlimab" as the official nonproprietary name for PRO 140. The names leronlimab and PRO 140 will be used interchangeably throughout this annual report. The Company has also received conditional acceptance by the U.S. Food and Drug Administration (the "FDA") of the proprietary name Vyrologix (pronounced—vie-ro-loj-iks) for leronlimab as a combination therapy for highly treatment experienced HIV patients in the United States. In addition, the Company has also received a notice of allowance from the U.S. Trademark Office for the trademark "Vyrologix".

The preclinical and clinical development of PRO 140 was led by Progenics Pharmaceuticals, Inc. ("Progenics") through 2011. The Company acquired the asset from Progenics in October 2012, as described in "PRO 140 Acquisition and Licensing Arrangements" below. In February 2018, we announced we had met the primary endpoint in its Phase 3 trial for leronlimab as a combination therapy with HAART for highly treatment experienced HIV patients, and filed the non-clinical portion of our Biologics License Application ("BLA) on March 18, 2019. We filed with the FDA the clinical, along with the Chemistry, Manufacturing, and Controls ("CMC") portions of the BLA April and May of 2020. In July 2020, we received a Refusal to File letter from the FDA regarding the BLA filing, and requested a Type A meeting to discuss the FDA's request for additional information.

Our current business strategy is to resubmit our BLA filing for leronlimab as a combination therapy for highly treatment experienced HIV patients as soon as possible, to seek approval for leronlimab as a potential therapeutic benefit for COVID-19 patients with mild-to-moderate, as well as, severe to critical indications, to advance our clinical trials with leronlimab for various forms of cancer, including, among others, our Phase 1b/2 clinical trial for metastatic triple-negative breast cancer and Phase 2 trial for 22 solid tumor cancers, to continue our Phase 2 trial for graft-versus-host disease ("GvHD"), to finalize with the FDA our submitted protocol for a pivotal Phase 3 clinical trial with leronlimab as a monotherapy for HIV patients and to concurrently explore other cancer and immunologic indications for leronlimab.

Overview

Leronlimab as a CCR5 Antagonist

We are focused on developing leronlimab, a monoclonal antibody C—C chemokine receptor type 5 ("CCR5") receptor antagonist, to be used as a platform drug for a variety of indications. The target of leronlimab is the immunologic receptor CCR5. The CCR5 receptor is a protein located on the surface of a variety of cells including white blood cells and cancer cells. On white blood cells, it serves as a receptor for chemical attractants called chemokines. The CCR5 receptor is also the co-receptor needed for certain strains of HIV to infect healthyT-cells. Recent research has identified the CCR5 receptor as an important target for many disease processes including cancer metastasis and certain immunological conditions. Leronlimab is a unique humanized monoclonal antibody. Leronlimab prevents certain strains of HIV from using the CCR5 receptor as an entry gateway for healthy cells. Pre-clinical research has also shown that leronlimab blocks calcium channel signaling of the CCR5 receptor when present on the cancer cell surface. Calcium channel signaling of the CCR5 receptor is a crucial component to the spread of metastatic cancer.

Leronlimab binds to the second extracellular loop and N-terminus of the CCR5 receptor, and due to its selectivity and target-specific mechanism of action, leronlimab does not appear to activate the immune function of the CCR5 receptor through agonist activity. This apparent target specificity differentiates leronlimab from other CCR5 antagonists. Leronlimab is a competitive rather than allosteric inhibitor of the CCR5 receptor. Other potential advantages of leronlimab include longer half-life and less frequent dosing requirements.

The CCR5 receptor has been identified as a target in HIV, GvHD, NASH, cancer metastasis, transplantation medicine, multiple sclerosis, traumatic brain injury, stroke recovery, and a variety of inflammatory conditions, including potentially COVID-19. As we progress in evaluating leronlimab via a multi-pathways approach, we see an opportunity to build a broad pipeline of indications through label expansion following initial approval for multi-drug resistant HIV.

Leronlimab and Human Immunodeficiency Virus ("HIV")

We believe the leronlimab antibody shows promise as a powerful antiviral agent with the advantage of fewer side effects, lower toxicity and less frequent dosing requirements, as compared to daily drug therapies currently in use for the treatment of HIV. The leronlimab antibody belongs to a class of HIV therapies known as entry inhibitors that block HIV from entering into and infecting certain cells. Leronlimab blocks HIV from entering a cell by binding to a molecule called CCR5, a normal cell surface receptor protein to which certain strains of HIV, referred to as "R5" strains, attach as part of HIV's entry into a cell.

Leronlimab does not appear to affect the normal function of the CCR5 co-receptor for HIV. Instead, leronlimab binds to a precise site on CCR5 that R5 strains of HIV use to enter the cell and, in doing so, inhibits the ability of these strains of HIV to infect the cell without appearing to affect the cell's normal function. The R5 strains of HIV currently represent approximately 67% of all HIV infections in the United States. As a result, we believe leronlimab represents a distinct class of CCR5 inhibitors with advantageous virological and immunological properties and may provide a unique tool to treat HIV infected patients.

We believe leronlimab is uniquely positioned to address a growing HIV market, as an alternative, or in addition to current therapies, which are failing primarily due to patient non-compliance, which causes drug resistance. Several factors give rise to patientnon-compliance issues, such as toxicity and side effects, coupled with the need for a strict regimen of daily dosing. In eight clinical trials previously conducted, leronlimab was generally well tolerated, and limited drug-related serious adverse events ("SAEs"), or dose-proportional adverse events ("AEs"), were reported. In addition, there were no dose-limiting toxicities or patterns of drug-related toxicities observed during these trials. The results of these studies established that leronlimab's antiviral activity was potent, rapid, prolonged, dose-dependent, and statistically significant following a single dose. Because leronlimab's mechanism of action (for a monoclonal antibody use in HIV) is a relatively new therapeutic approach, it provides a very useful method of suppressing the virus in treatment-experienced patients who have failed a prior HIV regimen and need new treatment options. Leronlimab, as a single agent therapy, has also demonstrated that it could potentially replace highly active antiretroviral therapy ("HAART") altogether for a subpopulation of R5 patients who have suppressed viral load with HAART, but who are seeking an alternative treatment that affords the patient an improved quality of life, with the advantages of fewer side effects, lower toxicity and less frequent dosing requirements.

To date, leronlimab has been tested and administered to patients predominantly as a subcutaneous injection. We believe that if leronlimab is approved by the FDA for use as an injectable for HIV, it may be an attractive and marketable therapeutic option for patients, particularly in the following scenarios:

- Patients desiring a break from existing treatment regimens, whether due to side-effects or for any personal reasons;
- Patients with difficulty adhering to daily drug regimens;
- Patients who poorly tolerate existing therapies;

- Patients with compromised organ function, such as hepatitis C ("HCV") co-infection;
- Patients with complex concomitant medical requirements; and
- Patients who choose not to start their HAART regimen immediately after being infected with HIV.

Clinical trials for leronlimab have demonstrated potent antiretroviral activity (as compared to existing treatments) and no drug-related SAEs or dose-proportional AEs. Consequently, we believe that leronlimab has the potential to be the first long-acting (weekly or every other week), self-administered HIV therapy. Leronlimab appears to inhibit CCR5-tropic HIV while preserving CCR5's natural function. As a result, we believe leronlimab represents a distinct class of CCR5 inhibitors with unique virological and immunological properties and may provide another distinct tool to treat HIV-infected patients.

Our ongoing HIV-related clinical trials, as summarized below, have been designed to demonstrate the proof of concept that leronlimab monotherapy can continue to suppress the viral load in certain HIV-infected, treatment-experienced patients who had suppressed viral load on HAART, but would like an alternative treatment that provides a higher quality of life with one dose a week through a self-injection. Once the viral load is undetectable, weekly administration of leronlimab can help maintain the suppressed viral load in a subpopulation of R5 patients over an extended period of time (currently shown to be in excess of six years). Based on the preliminary results of such studies, we believe that a leronlimab treatment option could also address the unmet medical need for therapy options for certain HIV-infected patients with uncontrolled viral load, despite conventional HAART treatments. Accordingly, we recently submitted to the FDA a pivotal Phase 3 trial protocol for leronlimab as monotherapy.

Importantly and in parallel with the submission of our pivotal trial protocol for monotherapy, we recently announced the completion of the development of a receptor occupancy test to measure the expression of CCR5 in HIV and tumor cells that are occupied by leronlimab. Development of this test could more precisely guide us in identification of HIV patients at screening for monotherapy, thereby potentially improving therapeutic success, along with further identifying cancer-patient candidates who have a form of cancer that CCR5 is over expressed.

Leronlimab and Coronavirus Disease 2019

SARS-CoV-2 was identified as the cause of an outbreak of respiratory illness first detected in Wuhan, China. The origin of SARS-CoV-2 causing the COVID-19 disease is uncertain, and the virus is highly contagious. COVID-19 typically transmits person to person through respiratory droplets, commonly resulting from close personal contact. Coronaviruses are a large family of viruses, some causing illness in people and others that circulate among animals. For confirmed COVID-19 infections, symptoms have included fever, cough, and shortness of breath. The symptoms of COVID-19 may appear in as few as two days or as long as 14 days after exposure. Clinical manifestations in patients have ranged from non-existent to severe and fatal. At this time, there are minimal treatment options for COVID-19.

Based upon analyses of leronlimab's potential effect on the immune system and the results from over 60 Emergency Investigation New Drug (EIND) authorizations provided by the FDA, the Company initiated two clinical trials for COVID-19, a Phase 2 randomized clinical trial for mild-to-moderate COVID-19 population in the U.S. and a Phase 3 randomized clinical trial for severe to critically ill COVID-19 population in several hospitals throughout the country. Following the completion of the Phase 2 trial, the Company reported positive results for safety in July 2020. The Top-line Report from the trial, including efficacy and safety data, is expected to be submitted to the FDA in August 2020. Recently, the Data Safety Monitoring Committee for the ongoing Phase 3 trial completed its first safety review of patients with severe to critical COVID-19 and reported it saw no cause to modify the study. The DSMC reviewed compiled safety data from 149 of the 169 patients enrolled in the Phase 3 trial. The DSMC did not raise any concerns regarding safety and recommended that the trial continue. As such, the Company will conduct a full interim analysis once 195 patients are enrolled, as provided in the trial's protocol.

Leronlimab and Cancer

Research indicates that the CCR5 receptor is the "GPS" system of a cancer cell that promotes metastatic disease.Pre-clinical studies have shown that leronlimab blocks the calcium channel signaling of the CCR5 receptor and has the potential to disable the GPS system. CCR5 inhibition may disrupt signaling and ultimately the spread of CCR5+ Circulating Tumor Cells ("CTCs"). Current therapies are directed to the primary tumor, rather than the movement or spread of cancer in the bloodstream. Metastatic disease, not the primary tumor, is the cause of death in the vast majority of cancer patients.

Research has shown that a majority of sampled patients in certain studies had increased CCR5 expression in their breast cancer. Increased CCR5 expression is an indicator of disease status in several cancers. Research has shown three key properties of the CCR5's mechanism of action ("MOA") in cancer. The first is that the CCR5 receptor on cancer cells was responsible for the migration and invasion of cells into the bloodstream, which leads to metastasis of breast, prostate, and colon cancer. The second is that blocking the CCR5 receptor also turns on anti-tumor fighting properties restoring immune function. The third key finding was that blockage of the CCR5/CCL5 interaction had a synergistic effect with chemotherapeutic therapy and controlled cancer progression. Chemotherapy traditionally increased expression of CCR5 so blocking it is expected to reduce the levels of invasion and metastasis.

In late November 2018, we received FDA approval of our Investigational New Drug application ("IND") submission and subsequently initiated a Phase 1b/2 clinical trial for metastatic triple-negative breast cancer ("mTNBC") patients. We have reported that our pre-clinical research with leronlimab was able to reduce by more than 98% the incidence of human breast cancer metastasis in a mouse xenograft model for cancer through six weeks with leronlimab. The temporal equivalency of the murine 6 weeks study may be up to 6 years in humans. In May 2019, the FDA granted Fast Track Designation for leronlimab (PRO 140) for use in combination with carboplatin for the treatment of patients with CCR5-positive mTNBC. In addition, the Company has intiated a Phase 2 basket trial with leronlimab for the treatment of 22 solid tumor cancers.

Leronlimab and Immunological Applications

We are continuing to explore opportunities for clinical applications for leronlimab involving the CCR5 receptor, other thanHIV-related treatments, such as inflammatory conditions, autoimmune diseases and cancer.

The target of leronlimab is the immunologic receptor CCR5. We believe that the CCR5 receptor is more than the door for HIV to enterT-cells: it is also a crucial component in inflammatory responses. This could open the potential for multiple pipeline opportunities for leronlimab.

The CCR5 receptor is a protein located on the surface of white blood cells that serves as a receptor for chemical attractants called chemokines. Chemokines are the key orchestrators of leukocyte trafficking by attracting immune cells to the sites of inflammation. At the site of an inflammatory reaction, chemokines are released. These chemokines are specific for CCR5 and cause the migration of T-cells to these sites promoting further inflammation. The mechanism of action of PRO 140 has the potential to block the movement of T-cells to inflammatory sites, which could be instrumental in diminishing or eliminating inflammatory responses. Some disease processes that could benefit from CCR5 blockade include transplantation rejection, autoimmunity and chronic inflammation such as rheumatoid arthritis and psoriasis.

Due to leronlimab's MOA, we believe leronlimab may have significant advantages in terms of reduced side effects over other CCR5 antagonists. Prior studies have demonstrated that leronlimab does not cause direct activation of T-cells. We have reported encouraging human safety data for our clinical trials with leronlimab in HIV-infected patients.

We have initiated our first clinical trial with leronlimab in an immunological indication – a Phase 2 clinical trial with leronlimab for GvHD in reduced intensity conditioning ("RIC") patients with acute myeloid leukemia

("AML") or myelodysplastic syndrome ("MDS") who are undergoing bone marrow stem cell transplantation. GvHD represents an unmet medical need, with patients who contract GvHD during stem cell transplant having a significantly decreased 1-year survival rate with relapsed GvHD as the leading cause of death. Our pre-clinical study in GvHD has been published in the peer-reviewed journal *Biology of Blood and Marrow Transplantation.* The FDA has granted orphan drug designation to leronlimab for the prevention of acute GvHD.

GvHD is a risk when patients receive bone marrow stem cells donated from another person. GvHD is a serious complication that limits the use of Bone Marrow Stem Cell ("BMSC") transplantation in patients with blood cancers. GvHD occurs when the donor's immune cells attack the patient's normal tissues (skin, liver, gut). GvHD can be acute or chronic. Its severity depends on the differences in tissue type between patient and donor. Acute GvHD can occur soon after the transplanted cells begin to appear in the recipient and can range from mild to severe and can be life-threatening.

The CCR5 receptor, the target for leronlimab, appears to be an important mediator of GvHD, especially in the organ damage that is the usual cause of death. We believe that the CCR5 receptor on engrafted cells is critical for the development of acute GvHD and by blocking this receptor from recognizing certain immune signaling molecules could be a viable approach to mitigating acute GvHD. The potential of leronlimab to prevent this life-threatening condition could help extend the use of BMSC transplantation to effectively treat more patients.

We are also exploring the ability of leronlimab to prevent the progression ofNon-Alcoholic Fatty Liver Disease ("NAFLD") intoNon-Alcoholic Steatohepatitis ("NASH"). NAFLD is an inflammatory disease caused by the build-up of fat in hepatocytes (steatosis). In severe cases, NAFLD progresses into NASH. It is estimated that 30% to 40% of adults in the United States have NAFLD, while 3% to 12% of adults in the United States have NASH. If left untreated, NASH may progress to hepatocellular carcinoma and is expected to become the leading cause of liver transplantation by 2020.

We continue to expand the clinical focus with leronlimab to include the evaluation in certain cancer and immunological indications where CCR5 antagonism has shown initial promise.

Prostate Diagnostic Test—PCa Test

An asset undergoing continued evaluation and development that we acquired from ProstaGene, LLC ("ProstaGene") is the Prostate Diagnostic Test (the "PCa Test"). This test, developed by a leading oncologist, is intended to determine outcomes of patients diagnosed with prostate cancer compared to the Gleason score, the current standard test for prostate cancer diagnosis. It leverages technology using an artificial intelligence approach based on gene signatures. The PCa Test employs 16 gene biomarker signatures for prognostication and therapeutic substratification of prostate cancer using sophisticated proprietary artificial intelligence algorithms.

Prostate cancer is the most commonly diagnosed cancer in men, except for non-melanoma skin cancer. About one in nine men in the United States will be diagnosed with prostate cancer during their lifetimes. It is believed to be the second leading cause of cancer death among men in the United States. Worldwide, it is estimated that there are well over 1 million new cases of prostate cancer and 366,000 prostate cancer deaths annually.

The current standard of care for treating prostate cancer is based upon the Gleason score. Patients with prostate cancer with a low Gleason score are observed, while those with higher Gleason scores typically undergo radical prostatectomy. The PCa Test potentially provides a "second opinion" and therefore could provide valuable guidance to assist physicians and patients to make more educated and informed decision regarding appropriate treatments. Our plan for the PCa Test is to successfully advance its development to obtain a Section 510(k) clearance from the FDA for commercial use or to out-license the proprietary technology to a third party.

Current Clinical Trials

We will require a significant amount of additional capital to complete our clinical trial programs for leronlimab, which are designed to accelerate and maximize the leverage of our multi-pathway approach to identifying and evaluating multiple opportunities for clinical indications. See "Liquidity and Capital Resources" under the heading "Management's Discussion and Analysis of Financial Condition and Results of Operations" below.

To facilitate our clinical research plans and trials, we have previously engaged Amarex Clinical Research, LLC ("Amarex"), as our principal contract research organization ("CRO"), to provide comprehensive regulatory and clinical trial management services.

Leronlimab is currently being studied in the following clinical trials:

Phase 2 Trial to Evaluate the Efficacy and Safety of Leronlimab for Mild-to-Moderate Coronavirus Disease 2019(COVID-19). This is a two-arm, randomized, double blind, placebo controlled multicenter study to evaluate the safety and efficacy of leronlimab in patients with mild-to-moderate symptoms of respiratory illness caused by the coronavirus 2019 infection completed in July 2020. Patients were randomized to receive weekly doses of 700 mg leronlimab, or placebo. Leronlimab and placebo were administered via subcutaneous injection. The study has three phases: Screening Period, Treatment Period and Follow-Up Period. A total of 84 subjects were randomized 2:1 (active drug to placebo) in this study. The primary outcome measures are clinical improvement as assessed by change in total symptom score (for fever, myalgia, dyspnea and cough). Secondary outcome measures include: (1) time to clinical resolution, (2) change from baseline in National Early Warning Score 2 (NEWS2), (3) change from baseline in pulse oxygen saturation, (4) change from baseline in the patient's health status on a 7-category ordinal scale, (5) incidence of hospitalization, (6) duration (days) of hospitalization, (7) incidence of mechanical ventilation supply, (8) duration (days) of mechanical ventilation supply, (9) incidence of oxygen use, (10) duration (days) of oxygen use, (11) mortality rate, (12) time to return to normal activity. Enrollment was completed in July 2020 and the Company has recently reported positive safety results. The Top-line Report from the trial, including efficacy and safety data, is expected to be submitted to the FDA in August 2020.

Phase 3 Trial to Evaluate the Efficacy and Safety of Leronlimab for Patients With Severe or Critical Coronavirus Disease 2019(COVID-19). This is a two-arm, randomized, double blind, placebo controlled, adaptive design multicenter study to evaluate the safety and efficacy of leronlimab in patients with severe or critical symptoms of respiratory illness caused by coronavirus 2019 infection. Patients will be randomized to receive weekly doses of 700 mg leronlimab, or placebo. Leronlimab and placebo will be administered via subcutaneous injection. The study will have three phases: Screening Period, Treatment Period, and Follow-Up Period. The primary outcome measured in this study is:all-cause mortality at Day 28. Secondary outcomes measured are: (1) all-cause mortality at Day 14, (2) change in clinical status of subject at Day 14, (3) change in clinical status of subject at Day 28, and (4) change from baseline in Sequential Organ Failure Assessment (SOFA) score at Day 14. Recently, the Data Safety Monitoring Committee for the ongoing Phase 3 trial completed its first safety review of patients with severe and critical COVID-19 and reported it saw no cause to modify the study. The DSMC reviewed compiled safety data from 149 of the 169 patients enrolled in the Phase 3 trial. The DSMC did not raise any concerns regarding safety and recommended that the trial continue. As such, the Company will conduct a full interim analysis once 195 patients are enrolled, as provided in the trial's protocol.

Phase 2b Extension Study for HIV, as Monotherapy. Currently, there are four patients in this ongoing extension study and each has surpassed six years of suppressed viral load with PRO 140 as a single agent therapy. This extension study will be discontinued upon any FDA approval of leronlimab.

Rollover Study for HIV as Combination Therapy. This study is designed for patients who successfully completed the pivotal Phase 2b/3 Combination Therapy trial (which met its primary endpoint and serves as the

basis for our current BLA filing) and for whom the treating physicians request a continuation of leronlimab therapy in order to maintain suppressed viral load. This extension study will be discontinued upon any FDA approval of leronlimab.

Phase 2b/3 Investigative Trial for HIV, as Long-term Monotherapy Enrollment for this trial is now closed after reaching 500 patients. This trial assesses using leronlimab subcutaneously as a long-acting single-agent maintenance therapy for 48 weeks in patients with suppressed viral load with CCR5-tropic HIV-1 infection. The primary endpoint is the proportion of participants with a suppressed viral load to those who experienced virologic failure. The secondary endpoint is the length of time to virologic failure. We completed the evaluation two higher-dose arms, one with 525 mg dose (a 50% increase from the original dosage of 350 mg), as well as a 700 mg dose. We recently reported that interim data suggested that both the 525 mg and the 700 mg dosages are achieving a responder rate of approximately 90% after the initial 10 weeks. This trial has also been used to provide safety data for the BLA filing for leronlimab as a combination therapy. In view of the high responder rate at the increased dosage levels, coupled with the newly developed CCR5 occupancy test, we filed a pivotal trial protocol with the FDA for leronlimab as a monotherapy. Upon finalization with the FDA of the pivotal trial protocol for monotherapy, this Phase2b/3 investigative trial will likely be discontinued. In the interim, several patients are continuing in an extension study who have requested continued access to leronlimab.

Phase 1b/2 Trial for Triple-Negative Breast Cancer. This trial is to evaluate the feasibility of leronlimab combined with carboplatin in patients with CCR5+ metastatic triple negative breast cancer. The Phase 1b portion is a dose escalation phase with three dose levels (cohorts) of leronlimab in combination with a fixed dose of carboplatin. The Phase 2 portion is a single arm study with 30 patients to test the hypothesis that the combination of carboplatin intravenously and maximum tolerated dose of leronlimab subcutaneously will increase progression free survival. In May 2019, the FDA granted leronlimab Fast Track designation for use in combination with carboplatin. The change in circulating tumor cells (“CTCs”) number will be evaluated every 21 days during treatment and will be used as an initial prognostic marker for efficacy. The first patient was treated in September 2019.

Compassionate Use Study of Leronlimab in Breast Cancer. This is a single arm, compassionate use study with 30 patients for leronlimab (PRO 140) combined with a treatment of physician’s choice (TPC) in patients with CCR5+ mTNBC. Leronlimab (PRO 140) will be administered subcutaneously as weekly dose of 350 mg until disease progression or intolerable toxicity. Treatment of Physician’s Choice (TPC) is defined as one of the following single-agent chemotherapy drugs administrated according to local practice: eribulin, gemcitabine, capecitabine, paclitaxel, nab-paclitaxel, vinorelbine, ixabepilone, or carboplatin. In this study, patients will be evaluated for tumor response approximately every 3 months or according to institution’s standard practice by CT, PET/CT or MRI with contrast (per treating investigator’s discretion) using the same method as at baseline.

Basket Trial for 22 Solid Tumor Cancers This is a Phase 2 study to test the safety and efficacy of leronlimab on 22 different solid tumor cancers, including brain-glioblastoma, melanoma, lung, breast, ovarian, pancreas, bladder, throat, stomach, colon, testicular, uterine, among other indications. The first patient was treated in April 2020.

Phase 2 Trial for Graft-versus-Host Disease. This Phase 2 multi-center100-day study with 60 patients is designed to evaluate the feasibility of the use of leronlimab as an add-on therapy to standard GvHD prophylaxis treatment for prevention of acute GvHD in adult patients with AML or MDS undergoing allogeneic hematopoietic stem cell transplantation (“HST”). Enrollment of the first patient was announced in May of 2017. On October 5, 2017, we announced that the FDA had granted orphan drug designation to leronlimab (PRO 140) for the prevention of GvHD. In March 2018, we announced that the Independent Data Monitoring Committee (“IDMC”) for leronlimab (PRO 140) Phase 2 trial in GvHD had completed a planned interim analysis of trial data on the first 10 patients enrolled. Following this review of data from the first 10 patients in the Phase 2 trial, we filed amendments to the protocol with the FDA. The amendments included switching the pretreatment conditioning regimen from aggressive myeloablative (“MA”) conditioning to a reduced intensity conditioning

("RIC"), and switching from a blinded one-for-one randomized placebo-controlled design to an open-label design under which all enrollees receive leronlimab. The amendments also provide for a 100% increase in the dose of leronlimab, to 700 mg, to more closely mimic pre-clinical dosing. The next review of data by the IDMC will occur following enrollment of 10 patients under the amended protocol after each patient has been dosed for 30 days. Due to the necessary prioritization of limited capital, enrollment under the amended protocol has been temporarily delayed.

PRO 140 Acquisition and Licensing Arrangements

We originally acquired PRO 140, as well as certain other related assets, including the existing inventory of PRO 140 bulk drug substance, intellectual property, and FDA regulatory filings, pursuant to an Asset Purchase Agreement, dated as of July 25, 2012 and effective October 16, 2012 (the "Progenics Purchase Agreement"), between CytoDyn and Progenics. Pursuant to the Progenics Purchase Agreement, we are required to pay Progenics a remaining milestone payment and royalties as follows: (i) $5,000,000 at the time of the first U.S. new drug application approval by the FDA or other non-U.S. approval for the sale of PRO 140; and (ii) royalty payments of up to 5% on net sales during the period beginning on the date of the first commercial sale of PRO 140 until the later of (a) the expiration of the last to expire patent included in the acquired assets, and (b) 10 years, in each case determined on a country-by country basis. To the extent that such remaining milestone payment and royalties are not timely made, under the terms of the Progenics Purchase Agreement, Progenics has certain repurchase rights relating to the assets sold to us thereunder.

Payments to Progenics are in addition to payments due under a Development and License Agreement, dated April 30, 1999 (the "PDL License"), between Protein Design Labs (now AbbVie Inc.) and Progenics, which was assigned to us in the Progenics Purchase Agreement, pursuant to which we have an exclusive worldwide license to develop, make, have made, import, use, sell, offer to sell or have sold products that incorporate the humanized form of the PRO 140 antibody developed under the agreement. Pursuant to the PDL License, we are required to pay AbbVie Inc. remaining milestone payments and royalties as follows: (i) $500,000 upon filing a Biologic License Application with the FDA or non-U.S. equivalent regulatory body; (ii) $500,000 upon FDA approval or approval by another non-U.S. equivalent regulatory body; and (iii) royalties of up to 3.5% of net sales for the longer of 10 years and the date of expiration of the last to expire licensed patent. Additionally, the PDL License provides for an annual maintenance fee of $150,000 until royalties paid exceed that amount. To the extent that such remaining milestone payments and royalties are not timely made, under the terms of the PDL License, AbbVie Inc. has certain termination rights relating to our license of PRO 140 thereunder.

Effective July 29, 2015, we entered into a License Agreement (the "Lonza Agreement") with Lonza Sales AG ("Lonza") covering Lonza's "system know-how" technology with respect to our use of proprietary cell lines to manufacture new PRO 140 material. The Lonza Agreement provides for an annual license fee and future royalty payments, both of which varies based on whether Lonza, or we or our strategic partner manufactures PRO 140. We currently use two independent parties as contract manufacturers for PRO 140. Therefore, if this arrangement continues, an annual license fee of £600,000 (approximately USD785,000 given current exchange rate) would continue to apply, as well as a royalty, up to 2% of the net selling price upon commercialization of leronlimab (PRO 140), excluding value added taxes and similar amounts.

Patents, Proprietary Technology and Data Exclusivity

Protection of the Company's intellectual property rights is important to our business. We may file patent applications in the U.S., Canada, China, and Japan, European countries that are party to the European Patent Convention and other countries on a selective basis in order to protect inventions we consider to be important to the development of our business.

Generally, patents issued in the U.S. are effective for either (i) 20 years from the earliest asserted filing date, if the application was filed on or after June 8, 1995, or (ii) the longer of 17 years from the date of issue or 20

years from the earliest asserted filing date, if the application was filed prior to that date. A U.S. patent, to be selected by us upon receipt of FDA regulatory approval, may be subject to up to a five-year patent term extension in certain instances. While the duration of foreign patents varies in accordance with the provisions of applicable local law, most countries provide for a patent term of 20 years measured from the application filing date and some may also allow for patent term extension to compensate for regulatory approval delay. We pursue opportunities for seeking new meaningful patent protection on an ongoing basis. We currently anticipate, absent patent term extension, patent protection relating to the leronlimab (PRO 140) antibody itself will start to expire in 2023, certain methods of using leronlimab (PRO 140) for treatment of HIV-1 will start to expire in 2026, certain formulations comprising leronlimab (PRO 140) will start to expire in 2031, and certain methods of using small-molecule CCR5 antagonists for treatment of cancer metastasis will start to expire in 2032.

Patents do not enable us to preclude competitors from commercializing drugs in direct competition with our products that are not covered by granted and enforceable patent claims. Consequently, patents may not provide us with any meaningful competitive advantage. See related risk factors under the heading “Risk Factors” below. We may also rely on data exclusivity, trade secrets and proprietary know-how to develop and attempt to achieve a competitive position with our product candidates. We require our employees, consultants and partners who have access to our proprietary information to sign confidentiality agreements in an effort to protect our intellectual property.

Separate from and in addition to the patent rights noted above, we expect that leronlimab (PRO 140) will be subject to at least al 2-year data exclusivity period measured from the first date of FDA licensure, during which period no other applications referencing leronlimab (PRO 140) will be approved by FDA. Further, no other applications referencing leronlimab (PRO 140) will be accepted by FDA for a 4-year period measured from the first date of FDA licensure. Accordingly, this period of data exclusivity is expected to provide at least a 12-year term of protection against competing products shown to be biosimilar or interchangeable with leronlimab (PRO 140). Similar data exclusivity or data protection periods of up to about five years or more are provided in at least Australia, Canada, Europe, Japan, and New Zealand.

We note that data exclusivity is not an extension of patent rights, and it does not prevent the introduction of generic versions of the innovative drug during the data exclusivity period, as long as the marketing approval of the generic version does not use or rely upon the innovator’s test data. Patents and data exclusivity are different concepts, protect different subject matter, arise from different efforts, and have different legal effects over different time periods.

Information with respect to our current patent portfolio as of June 30, 2020, is set forth below.

	Number of Patents		Expiration Dates(1)	Number of Patent Applications	
	U.S.	International		U.S.	International
Leronlimab (PRO 140) product candidate(2)	10	37	2018-2032	20	27
Methods involving treatment of cancer metastasis and anti-CCR5 agents	1	11	2032-2033	3	9
Mouse model				1	1

(1) Patent term extensions and pending patent applications may extend periods of patent protection.
(2) Leronlimab (PRO 140) patents and applications relate to the antibody, formulations, and HIV-1, COVID-19, Cancer, immunomodulation and GvHD treatments.

Research, development and commercialization of a biopharmaceutical product often require choosing between alternative development and optimization routes at various stages in the development process. Preferred routes depend upon current—and may be affected by subsequent—discoveries and test results, availability of financial resources, and other factors, and cannot be identified with certainty. There are numerous third-party

patents in fields in which we work, and we may need to obtain licenses under patents of others in order to pursue a preferred development route of one or more of our product candidates. The need to obtain a license would decrease the ultimate value and profitability of an affected product. If we cannot negotiate such a license, we might have to pursue a less desirable development route or terminate the program altogether. See "Risk Factors" below.

Government Regulation

Regulation of Health Care Industry

The health care industry is highly regulated, and state and federal health care laws and regulations are applicable to certain aspects of our business. For example, there are federal and state health care laws and regulations that apply to the business relationships between health care providers and suppliers, the privacy and security of health information and the conduct of clinical research.

Regulation of Products

The design, testing, manufacture, safety, effectiveness, labeling, storage, record keeping, approval, advertising and promotion of our products is regulated by numerous third parties, including the FDA, foreign governments, independent standards auditors and our customers.

In the United States, biological products and medical devices, including diagnostic products, have long been subject to regulation by various federal and state agencies, primarily as to product safety, efficacy, manufacturing, advertising, labeling, import, export and safety reporting. The exercise of broad regulatory powers by the FDA through its and its Center for Biological Evaluation and Research and its Center for Devices and Radiological Health continues to result in increases in the amounts of testing and documentation for FDA clearance of current and new biologic products and medical devices. The FDA can ban certain products; detain or seize adulterated or misbranded products; order repair, replacement or refund of these products; and require notification of health professionals and others with regard to products that present unreasonable risks of substantial harm to the public health. The FDA may also enjoin and restrain certain violations of the Federal Food, Drug, and Cosmetic Act, as amended, or the Public Health Service Act pertaining to certain products or initiate action for criminal prosecution of such violations.

The lengthy process of seeking approvals, and the subsequent compliance with applicable statutes and regulations, require the expenditure of substantial resources. Failure to comply with applicable regulations can result in refusal by the FDA to approve product license applications. The FDA also has the authority to revoke previously granted product approvals.

Pharmaceutical products such as leronlimab may not be commercially marketed without prior approval from the FDA and comparable agencies in foreign countries. In the United States, the process for obtaining FDA approval for products like leronlimab typically includes pre-clinical studies, the filing of an IND, human clinical trials and filing and approval of either a New Drug Application ("NDA"), for chemical pharmaceutical products, or a BLA for biological pharmaceutical products, such as leronlimab. The results of pre-clinical testing, which include laboratory evaluation of product chemistry and formulation, animal studies to assess the potential safety and efficacy of the product and its formulations, details concerning the drug manufacturing process and its controls, and a proposed clinical trial protocol and other information must be submitted to the FDA as part of an IND that must be reviewed and become effective before clinical testing can begin. The study protocol and informed consent information for patients in clinical trials must also be submitted to an independent institutional review board ("IRB"), for approval. Once a sponsor submits an IND, the sponsor must wait 30 calendar days before initiating any clinical trials, during which time the FDA has an opportunity to review the IND and raise concerns or questions relating to the proposed clinical trials outlined in the IND. If the FDA has comments or questions, they must be resolved to the satisfaction of the FDA before clinical trials can begin. In addition, the

FDA, an IRB or we may, at any time, impose a clinical hold on ongoing clinical trials. If the FDA imposes a clinical hold, clinical trials cannot commence or recommence without FDA authorization and then only under terms authorized by the FDA. Our non-clinical and clinical studies must conform to the FDA's Good Laboratory Practice ("GLP"), and Good Clinical Practice ("GCP"), requirements, which are designed to ensure the quality and integrity of submitted data and protect the rights and well-being of study patients. Information for certain clinical trials also must be publicly disclosed within certain time limits on the clinical trial registry and results databank maintained by the National Institutes of Health ("NIH").

The results of the pre-clinical and clinical testing, chemistry, manufacturing and control information and proposed labeling are then submitted to the FDA in the form of either an NDA or BLA for review and potential approval to commence commercial sales. In responding to an NDA or BLA, the FDA may grant marketing approval, request additional information in a complete response letter, or deny the approval if it determines that the NDA or BLA does not provide an adequate basis for approval. A complete response letter generally contains a statement of specific conditions that must be met in order to secure final approval of an NDA or BLA and may require additional testing. If and when those conditions have been met to the FDA's satisfaction, the FDA will typically issue an approval letter, which authorizes commercial marketing of the product with specific prescribing information for specific indications, and sometimes with specified post-marketing commitments. Any approval required from the FDA might not be obtained on a timely basis, if at all.

Among the conditions for an NDA or BLA approval is the requirement that the manufacturing operations conform on an ongoing basis with current Good Manufacturing Practices ("cGMPs"). In complying with cGMPs, we must expend time, money and effort in the areas of training, production and quality control within our own organization and at our contract manufacturing laboratories. A successful inspection of the manufacturing facility by the FDA is a prerequisite for final approval of a biological product like leronlimab (PRO140). Following approval of the NDA or BLA, we and our third-party manufacturers remain subject to periodic inspections by the FDA. We also face similar inspections coordinated by the European Medicines Agency by inspectors from particular European Union ("EU") member countries that conduct inspections on behalf of the EU and from other foreign regulatory authorities. Any determination by the FDA or other regulatory authorities of manufacturing or other deficiencies could materially adversely affect our business.

Regulatory requirements and approval processes in EU countries are similar in principle to those in the United States and can be at least as costly and uncertain. The EU has established a unified centralized filing and approval system administered by the Committee for Medicinal Products for Human Use designed to reduce the administrative burden of processing applications for pharmaceutical products derived from new technologies. In addition to obtaining regulatory approval of products, it is generally necessary to obtain regulatory approval of the facility in which the product will be manufactured.

We use and plan to continue to use third-party manufacturers to produce our products in clinical and commercial quantities. Future FDA inspections may identify compliance issues at the facilities of our contract manufacturers that may disrupt production or distribution, or require substantial resources to correct. In addition, discovery of problems with a product, including new safety risks, or the failure to comply with requirements may result in restrictions on a product, manufacturer or holder of an approved NDA or BLA, including withdrawal or recall of the product from the market or other voluntary or FDA-initiated action that could delay further marketing. Newly discovered or developed safety or efficacy data may require changes to an approved product's approved labeling, including the addition of new warnings and contraindications, the imposition of additional mandatory post-market studies or clinical trials, or the imposition of or revisions to a risk evaluation mitigation strategies ("REMS ") program, including distribution and/or use restrictions.

Once a BLA is approved, a product will be subject to certain post-approval requirements, including requirements for adverse event reporting and submission of periodic reports to the FDA, recordkeeping, product sampling and distribution, and, as discussed above, may be subject to mandatory post-market study and REMS requirements. In addition, the FDA strictly regulates the promotional claims that may be made about prescription

drug products and biologics. In particular, a drug or biologic may not be promoted for uses that are not approved by the FDA as reflected in the product's approved labeling. The FDA and other agencies actively enforce the laws and regulations prohibiting the promotion of off label uses, and a company that is found to have improperly promoted off-label uses may be subject to significant liability. The FDA also requires substantiation of any claims of superiority of one product over another, including the requirement that such claims be proven by adequate and well-controlled head-to-head clinical trials. The FDA also requires all promotional materials that discuss the use or effectiveness of a prescription drug or biologic to disclose in a balanced manner the risks and safety profile of the product.

Regulation of Laboratory Operations

Clinical laboratories that perform laboratory testing (except for research purposes only) on human patients are subject to regulation under Clinical Laboratory Improvement Amendments ("CLIA"). CLIA regulates clinical laboratories by requiring that the laboratory be certified by the federal government, licensed by the state and comply with various operational, personnel and quality requirements intended to ensure that clinical laboratory test results are accurate, reliable and timely. State law and regulations also apply to the operation of clinical laboratories.

State Governments

Most states in which we operate have regulations that parallel federal regulations. Most states conduct periodic unannounced inspections and require licensing under such state's procedures. Our research and development activities and the manufacture and marketing of our products are and will be subject to rigorous regulations relating to product safety and efficacy by numerous governmental authorities in the United States and other countries.

Other Laws and Regulations

We are subject to various laws and regulations relating to safe working conditions, clinical, laboratory and manufacturing practices, the experimental use of animals and the use and disposal of hazardous or potentially hazardous substances, including radioactive compounds and infectious disease agents, used in connection with our research. The extent of government regulation applying to our business that might result from any legislative or administrative action cannot be accurately predicted.

Environmental

We are subject to a variety of federal, state and local environmental protection measures. We believe that our operations comply in all material respects with applicable environmental laws and regulations. Our compliance with these regulations did not have during the past year and is not expected to have a material effect upon our capital expenditures, cash flows, earnings or competitive position.

Registrational Clinical Trials Process

Described below is the traditional registrational drug development track. Our current business strategy is to focus on completing our BLA filing for leronlimab as a combination therapy for highly treatment experienced HIV patients, advance the regulatory process of the clinical outcomes from our two COVID-19 clinical trials, advance our Phase 1b/2 clinical trial metastatic triple-negative breast cancer, continue our Phase 2 basket trial for 22 solid tumor cancers and Phase 2 trial for GvHD, finalize with the FDA our submitted protocol for a pivotal Phase 3 clinical trial with leronlimab as a monotherapy for HIV patients and to concurrently explore other cancer and immunologic indications for leronlimab.

Phase 1

Phase 1 includes the initial introduction of an investigational new drug or biologic into humans. These studies are closely monitored and may be conducted in patients, but are usually conducted in a small number of healthy volunteer patients. These studies are designed to determine the metabolic and pharmacologic actions of the investigational product in humans, the side effects associated with increasing doses, and, if possible, to gain early evidence on effectiveness. During Phase 1, sufficient information about the investigational product's pharmacokinetics and pharmacological effects are obtained to permit the design of well-controlled, scientifically valid, Phase 2 studies. Phase 1 studies of PRO 140 have been conducted and completed by or on behalf of Progenics by certain principal investigators prior to our acquisition of PRO 140.

Phase 2

Phase 2 includes the early controlled clinical studies conducted to obtain some preliminary data on the effectiveness of the drug for a particular indication or indications in patients with the disease or condition. This phase of testing also helps determine the common short-term side effects and risks associated with the drug. Phase 2 studies are typically well-controlled, closely monitored, and conducted in a relatively small number of patients, often involving several hundred people. In some cases, depending upon the need for a new drug, a particular drug candidate may be licensed for sale in interstate commerce after a "pivotal" Phase 2 trial.

Phase 2 is often broken into Phase 2a, which can be used to refer to "pilot trials," or more limited trials evaluating exposure response in patients, and Phase 2b trials that are designed to evaluate dosing efficacy and ranges.

Phase 3

Phase 3 studies are expanded controlled clinical studies. They are performed after preliminary evidence suggesting effectiveness of the drug has been obtained in Phase 2, and are intended to gather the additional information about effectiveness and safety that is needed to evaluate the overall benefit/risk relationship of the drug. Phase 3 studies also provide an adequate basis for extrapolating the results to the general population and transmitting that information in the physician labeling. Phase 3 studies usually involve significantly larger groups of patients, and considerable additional expense. We were required to pay significant fees to third parties upon the first patient dosing in a Phase 3 trial of leronlimab, and we may be required to make additional fee payments to third parties upon the completion of additional milestones. See the discussion under the subheading "PRO 140 Acquisition and Licensing Arrangements" above.

Competition

The pharmaceutical, biotechnology and diagnostic industries are characterized by rapidly evolving technology and intense competition. Our development efforts may compete with more established biotechnology companies that have significantly greater financial and managerial resources than we do.

Advancing leronlimab to commercialization is our highest priority. Leronlimab blocks a cell receptor called CCR5, which is the entry point for most strains of HIV virus. Pfizer's Maraviroc (Selzentry®) is the only currently approved CCR5 blocking agent. Maraviroc, like all other HIV approved drugs, must be taken daily and is believed to have side effects and toxicity. For these reasons, we believe that our lead product, leronlimab, a monoclonal antibody, may prove to be useful in patients that cannot tolerate existing HIV therapies or desire a respite from those therapies. Nonetheless, manufacturers of current therapies, such as Pfizer, Gilead Sciences, Merck, Bristol-Myers Squibb and ViiV Healthcare, are very large, multi-national corporations with significant resources. We expect that these companies will compete fiercely to defend and expand their market share.

To construct a HAART regimen, three drugs from two classes of drugs are typically needed. Currently there are only five different classes of drugs from which four are primarily used to construct a HAART regimen. Each

of these four classes of drugs has many drugs available in its respective class, except the entry inhibitor ("EI") class, which has only two drugs available. The only two drugs in the EI class approved by the FDA are Maraviroc, a small molecule drug (which is taken orally once or twice a day) and Ibalizumab (which is an IV infusion administered once every two weeks). If approved, we believe that leronlimab will be only the second approved drug outside of the main four classes of drugs approved for HIV since 2007.

The only other monoclonal antibody that recently received FDA approval isTMB-335, also referred to as Ibalizumab, which was developed by TaiMed Biologics. Ibalizumab targets the CD4 receptor on T-cells which is one of the two co-receptors required for HIV entry into T-cells.

Our potential competitors include entities that develop and produce therapeutic agents. These include numerous public and private academic and research organizations and pharmaceutical and biotechnology companies pursuing production of, among other things, biologics from cell cultures, genetically engineered drugs and natural and chemically synthesized drugs. Our competitors may succeed in developing potential drugs or processes that are more effective or less costly than any that may be developed by us or that gain regulatory approval prior to our potential drug candidates. Worldwide, there are many antiviral drugs for treating HIV. In seeking to manufacture, distribute and market the potential drugs we hope to have approved, we face competition from established pharmaceutical companies. Many of these potential competitors have substantially greater capital resources, management expertise, research and development capabilities, manufacturing and marketing resources and experience than we do.

We also expect that the number of our competitors and potential competitors will increase as more potential drugs receive commercial marketing approvals from the FDA or analogous foreign regulatory agencies. Any of these competitors may be more successful than us in manufacturing, marketing and distributing HIV treatments, as well as for new therapies for cancer and immunological disorders.

While we are encouraged from the clinical outcomes from over 60 Emergency Investigation New Drug (EIND) authorizations granted by the FDA and the preliminary results from our two COVID-19 trials, there are hundreds of companies concurrently exploring therapies for COVID-19, including clinical trials. Many of these potential competitors have substantially greater capital resources, management expertise, research and development capabilities, manufacturing and marketing resources and experience than we do.

As we evaluate leronlimab for potential indications in cancer and immunology, we will face competition from formidable global research-based pharmaceutical companies. Potential competitors such as Roche, Celgene, Bristol-Myers Squibb, Merck, AbbVie and many others have vast financial, managerial, technical, commercialization and marketing resources than we do than we do.

Manufacturing

We do not own or operate manufacturing facilities for the production of leronlimab. As such, we must depend on third-party manufacturing organizations and suppliers for all of our clinical trial quantities of leronlimab, in addition to previously manufactured supplies of commercial grade leronlimab. We continue to explore alternative manufacturing sources, in order to ensure that we have access to sufficient manufacturing capacity in order to meet potential demand for leronlimab in a cost-efficient manner.

We have engaged Samsung Biologics and AEC Biologics, two global contract manufacturing organizations ("CMOs"), to initiate thescale-up to commercial batch quantities of product, and develop the necessary controls and specifications to manufacture product on a consistent and reproducible manner. We have also contracted with suitable CMOs to fill, label, and package product into the final commercial package for commercial use. In order to commercialize product, this scaled-up material will need to be validated under best practices, and demonstrated to meet approved specifications on an ongoing basis. GMP material will be produced as needed to support clinical trials for all therapeutic indications and until commercial product is approved by the FDA. We will rely on CMO's for all of our developmental and commercial needs.

Regulation of Medical Devices, Including Diagnostics such as the PCa Test

Medical Device Classification

The FDA classifies medical devices into one of the following three classes on the basis of the amount of risk associated with the medical device and the controls deemed necessary to reasonably ensure their safety and effectiveness:

- Class I, requiring general controls, including labeling, device listing, reporting and, for some products, adherence to good manufacturing practices through the FDA's quality system regulations and pre-market notification;
- Class II, requiring general controls and special controls, which may include performance standards and post-market surveillance; or
- Class III, requiring general controls and approval of a premarket approval application ("PMA"), which may include post-market approval conditions and post-market surveillance.

As a result of the intended use of the PCa Test and the technology upon which it is based, we anticipate that the PCa test could be regulated by FDA as either a Class III or a Class II medical device.

US Regulatory Approval Process

Products that are regulated as medical devices and that require review by the FDA are subject to either a premarket notification, also known as a 510(k), which must be submitted to the FDA for clearance, or a PMA application, which the FDA must approve prior to marketing in the U.S. We believe that the PCa Test will be subject to the 510(k) premarket notification procedure, but the FDA will ultimately determine the appropriate regulatory path.

To obtain 510(k) marketing clearance for a medical device, an applicant must submit a premarket notification application to the FDA demonstrating that the device is "substantially equivalent" to a predicate device, which is typically a legally marketed Class II device in the United States. A device is substantially equivalent to a predicate device if it has the same intended use and (i) the same technological characteristics, or (ii) has different technological characteristics and the information submitted demonstrates that the device is as safe and effective as a legally marketed device and does not raise different questions of safety or effectiveness. In some cases, the submission must include data from human clinical studies. Marketing may commence when the FDA issues a clearance letter finding substantial equivalence. While less onerous than the PMA process, the 510(k) process can be lengthy and expensive. The current average time between submission of a 510(k) application and FDA clearance is approximately six months. In addition, significant modifications to a cleared 510(k) device may require the submission of a new 510(k).

A PMA must be submitted to the FDA if a device cannot be cleared through another approval process or is not otherwise exempt from the FDA's premarket clearance and approval requirements. A PMA is required for most Class III medical devices. A PMA must generally be supported by extensive data, including without limitation technical, preclinical, clinical trial, manufacturing and labeling data, to demonstrate to the FDA's satisfaction the safety and efficacy of the device for its intended use. During the review period, the FDA will typically request additional information or clarification of the information previously provided. Also, an advisory panel of experts from outside the FDA may be convened to review and evaluate the PMA and provide recommendations to the FDA as to the approvability of the device, although the FDA may or may not accept any such panel's recommendation. In addition, the FDA will generally conduct a pre-approval inspection of the manufacturing facility or facilities involved with producing the device to ensure compliance with the cGMP regulations. Upon approval of a PMA, the FDA may require that certain conditions of approval, such as conducting a post-market approval clinical trial, be met.

The PMA approval process can be lengthy and expensive and requires an applicant to demonstrate the safety and efficacy of the device based, in part, on data obtained from clinical trials. The PMA process is

estimated to take from one to three years or longer, from the time the PMA application is submitted to the FDA until an approval is obtained.

Further, if post-approval modifications are made that affect the safety or efficacy of the device, including, for example, certain types of modifications to the device's indication for use, manufacturing process, labeling or design, then new PMAs or PMA supplements would be required. PMA supplements often require submission of the same type of information as a PMA, except that the supplement is typically limited to information needed to support the changes from the device covered by the original PMA and accordingly may not require as extensive clinical and other data. Further, if post-approval modifications are made that affect the safety or efficacy of the device, including, for example, certain types of modifications to the device's indication for use, manufacturing process, labeling or design, then new PMAs or PMA supplements would be required. PMA supplements often require submission of the same type of information as a PMA, except that the supplement is typically limited to information needed to support the changes from the device covered by the original PMA and accordingly may not require as extensive clinical and other data.

Our plan for the PCa Test is to successfully advance its development to obtain a Section 510(k) clearance from the FDA for commercial use or to out-license the proprietary technology to a third-party. However, we have not submitted either a 510(k) application or a PMA, or commenced clinical trials. Even if we conduct successful preclinical and clinical studies and submit a 510(k) application or PMA, the FDA may not permit commercialization of the PCa Test for the desired indications, on a timely basis, or at all. Our inability to achieve regulatory approval for the PCa Test in the U.S. for the desired indication could materially adversely affect our ability to grow this aspect of our business.

Post-Approval Regulation

After a medical device obtains approval from the applicable regulatory agency and is launched in the market, numerous post-approval regulatory requirements apply, including:

- product listing and establishment registration;
- requirements that manufacturers, including third-party manufacturers, follow stringent design, testing, control, documentation and other quality assurance procedures during all aspects of the design and manufacturing process;
- labeling and other advertising regulations, including prohibitions against the promotion of products for uncleared, unapproved oroff-label use or indication;
- approval of product modifications that affect the safety or effectiveness of any of our devices that may achieve approval;
- post-approval restrictions or conditions, including post-approval study commitments;
- post-market surveillance regulations, which apply, when necessary, to protect the public health or to provide additional safety and effectiveness data for the device;
- the recall authority of the applicable government agency and regulations pertaining to voluntary recalls; and
- reporting requirements, including reports of incidents in which a product may have caused or contributed to a death or serious injury or in which a product malfunctioned, and notices of corrections or removals.

Failure by us or by our third-party manufacturers and other suppliers to comply with applicable regulatory requirements could result in enforcement action by various regulatory authorities, which may result in monetary fines, the imposition of operating restrictions, product recalls, criminal prosecution or other sanctions.

Research and Development Costs

The Company's research and development expenses totaled approximately $52.6 million, $42.5 million and $38.2 million for the fiscal years ended May 31, 2020, May 31, 2019 and May 31, 2018, respectively. We expect our research and development expenses to continue to increase in future periods as the activity within the Company's clinical trials expands and the Company's biologics manufacturing processes and related regulatory compliance activities increase.

Employees and Consultants

We currently have 19 full-time employees, as well as several independent consultants assisting us with the Company's BLA preparation, manufacturing activities, regulatory matters and management of our clinical trials. There can be no assurances, however, that we will be able to identify or hire and retain additional employees or consultants on acceptable terms in the future.

Item 1A. Risk Factors.

The risks enumerated below are not the only risks we face, and the listed risk factors are not intended to be anall-inclusive discussion of all of the potential risks relating to our business. Any of the risk factors described below could significantly and adversely affect our business, prospects, financial condition and results of operations. Additional risks and uncertainties not currently known or that are currently considered to be immaterial may also materially and adversely affect our business.

Risks Related to Our Business

We are a clinical stage biotechnology company and have a history of significant operating losses; we expect to continue to incur operating losses, and we may never achieve or maintain profitability.

We have not generated any revenue from product sales, licensing, or other potential sales to date. Since our inception, we have incurred operating losses in each year due to costs incurred in connection with research and development activities and general and administrative expenses associated with our operations. Our current drug candidate, leronlimab, is in the later stages of clinical trials for multiple indications. The Company submitted a BLA for leronlimab as a combination therapy with highly active antiretroviral therapy (HAART) for HIV patients to the FDA for review in April 2020 and completed our submission on May 11, 2020. In July 2020, the Company received a Refusal to File letter from the FDA regarding the BLA filing, and we have requested a Type A meeting to discuss the FDA's request for additional information. During the fiscal years ended May 31, 2020 and 2019, we incurred net losses of approximately $124.4 million and $56.2 million, respectively, and at May 31, 2020, we had an accumulated deficit of approximately $354.7 million and a stockholders' deficit of $2.5 million. We expect to incur losses for the foreseeable future without any meaningful corresponding revenues as we continue development of, and seek regulatory approvals for, leronlimab. If leronlimab fails to gain regulatory approval, or if it or other candidates we acquire or license in the future do not achieve approval and market acceptance, we will not be able to generate any revenue, or explore other opportunities to enhance stockholder value, such as through a sale. If we fail to generate revenue and eventually become and remain profitable, or if we are unable to fund our continuing losses, our shareholders could lose all or part of their investments.

Our auditors have issued a going concern opinion, and we will not be able to achieve our objectives and will have to cease operations if we cannot adequately fund our operations.

Our auditors issued an opinion, which includes a going concern exception, in connection with the audit of our annual financial statements for the fiscal year ended May 31, 2020. A going concern exception to an audit opinion means that there is substantial doubt that we can continue as an ongoing business for the next 12 months. If we are unable to continue as a going concern, we might have to liquidate our assets and the values we receive

for our assets in liquidation or dissolution could be significantly lower than the values reflected in our financial statements. In addition, the inclusion of an explanatory paragraph regarding substantial doubt about our ability to continue as a going concern and our lack of cash resources may materially adversely affect our share price and our ability to raise new capital or to enter into critical contractual relations with third-parties. There is no assurance that we will be able to adequately fund our operations in the future.

Our business and operations could be adversely affected by the effects of health epidemics, including the ongoingCOVID-19 pandemic.

We could be negatively affected by the widespread outbreak of an illness or any other communicable disease, or any other public health crisis that results in economic and trade disruptions, including the disruption of global supply chains. In December 2019, an outbreak of COVID-19 began in Wuhan, Hubei Province, China. In March 2020, the World Health Organization declared COVID-19 a pandemic. The COVID-19 pandemic has negatively impacted the global economy, disrupted global supply chains, and created significant volatility and disruption of financial markets.

Our operational and financial performance has already been affected by the impact of theCOVID-19 pandemic. Our clinical trials have experienced delays in patient enrollment, potentially due to prioritization of hospital resources toward the COVID-19 pandemic, or concerns among patients about participating in clinical trials during a public health emergency. The COVID-19 pandemic is also affecting the operations of government entities, such as the FDA, as well as contract research organizations, third-party manufacturers, and other third-parties upon whom we rely. As a result of "shelter-in-place" orders, quarantines or similar orders or restrictions to control the spread ofCOVID-19, many companies, including our own, have implemented work-from-home policies for their employees. The effects of these stay at home orders and work-from-home policies may be negatively impacting productivity, resulting in delays in our clinical programs and timelines. The extent of the impact on our operations depends in part on the time these restrictions remain in place, and whether restrictions are reinstated as a result of a rising surge in COVID-19 cases. These and similar disruptions in our operations could negatively impact our business, operating results and financial condition.

The spread of COVID-19 has also led to disruption and volatility in the global capital markets, which increases the cost of, and adversely impacts access to, capital and increases economic uncertainty. To the extent the COVID-19 pandemic adversely affects our business, financial results and value of our common stock, it may also affect our ability to access capital and obtain financing, which could in the future negatively affect our liquidity and ability to continue as a going concern.

The global pandemic of COVID-19 continues to evolve rapidly, and the ultimate impact of the COVID-19 pandemic or a similar health epidemic is highly uncertain and subject to change. We do not yet know the full impact of potential delays or effects on our business, our clinical trials, our ability to access the capital markets, or supply chains or on the global economy as a whole. However, these effects could have a material impact on our operations, and we will continue to monitor the COVID-19 situation closely.

Our information technology systems could fail to perform adequately or we may fail to adequately protect such information technology systems against data corruption, cyber-based attacks, or network security breaches.

We rely on information technology networks and systems, including the Internet, to process, transmit, and store electronic information. In particular, we depend on our information technology infrastructure to effectively manage our business data, accounting, and other business processes and electronic communications between our personnel and corporate partners. If we do not allocate and effectively manage the resources necessary to build and sustain an appropriate technology infrastructure, our business, and financial condition therefore could be materially adversely affected. In addition, security breaches or system failures of this infrastructure can create system disruptions, shutdowns, or unauthorized disclosure of confidential information. If we are unable to

prevent such breaches or failures, our operations could be disrupted, or we may suffer financial damage or loss because of lost or misappropriated information.

The ongoing COVID-19 pandemic is introducing additional risk to our information technology systems as a result of employees, contractors and other corporate partners working remotely. As a result of the increased remote workforce, we must increasingly rely on information technology systems that are outside our direct control. These systems are potentially vulnerable to cyber-based attacks and security breaches. In addition, cyber criminals are increasing their attacks on individual employees, utilizing interest in pandemic-related information to increase business email compromise scams designed to trick victims into transferring sensitive data or funds, or steal credentials that compromise information systems. If one of our employees falls victim to these attacks, or our information technology systems or those of our partners are compromised, our operations could be disrupted, or we may suffer financial loss, loss or misappropriation of intellectual property or other critical assets, reputational loss or regulatory fines and intervention.

We may be at increased risk of becoming the target of cyber-attacks because of our research involving leronlimab for treatment of COVID-19.

Cybersecurity authorities in the United States are currently investigating a number of incidents in which hackers are targeting pharmaceutical companies, medical research organizations, and universities in order to steal sensitive research data and intellectual property related to efforts to contain and treat coronavirus. In July, the US Justice Department accused several different groups of hackers of targeting companies conducting COVID-19 vaccine development research on behalf of a foreign intelligence services. Because of leronlimab's potential effect on the immune system, it has been administered to COVID patients under single patient Emergency Investigation New Drug (EIND) authorizations, and the Company has initiated two clinical trials for COVID-19, a Phase 2 randomized clinical trial for mild-to-moderate COVID-19 population in the U.S. and a Phase 2b/3 randomized clinical trial for severe and critically ill COVID-19 population in several hospitals throughout the country. As a result of our ongoing clinical trials for leronlimab to treat COVID-19, our information technology systems, employees, contractors and corporate partners may be at greater risk for cyber-based attacks.

Since our inception, we have been insolvent and have required debt and equity financing to maintain operations.

Since our inception, we have not achieved cash flows from revenues sufficient to cover basic operating costs. As a result, we have relied heavily on debt and equity financing. Equity financing, in particular, has created a dilutive effect on our common stock, which has hampered our ability to attract reasonable financing terms. If we issue additional equity or convertible debt securities, we will continue to reduce the percentage ownership of our then-existing stockholders. We may also be required to grant the holders of new securities rights, preferences or privileges senior to those possessed by our then-existing stockholders in order to induce them to invest in our company. The issuance of these senior securities may adversely affect the holders of our common stock by restricting dividends on the common stock, diluting the voting power of the common stock or subordinating the liquidation rights of the common stock. As a result of these or other factors, the issuance of additional equity or convertible debt securities could have an adverse impact on the market price of our common stock. For the foreseeable future, we will continue to rely upon debt and equity financing to maintain our operations and those of our subsidiaries.

We will need substantial additional funding to resubmit our BLA filing for leronlimab as a combination therapy with highly active antiretroviral therapy (HAART) for HIV patients, and to complete our COVID-19 clinical trials and our Phase 1b/2 clinical trial for triple-negative breast cancer, to continue our Phase 2 clinical trial for GvHD, to fund development of leronlimab for other indications, such as cancer and immunologic indications, and to operate our business, and such funding may not be available or, if it is available, such financing is likely to substantially dilute our existing stockholders.

The discovery, development, and commercialization of new treatments, such as our leronlimab product candidate, entail significant costs. In addition, to the extent further development and clinical trials of leronlimab for other indications, such as COVID-19, cancer, and immunological disorders, continue to appear promising and we elect to fund its development and commercialization, we will need to raise substantial additional capital, or enter into strategic partnerships, to enable us to:

- fund clinical trials and seek regulatory approvals;
- access manufacturing and commercialization capabilities;
- pay required license fees, milestone payments, and maintenance fees to Progenics, Lonza and AbbVie Inc.;
- develop, test, and, if approved, market our product candidate;
- acquire or license additional internal systems and other infrastructure;
- hire and support additional management and scientific personnel; and
- explore additional indications for leronlimab, such as in the area of cancer and immunology.

Until we can generate a sufficient amount of product revenue to finance our cash requirements, which we may never achieve, we expect to finance our cash needs primarily through public or private equity offerings, debt financings or through strategic alliances. We cannot be certain that additional funding will be available on acceptable terms or at all. If we are not able to secure additional funding when needed, we may have to delay, reduce the scope of, or eliminate one or more of our clinical trials, collaborative development programs or future commercialization initiatives. In addition, any additional funding that we do obtain will dilute the ownership held by our existing security holders. The amount of this dilution may be substantially increased if the trading price of our common stock is lower at the time of any financing, or if we issue new shares at a lower price per share than prior financings. For example, the terms of certain of our convertible notes provide for full-ratchet anti-dilution protection, pursuant to which the conversion price of the convertible note will be automatically reduced to equal the effective price per share in any new offering by the Company of equity securities that have registration rights, are registered or become registered under the Securities Act of 1933, as amended. Regardless, the economic dilution to stockholders will be significant if our stock price does not increase significantly, or if the effective price of any sale is below the price paid by a particular shareholder. Any debt financing could involve substantial restrictions on activities and creditors could seek a pledge of some or all of our assets. We have not identified potential sources for the additional financing that we will require, and we do not have commitments from any third-parties to provide any future financing. If we fail to obtain additional funding as needed, we may be forced to cease or scale back operations, and our results, financial condition and stock price would be adversely affected.

The amount of financing we require will depend on a number of factors, many of which are beyond our control. Our results of operations, financial condition and stock price are likely to be adversely affected if our funding requirements increase or are otherwise greater than we expect.

Our future funding requirements will depend on many factors, including, but not limited to:

- the costs of our ongoing clinical trial programs and pre-clinical studies, including our Phase 2b/3 clinical trial for severe and critically ill COVID-19 patients, a Phase 2 randomized clinical trial in the

mild-to-moderate COVID-19 population, a Phase 1b/2 clinical trial for triple-negative breast cancer, our Phase 2 clinical trial for GvHD, a potential pivotal Phase 3 monotherapy trial for HIV and other development activities conducted by us directly, and our ability to successfully conclude the studies and achieve favorable results;

- our ability to attract strategic partners to pay for or share costs related to our product development efforts;
- the costs and timing of seeking and obtaining regulatory approvals and making related milestone payments due to Progenics, Lonza and AbbVie Inc.;
- the costs of filing, prosecuting, maintaining and enforcing patents and other intellectual property rights and defending against potential claims of infringement;
- decisions to hire additional scientific or administrative personnel or consultants;
- our ability to manage administrative and other costs of our operations; and
- the presence or absence of adverse developments in our clinical trial and commercialization readiness programs.

If any of these factors cause our funding needs to be greater than expected, our operations, financial condition, ability to continue operations and stock price may be adversely affected.

Our future cash requirements may differ significantly from our current estimates.

Our cash requirements may differ significantly from our estimates from time to time, depending on a number of factors, including:

- the time and costs involved in obtaining regulatory approvals;
- the costs and results of our clinical trial programs and pre-clinical studies we are undertaking or may in the future pursue with leronlimab;
- the time and costs involved in our CMC activities;
- whether our outstanding convertible notes are converted into equity;
- whether we receive additional cash upon the exercise of our outstanding warrants and options for common stock;
- whether we are able to obtain funding under future licensing agreements, strategic partnerships, or other collaborative relationships, if any;
- the costs of compliance with laws, regulations, or judicial decisions applicable to us; and
- the costs of general and administrative infrastructure required to manage our business and protect corporate assets and stockholder interests.

If we underestimate our cash requirements, we may need to raise additional funds, which funding may not be available on acceptable terms or at all. If we fail to raise additional funds on a timely basis we may need to scale back our business plans, which may require us to delay, reduce the scope of, or eliminate one or more of our clinical trials, collaborative development programs or future commercialization initiatives, which would adversely affect our business, financial condition, and stock price. If we deplete our cash reserves, we may even be forced to discontinue our operations and liquidate our assets.

We are currently focused on the development of a single product candidate.

Our product development efforts are currently focused on a single product, leronlimab, for which we are researching multiple indications. If leronlimab fails to achieve clinical endpoints or exhibits unanticipated

toxicity or if a superior product is developed by a competitor, our prospects for obtaining regulatory approval and commercialization may be negatively impacted. In the long-term, we hope to establish a pipeline of product candidates, and we have identified additional product candidates that we may be able to acquire or license in the future. However, at this time, we do not have any formal agreements granting us any rights to such additional product candidates.

If we are not able to obtain any required regulatory approvals for leronlimab, we will not be able to commercialize our primary product candidate, which would materially and adversely affect our business, financial condition and stock price.

Our clinical trials may be unsuccessful, which would materially harm our business. Even if our ongoing clinical trials are successful, we will be required to conduct additional clinical trials to establish the safety and efficacy of leronlimab, or any future drug candidates, before an NDA or BLA can be filed with the FDA for marketing approval.

Clinical testing is expensive, is difficult to design and implement, can take many years to complete and is uncertain as to outcome. Success in early phases of pre-clinical and clinical trials does not ensure that later clinical trials will be successful, and interim results of a clinical trial do not necessarily predict final results. A failure of one or more of our clinical trials can occur at any stage of testing. We may experience numerous unforeseen events during, or as a result of, the clinical trial process that could delay or prevent our ability to receive regulatory approval or commercialize leronlimab, or any future drug candidates. The research, testing, manufacturing, labeling, packaging, storage, approval, sale, marketing, advertising and promotion, pricing, export, import and distribution of drug products are subject to extensive regulation by the FDA and other regulatory authorities in the United States and other countries, which regulations differ from country to country. We are not permitted to market a drug candidate as prescription pharmaceutical products in the United States until we receive approval of an NDA or BLA from the FDA or in foreign markets until we receive the requisite approval from comparable regulatory authorities in such countries. In the United States, the FDA generally requires the completion of clinical trials of each drug to establish its safety and efficacy and extensive pharmaceutical development to ensure its quality before an NDA or BLA is approved. Regulatory authorities in other jurisdictions impose similar requirements. Of the large number of drugs in development, only a small percentage result in the submission of an NDA or BLA to the FDA and even fewer are eventually approved for commercialization. The Company filed a BLA for leronlimab as a combination therapy for highly treatment experienced HIV patients with the FDA on April 27, 2020, and submitted additional FDA requested clinical datasets on May 11, 2020. In July 2020, the FDA issued a Refusal to File the BLA stating that it needed additional information to complete its substantive review. The FDA's request requires additional analysis of completed trials and does not require any additional clinical trials to be conducted, and the Company is working diligently to provide the information required by the FDA in order to resubmit its BLA for this combination therapy. However, even upon submission of the additional information to the FDA, there can be no assurance as to if or when the FDA will declare the filing complete.

Although the completion and resubmission of our BLA for leronlimab is in process, receipt of necessary regulatory approval is subject to a number of risks, including the following:

- the FDA or comparable foreign regulatory authorities or IRBs may disagree with the design or implementation of our clinical trials;
- we may not be able to provide acceptable evidence of the safety and efficacy of our drug candidates;
- the results of our clinical trials may not be satisfactory or may not meet the level of statistical or clinical significance required by the FDA, the European Medicines Agency ("EMA"), or other comparable foreign regulatory authorities for marketing approval;
- the dosing of our drug candidates in a particular clinical trial may not be at an optimal level;

- patients in our clinical trials may suffer adverse effects for reasons that may or may not be related to our drug candidates;
- the data collected from clinical trials may not be sufficient to support the submission of an NDA or other submission or to obtain regulatory approval in the United States or elsewhere;
- the FDA or comparable foreign regulatory authorities may fail to approve the manufacturing processes or facilities of third-party manufacturers with which we contract for clinical and commercial supplies; and
- the approval policies or regulations of the FDA or comparable foreign regulatory authorities may significantly change in a manner rendering our clinical data insufficient for approval.

Failure to obtain regulatory approval for leronlimab for the foregoing or any other reasons will prevent us from commercializing such product candidate as a prescription product, and our ability to generate revenue will be materially impaired. We cannot guarantee regulators will agree with our assessment of the results of our clinical trials or that such trials will be considered by regulators to have shown safety or efficacy of our product candidate. The FDA, EMA and other regulators have substantial discretion in the approval process and may refuse to accept any application or may decide that our data is insufficient for approval and require additional clinical trials, or pre-clinical or other studies. In addition, varying interpretations of the data obtained from pre-clinical and clinical testing could delay, limit or prevent regulatory approval of a product candidate.

We have only limited experience in filing the applications necessary to gain regulatory approvals and expect to continue to rely on consultants and third-party contract research organizations, or CROs, with expertise in this area to assist us in this process. Securing FDA approval requires the submission of pre-clinical, clinical and/or pharmacokinetic data, information about product manufacturing processes and inspection of facilities and supporting information to the FDA for each therapeutic indication to establish a product candidate's safety and efficacy for each indication. Our drug candidates may prove to have undesirable or unintended side effects, toxicities or other characteristics that may preclude our obtaining regulatory approval or prevent or limit commercial use with respect to one or all intended indications.

The process of obtaining regulatory approvals is expensive, often takes many years, if approval is obtained at all, and can vary substantially based upon, among other things, the type, complexity and novelty of the product candidates involved, the jurisdiction in which regulatory approval is sought and the substantial discretion of regulatory authorities. Changes in the regulatory approval policy during the development period, changes in or the enactment of additional statutes or regulations, or changes in regulatory review for a submitted product application may cause delays in the approval or rejection of an application. Regulatory approval obtained in one jurisdiction does not necessarily mean that a product candidate will receive regulatory approval in all jurisdictions in which we may seek approval, but the failure to obtain approval in one jurisdiction may negatively impact our ability to seek approval in a different jurisdiction. Failure to obtain regulatory marketing approval for our drug candidate in any indication will prevent us from commercializing such product candidate, and our ability to generate revenue will be materially impaired.

Although leronlimab PRO 140 has been designated for fast track approval by the FDA, our ability to obtain accelerated approval may be lost.

The FDA designated PRO 140 for fast track consideration in 2006. The letter ascribing this designation stated that, if the clinical development program pursued for leronlimab PRO 140 did not continue to meet the criteria for fast track designation, the IND application would not be reviewed under the fast track program. There is no assurance that the FDA will ultimately consider leronlimab PRO 140 for approval on an accelerated basis. Failure to maintain eligibility for fast track review will likely result in requirements for longer or additional clinical trials and a slower approval process, resulting in additional costs and, therefore, additional capital, which will likely result in further delay in the potential realization of revenues from commercialization of leronlimab PRO 140.

Although we have applied with the FDA for breakthrough therapy designation for leronlimab, for certain HIV-related treatments, such a designation may not lead to a faster development or regulatory review or approval process, and it may not increase the likelihood leronlimab will receive marketing approval in the United States.

We applied with the FDA for breakthrough therapy designation for leronlimab, for certainHIV-related treatments. The FDA, in its comments to us, requested additional trial data to support our request for such designation. We currently plan to submit additional data to the FDA as it becomes available to us from our pivotal Phase 2b/3 combination trial. A breakthrough therapy is defined as a product that is intended, alone or in combination with one or more other drugs, to treat a serious or life-threatening disease or condition, and for which preliminary clinical evidence indicates substantial improvement over existing therapies on one or more clinically significant endpoints, such as substantial treatment effects observed early in clinical development. For drugs and biologics that have been designated as breakthrough therapies, interaction and communication between the FDA and the applicant can help to identify the most efficient path for clinical development while minimizing the number of patients placed in ineffective control regimens. Products designated as breakthrough therapies by the FDA may, in some cases, also be eligible for accelerated approval.

Designation as a breakthrough therapy is within the discretion of the FDA. Accordingly, even if we believe leronlimab PRO 140 meets the criteria for designation as a breakthrough therapy, the FDA may disagree. In any event, the receipt of a breakthrough therapy designation for leronlimab may not result in a faster development process, review or approval compared to products considered for approval under conventional FDA procedures and, in any event, does not assure ultimate approval by the FDA. In addition, even if leronlimab does qualify as a breakthrough therapy, the FDA may later decide that leronlimab no longer meet the conditions for qualification or decide that the time period for FDA review or approval will not be shortened. The foregoing considerations could result in additional costs and/or delay in the potential realization of revenues from commercialization of leronlimab.

Although the FDA has granted orphan drug designation for leronlimab for the prevention of GvHD, we may not be able to obtain or maintain orphan drug exclusivity for leronlimab.

We have received orphan drug designation by the FDA for leronlimab in connection with our Phase 2 trial for GvHD. We may not be able to obtain or maintain orphan drug exclusivity for leronlimab. Generally, a product with orphan drug designation only becomes entitled to orphan drug exclusivity if it receives the first marketing approval for the indication for which it has such designation, in which case the FDA will be precluded from approving another marketing application for the same drug for that indication for the applicable exclusivity period. The applicable exclusivity period is seven years in the United States. Orphan drug exclusivity may be lost if the FDA determines that the request for designation was materially defective or if the manufacturer is unable to assure sufficient quantity of the drug to meet the needs of patients with the rare disease or condition.

Even with orphan drug exclusivity for leronlimab, such exclusivity may not effectively protect the product from competition, because FDA has taken the position that, under certain circumstances, another drug with the same active moiety can be approved for the same condition. Specifically, the FDA's regulations provide that it can approve another drug with the same active moiety for the same condition, if the FDA concludes that the later drug is clinically superior in that it is shown to be safer, more effective or makes a major contribution to patient care.

The results of previous clinical trials may not be predictive of future results, and the results of our current and planned clinical trials may not satisfy the requirements of the FDA or non-U.S. regulatory authorities.

We must successfully initiate and complete a clinical trial for leronlimab as a monotherapy for HIV before we can apply for marketing approval. Although test results have been positive thus far, the process of obtaining approval of a drug product for use in humans is extremely lengthy and time-consuming, and numerous factors

may prevent our successful development of leronlimab, including negative results in ongoing and future clinical trials, and inability to obtain sufficient additional funding to continue to pursue development. Our clinical trials may be unsuccessful, which would materially harm our business.

The results from the prior clinical trials of leronlimab may not necessarily be predictive of the results of future clinical trials or pre-clinical studies. Clinical data are often susceptible to varying interpretations and analyses, and many companies that believed their product candidates performed satisfactorily in prior clinical trials nonetheless have failed to obtain FDA approval. The development timeline and regulatory approval and commercialization prospects for leronlimab, including our business and financial prospects, could be adversely affected by unforeseen risks and events.

Further, leronlimab may not be approved even after if it achieved its primary endpoint in its pivotal Phase 3 clinical trial. In addition, any of these regulatory authorities may change its requirements for the approval of a product candidate even after reviewing and providing comments or advice on a protocol for a pivotal clinical trial that, if successful, would potentially form the basis for an application for approval by the FDA or another regulatory authority. The FDA may require us to procure the development of a companion diagnostic test to help identify patients who may be more likely to respond to leronlimab for certain uses. Furthermore, any of these regulatory authorities may also approve leronlimab for fewer or more limited indications than we request or may grant approval contingent on the performance of costly post-marketing clinical trials.

The FDA and non-U.S. regulatory authorities retain broad discretion in evaluating the results of our clinical trials and in determining whether the results demonstrate that leronlimab is safe and effective. If prior to approval, we are required to conduct additional preclinical trials, clinical studies or other types of testing of leronlimab, including after the completion of our current and planned later phase clinical trials, we will need substantial additional funds, and there is no assurance that the results of any such additional clinical trials will be sufficient for approval.

Leronliamb may cause undesirable side effects or have other properties that delay or prevent its regulatory approval or limit their commercial potential.

Undesirable side effects caused by leronlimab or even competing products in development that utilize a common mechanism of action could cause regulatory authorities to interrupt, delay or halt clinical trials and could result in the denial of regulatory approval by the FDA or other regulatory authorities and expose the company to potential product liability claims. While leronlimab has been generally well tolerated and no drug-related serious adverse events or dose-proportional adverse events were reported, our understanding of the relationship between adverse events reported in future clinical trials of other product candidates may change as we gather more information, and unexpected adverse events may be observed. Routine review and analysis of post-marketing safety surveillance and clinical trials will provide additional information, for example, potential evidence of rare, population-specific or long-term adverse reactions, and may adversely affect the commercialization of the product, and even lead to the suspension or withdrawal of product marketing authorization.

If we or others identify undesirable side effects caused by leronlimab either before or after receipt of marketing approval, a number of potentially significant negative consequences could result, including:

- our clinical trials may be put on hold;
- we may be unable to obtain regulatory approval for our product candidate;
- regulatory authorities may withdraw approvals of our products;
- regulatory authorities may require additional warnings on the label;
- a medication guide outlining the risks of such side effects for distribution to patients may be required;

- we could be sued and held liable for harm caused to patients; and
- our reputation may suffer.

Any of these events could prevent us from achieving or maintaining marketing approvals for and market acceptance of leronlimab and could have a material adverse effect on our business and financial results.

Clinical trials may fail to demonstrate the desired safety and efficacy of our product candidates, which could prevent or significantly delay completion of clinical development and regulatory approval.

Prior to receiving approval to commercialize leronlimab or any other product candidates, we must adequately demonstrate to the FDA and any foreign regulatory authorities in jurisdictions in which we seek approval that leronlimab or any other product candidate is sufficiently safe and effective with substantial evidence from well-controlled clinical trials, which we believe we have achieved in our Phase 3 combination therapy trial for leronlimab as a combination therapy for highly treatment experienced HIV patients.

In clinical trials, we will need to demonstrate efficacy for the treatment of specific indications and monitor safety throughout the clinical development process and following approval. If clinical work by us or others leads to undesirable adverse effects in patients, it could delay or prevent us from furthering the regulatory approval process or cause us to cease clinical trials with respect to any drug candidate. If our current or future preclinical studies or clinical trials are unsuccessful, our business will be significantly harmed and our stock price would be negatively affected.

Any product candidate, including leronlimab, is subject to the risks of failure inherent in drug-related product development. Preclinical studies may not yield results that adequately support our regulatory applications. Even if these applications are filed with respect to our product candidate, the results of preclinical studies do not necessarily predict the results of clinical trials. In addition, even if we believe the data collected from clinical trials of our product candidate are promising, these data may not be sufficient to support approval by the FDA or foreign regulatory authorities. If regulatory authorities do not approve our product, or if we fail to maintain regulatory compliance, we would be unable to commercialize our product, and our business, results of operations and financial condition would be harmed.

We may find it difficult to enroll patients in our clinical trials, which could delay or prevent clinical trials of our product candidate.

Identifying and qualifying patients to participate in clinical trials of our product candidate is critical to our success. The timing of our clinical trials depends on the rate at which we can recruit patients to participate in testing our product candidate. If patients are unwilling to participate in our trials because of concerns about participating in clinical trials during the COVID-19 pandemic or other public health emergency, negative publicity from adverse events in the biotechnology industries, public perception of vaccine safety issues or for other reasons, including competitive clinical trials for similar patient populations, the timeline for recruiting patients, conducting studies and obtaining regulatory approval of potential products may be delayed. These delays could result in increased costs, delays in advancing our product development, delays in testing the effectiveness of our technology or termination of the clinical trials altogether.

We may not be able to identify, recruit and enroll a sufficient number of patients, or those with the required enrollment criteria, to complete our clinical trials in a timely manner. Patient enrollment is affected by several factors, including:

- severity of the disease under investigation;
- design of the trial protocol;
- size of the patient population;

- eligibility criteria for the trial in question;
- perceived risks and benefits of the product candidate being tested;
- proximity and availability of clinical trial sites for prospective patients;
- availability of competing vaccines and/or therapies and related clinical trials;
- efforts to facilitate timely enrollment in clinical trials;
- patient referral practices of physicians; and
- ability to monitor patients adequately during and after treatment.

We may not be able to initiate or continue clinical trials if we cannot enroll a sufficient number of eligible patients to participate in the clinical trials required by regulatory agencies.

Even if we enroll a sufficient number of eligible patients to initiate our clinical trials, we may be unable to maintain participation of these patients throughout the course of the clinical trial as required by the clinical trial protocol, in which event we may be unable to use the research results from those patients. If we have difficulty enrolling, and maintaining the enrollment of a sufficient number of patients to conduct our clinical trials as planned, we may need to delay, limit or terminate ongoing or planned clinical trials, any of which would have an adverse effect on our business.

Clinical trials are expensive, time-consuming and subject to delay.

Clinical trials are subject to rigorous regulatory requirements and are expensive and time-consuming to design, implement and manage. The length of time and number of trial sites and patients required for clinical trials vary substantially based on the type, complexity, novelty, intended use and any safety concerns relating to a drug candidate. Clinical trials for other indications for leronlimab may take significantly longer to complete than leronlimab's HIV trial program, and, in some instances, we may decide not to pursue clinical trials for other indications.

The commencement and completion of clinical trials could be delayed or prevented by many factors, including, but not limited to:

- periodic amendments to clinical trial protocols to address certain variables which arise during the course of a trial must be negotiated with and approved by the FDA;
- slower than expected rates of patient recruitment and enrollment which has occurred in connection with certain of our trials, including as a result of COVID-19 fears, quarantines or other stay-at-home orders from government authorities, competition with other clinical trials for patients, limited numbers of patients that meet the enrollment criteria, or the introduction of alternative therapies or drugs by others;
- our ability to obtain regulatory or other approvals to commence and conduct clinical trials in the manner we or our partners consider appropriate for timely development;
- our ability to identify and reach agreement on acceptable terms with prospective clinical trial sites and entities involved in the conduct of our clinical trials;
- unforeseen issues with our relationship with our contract clinical management services provider;
- delays in paying third-party vendors of biopharmaceutical services;
- lack of effectiveness of our drug candidates during clinical trials; or
- unforeseen safety issues.

Product development costs for our products will increase if we have delays in testing or approval or if we need to perform more or larger clinical studies than planned. Additionally, changes in regulatory requirements

and policies may occur and we may need to amend study protocols to reflect these changes. Amendments may require us to resubmit our study protocols to the FDA and institutional review boards, or IRBs, for reexamination, which may impact the costs, timing or successful completion of that study. If we experience delays in completion of, or if we, the FDA or other regulatory authorities, any IRBs, or other reviewing entities, or any of our clinical study sites suspend or terminate any of our clinical studies of our drug candidates, our commercial prospects may be materially harmed and our ability to generate product revenues will be delayed. Any delays in completing our clinical trials will increase our costs, slow down our development and approval process and jeopardize our ability to commence product sales and generate revenues. Any of these occurrences may harm our business, financial condition and prospects significantly. In addition, many of the factors that cause, or lead to, termination or suspension of, or a delay in the commencement or completion of, clinical studies may also ultimately lead to the denial of regulatory approval of our drug candidates. In addition, if one or more clinical studies are delayed, our competitors may be able to bring products to market before we do, and the commercial viability of our drug candidates could be significantly reduced.

We depend on the Vyera License Agreement for the commercialization of leronlimab for the treatment of HIV in humans in the U.S. Vyera's failure to successfully commercialize leronlimab for the treatment of HIV in the U.S. could have a material adverse effect on our business, financial condition and results of operations.

On December 17, 2019, we entered into the Vyera License Agreement under which we granted Vyera an exclusive royalty-bearing license to commercialize pharmaceutical preparations containing leronlimab for treatment of HIV in humans in the U.S. Pursuant to the terms of the Vyera License Agreement, Vyera is obligated to use commercially reasonable efforts (as defined in the Vyera License Agreement) to commercialize leronlimab for the treatment of HIV in humans in the U.S.

Under the terms of the Vyera License Agreement, Vyera will make payments to us of up to $87.0 million based upon the achievement of certain sales and regulatory milestones. In addition, Vyera will pay a royalty to us equal to fifty percent of Vyera's gross profit margin from leronlimab sales (defined in the Vyera License Agreement as "Net Sales") in the U.S. The right to potential future payments under the Vyera License Agreement represents a significant portion of the value of the Vyera License Agreement. We cannot be certain we will receive any future payments under the Vyera License Agreement, which would adversely affect the trading price of our common stock and have a material adverse effect on our business, financial condition and results of operations.

Vyera's ability to successfully commercialize and generate revenues from leronlimab depends on a number of factors, including Vyera's ability to:

- develop and execute its sales and marketing strategies for leronlimab;
- achieve, maintain and grow market acceptance of, and demand for, leronlimab;
- obtain and maintain adequate coverage, reimbursement and pricing from managed care, government and other third- party payers;
- maintain and manage the necessary sales, marketing, manufacturing, managed markets, and other capabilities and infrastructure that are required to successfully integrate and commercialize leronlimab; and
- comply with applicable legal and regulatory requirements.

Additional factors that may affect the success of our commercialization arrangement with Vyera include the following:

- we may not succeed in getting leronlimab approved or approved with commercially competitive labeling;
- Vyera may prioritize the commercialization of its other products over leronlimab;

- Vyera may pursue higher-priority programs, or change the focus of its marketing programs;
- Vyera may acquire or develop alternative products;
- Vyera may in the future choose to devote fewer resources to leronlimab;
- changes in laws and regulations applicable to, and scrutiny of, the pharmaceutical industry;
- market acceptance of leronlimab may fail to materialize, increase or may decrease;
- Vyera may experience financial difficulties; and
- Vyera may fail to comply with its obligations under our Vyera License Agreement and related agreements.

Any of the preceding factors could affect Vyera's commitment to, and ability to perform, its obligations under the Vyera License Agreement, which, in turn could adversely affect the commercial success of leronlimab for the treatment of HIV in humans in the U.S. Any failure by Vyera to successfully commercialize leronlimab for the treatment of HIV in humans in the U.S. could have a material adverse effect on our business, financial condition and results of operations.

If Vyera is not successful in commercializing leronlimab for the treatment of HIV in humans in the U.S., our revenues and our business will suffer.

The commercial success of leronlimab for the treatment of HIV in humans in the U.S. will depend almost entirely on Vyera's commercialization efforts. Pursuant to the Vyera License Agreement, Vyera is responsible for marketing, pricing, promoting, selling and distributing leronlimab for the treatment of HIV in humans in the U.S. If the Vyera License Agreement is terminated in accordance with its terms, including due to a party's failure to perform its obligations or responsibilities under the Vyera License Agreement, we would need to commercialize leronlimab ourselves, for which we currently have no infrastructure, or alternatively enter into a new agreement with another commercialization partner, of which no assurance can be given. If we are unable to build the necessary infrastructure to commercialize leronlimab ourselves, which would substantially increase our expenses and capital requirements, which we are currently unable to fund, or are unable to find a suitable replacement commercialization partner, we would be unable to generate any revenue from leronlimab. Even if we are successful at replacing the commercialization capabilities of Vyera, potential revenues and/or royalties from leronlimab could be adversely affected.

Vyera may market other products, for which leronlimab will vie for Vyera's, promotional, marketing, and selling resources. If Vyera fails to commit sufficient promotional, marketing and selling resources to leronlimab, our potential royalties and receipt of milestone payments could be adversely impacted. Additionally, there can be no assurance that Vyera will commit the resources required for the successful commercialization of leronlimab.

If Vyera prices leronlimab inappropriately, fails to position and sell leronlimab properly, targets inappropriate physician specialties, or otherwise does not provide sufficient promotional support, potential product revenue and our potential royalties and milestone payments could be materially adversely affected.

Vyera's promotional, marketing and sales activities in connection with leronlimab are subject to various federal and state fraud and abuse laws, including, without limitation, the federal Anti-Kickback Statute and the federal False Claims Act. The federal Anti-Kickback Statute prohibits persons from knowingly and willfully soliciting, receiving, offering or paying remuneration, directly or indirectly, to induce, or in return for, the purchase or recommendation of an item or service reimbursable under a federal healthcare program. The federal False Claims Act imposes liability on any person who, among other things, knowingly presents, or causes to be presented, a false or fraudulent claim for payment by a federal healthcare program. If Vyera's activities are found to be in violation of these laws or any other federal and state fraud and abuse laws, Vyera may be subject to penalties, including civil and criminal penalties, damages, fines, exclusion from federal healthcare programs and

the curtailment or restructuring of its activities with regard to the commercialization of leronlimab, which could harm the commercial success of leronlimab and have a material adverse effect on our business, financial condition and results of operations.

We will depend on Vyera and any other future licensees and royalty-agreement counterparties for the determination of royalty and milestone payments. While we typically have primary or back-up rights to audit our licensees and royalty-agreement counterparties, the independent auditors may have difficulty determining the correct royalty calculation, we may not be able to detect errors and payment calculations may call for retroactive adjustments. We may have to exercise legal remedies, if available, to resolve any disputes resulting from the audit.

The royalty and milestone payments we may receive pursuant to the Vyera License Agreement and any future license or commercialization agreements are dependent on our licensees based on their reported achievement of regulatory milestones and product sales. Each licensee's calculation of the royalty payments is subject to and dependent upon the adequacy and accuracy of its sales and accounting functions, and errors may occur from time to time in the calculations made by a licensee and/or a licensee may fail to report the achievement of royalties or milestones in whole or in part. Our license and royalty agreements typically provide us the primary or back-up right to audit the calculations and sales data for the associated royalty payments; however, such audits may occur many months following our recognition of the royalty revenue, may require us to adjust our royalty revenues in later periods and may require expense on the part of the Company. Further, our licensees and royalty-agreement counterparties may be uncooperative or have insufficient records, which may complicate and delay the audit process.

Although we intend to regularly exercise our royalty audit rights as necessary and to the extent available, we rely in the first instance on our licensees and royalty-agreement counterparties to accurately report the achievement of milestones and royalty sales and calculate and pay applicable milestones and royalties and, upon exercise of such royalty and other audit rights, we rely on licensees' and royalty-agreement counterparties' cooperation in performing such audits. In the absence of such cooperation, we may be forced to exercise legal remedies, if available, to enforce our agreements.

Any failure of any of our upstream suppliers to deliver necessary quantities of leronlimab could result in delays in our commercialization schedule and adversely affect our ability to meet our supply obligations to Vyera. In addition, we may still be obligated to satisfy obligations to our upstream suppliers and/or licensors even if Vyera's commercialization achievements are insufficient to enable us to fully satisfy such obligations.

We depend on our upstream supply agreements with various partners to satisfy our obligations under the Vyera Supply Agreement to supply leronlimab to Vyera for commercialization. A failure in our upstream supply chain could adversely impact our ability to meet our supply obligations under the Vyera Supply Agreement and could impact Vyera's ability to successfully commercialize leronlimab. We have obligations to our upstream suppliers and licensors that are independent of Vyera's obligations to us. Therefore, if Vyera is not able to successfully commercialize leronlimab, we may still be obligated to meet certain of our obligations to our upstream suppliers. There can be no assurances that Vyera's commercialization of leronlimab will be sufficient to enable us to meet the obligations to our upstream suppliers and/or licensors.

We anticipate being able to provide to Vyera, in satisfaction of our supply obligations thereto, certain inventory of product that we have on hand in connection with the launch and initial commercialization period of leronlimab. If we are unable to do so due to dating restrictions at the time of regulatory approval of leronlimab,

the launch of leronlimab may be delayed and we will likely incur additional costs in order to provide Vyera with sufficient product for the launch and the initial commercialization period of leronlimab.

The commercialization of leronlimab is subject to several risks.

Regulatory approval of leronlimab is no guarantee of commercial success. The sale and marketing of drug products is a complicated and multifaceted process, and many approved drugs are not commercially successful.

If approved for marketing, the commercial success of leronlimab will depend upon its acceptance by customers and other stakeholders, including physicians, patients and health care payors. The degree of market acceptance of leronlimab will depend on a number of factors, including:

- demonstration of clinical safety and efficacy;
- relative convenience and ease of administration;
- the prevalence and severity of any adverse effects;
- the willingness of physicians to prescribe leronlimab and of the target patient population to try new therapies;
- safety, tolerability and efficacy of leronlimab compared to competing products;
- the introduction of any new products that may in the future become available to treat indications for which leronlimab PRO 140 may be approved;
- new procedures or methods of treatment that may reduce the incidences of any of the indications in which our drug candidates may show utility;
- pricing and cost-effectiveness;
- the inclusion or omission of leronlimab in applicable treatment guidelines;
- the effectiveness of our or any future collaborators' sales and marketing strategies;
- limitations or warnings contained in FDA approved labeling;
- our ability to obtain and maintain sufficient third-party coverage or reimbursement from government health care programs, including Medicare and Medicaid, private health insurers and other third-party payors; and
- the willingness of patients to pay out-of-pocket in the absence of third-party coverage or reimbursement.

If leronlimab, or any of our drug candidates are approved, but do not achieve an adequate level of acceptance by physicians, health care payors and patients, we may not generate sufficient revenue and we may not be able to achieve or sustain profitability. Our efforts to educate the medical community and third-party payors on the benefits of our drug candidates may require significant resources and may never be successful.

In addition, even if we obtain regulatory approvals, the timing or scope of any approvals may prohibit or reduce our ability to commercialize our drug candidates successfully. For example, if the approval process takes too long, we may miss market opportunities and give other companies the ability to develop competing products or establish market dominance. Any regulatory approval we ultimately obtain may be limited or subject to restrictions or post-approval commitments that render our drug candidates not commercially viable. For example, regulatory authorities may approve our drug candidates for fewer or more limited indications than we request, may not approve the prices we intend to charge for our drug candidates, may grant approval contingent on the performance of costly post-marketing clinical trials, or may approve our drug candidates with labels that do not include the labeling claims necessary or desirable for the successful commercialization of a particular indication.

Further, the FDA or comparable foreign regulatory authorities may place conditions on approvals, such as risk management plans and a Risk Evaluation and Mitigation Strategy, or REMS, to assure the safe use of the drug. If the FDA concludes a REMS is needed, the sponsor of the NDA must submit a proposed REMS; the FDA will not approve the NDA without an approved REMS, if required. A REMS could include medication guides, physician communication plans, or elements to assure safe use, such as restricted distribution methods, patient registries and other risk minimization tools. The FDA may also require a REMS for an approved product when new safety information emerges. Any of these limitations on approval or marketing could restrict the commercial promotion, distribution, prescription or dispensing of our drug candidates. Moreover, product approvals may be withdrawn for non-compliance with regulatory standards or if problems occur following the initial marketing of the product. Any of the foregoing scenarios could materially harm the commercial success of our drug candidates.

Certain agreements and related license agreements require us to make significant milestone, royalty, and other payments, which will require additional financing and, in the event we do commercialize our leronlimab product, decrease the revenues we may ultimately receive on sales. To the extent that such milestone, royalty and other payments are not timely made, the counterparties to such agreements in certain cases have repurchase and termination rights thereunder with respect to leronlimab.

Under the Progenics Purchase Agreement, the PDL License and the Lonza Agreement, we must pay to Progenics, AbbVie Inc. and Lonza significant milestone payments, license fees for "system know-how" technology, and royalties. In order to make the various milestone and license payments that are required, we will need to raise additional funds. In addition, our royalty obligations will reduce the economic benefits to us of any future sales if we do receive regulatory approval and seek to commercialize leronlimab. To the extent that such milestone payments and royalties are not timely made, under each their respective agreements, Progenics has certain repurchase rights relating to the assets sold to us, and AbbVie Inc. has certain termination rights relating to our license of leronlimab under the PDL License. For more information, see "Business—PRO 140 Acquisition and Licenses," as well as the Progenics Purchase Agreement, the PDL License and the Lonza Agreement, each of which are incorporated by reference, respectively, as Exhibits 2.1, 10.3 and 10.4 to this Form 10-K.

Any failure to attract and retain skilled directors, executives, employees and consultants could impair our drug development and commercialization activities.

Our business depends on the skills, performance, and dedication of our directors, executive officers and key scientific and technical advisors. All of our current scientific advisors are independent contractors and are either self-employed or employed by other organizations. As a result, they may have conflicts of interest or other commitments, such as consulting or advisory contracts with other organizations, which may affect their ability to provide services to us in a timely manner. We may need to recruit additional directors, executive management employees, and advisers, particularly scientific and technical personnel, which will require additional financial resources. In addition, there is currently intense competition for skilled directors, executives and employees with relevant scientific and technical expertise, and this competition is likely to continue. We compete for these qualified personnel against companies with greater financial resources than ours. In order to successfully recruit qualified employees, we will likely need to offer a combination of base salary and equity compensation. These future issuances of our equity securities will dilute existing stockholders' ownership interests. If we are unable to attract and retain persons with sufficient scientific, technical and managerial experience, we may be forced to limit or delay our product development activities or may experience difficulties in successfully conducting our business, which would adversely affect our operations and financial condition.

The loss or transition of any member of our senior management team or any key employee could adversely affect our business.

Our success depends significantly on the continued individual and collective contributions of our senior management team and key employees. The individual and collective efforts of these employees will be important as we continue to develop our tests and services, and as we expand our commercial activities. The loss of the

services of any member of our senior management team or the inability to hire and retain experienced management personnel could harm our operating results.

We have experienced significant turnover among our senior executives over the past two years. Our Chief Medical Officer was terminated in July 2019, after joining the company in November 2018, and our Chief Financial Officer left the Company in April 2020, after being promoted to this role in November 2019. The complexity inherent in integrating a new key member of the senior management team with existing senior management may limit the effectiveness of any such successor or otherwise adversely affect our business. Leadership transitions can be inherently difficult to manage and may cause uncertainty or a disruption to our business or may increase the likelihood of turnover of other key officers and employees. Specifically, a leadership transition in the commercial team may cause uncertainty about or a disruption to our commercial organization, which may impact our ability to achieve sales and revenue targets. Further, we may incur significant expenses related to any executive transition costs that may impact our operating results. Finding suitable replacements for senior management and other key employees can be difficult, and there can be no assurance we will continue to be successful in retaining or attracting qualified personnel in the future.

We have a very limited number of internal research and development personnel, making us dependent on consulting relationships and strategic alliances with industry partners.

We currently have five employees dedicated to Chemistry, Manufacturing, and Controls, or CMC activities and quality control. We rely and intend to continue to rely on third-parties to supplement many of these functions. We contract with Amarex, a full service contract research organization, to manage our clinical trials. As a result, we are dependent on consultants and strategic partners in our development and commercialization activities, and it may be administratively challenging to monitor and coordinate these relationships. If we do not appropriately manage our relationships with third-parties, we may not be able to successfully manage development, testing, and preparation of our BLA filings for our product or commercialize any product approved, which would have a material and adverse effect on our business, financial condition and stock price.

Our competitors may develop drugs that are more effective, safer and less expensive than ours.

We are engaged in the HIV treatment sector of the biopharmaceutical industry, which is intensely competitive. There are current treatments that are quite effective at controlling the effects of HIV, and we expect that new developments by other companies and academic institutions in the areas of HIV treatment will continue. If approved for marketing by the FDA, depending on the approved clinical indication, our product candidate may be competing with existing and future antiviral treatments for HIV.

Our competitors may:

- develop drug candidates and market drugs that increase the levels of safety or efficacy that our product candidate will need to show in order to obtain regulatory approval;
- develop drug candidates and market drugs that are less expensive or more effective than ours;
- commercialize competing drugs before we or our partners can launch any products we are working to develop;
- hold or obtain proprietary rights that could prevent us from commercializing our products; and/or
- introduce therapies or market drugs that render our product candidate obsolete.

We expect to compete against large pharmaceutical and biotechnology companies and smaller companies that are collaborating with larger pharmaceutical companies, new companies, academic institutions, government agencies and other public and private research organizations. These competitors, in nearly all cases, operate

research and development programs that have substantially greater financial resources than we do. Our competitors also have significantly greater experience in:

- developing drug and other product candidates;
- undertaking preclinical testing and clinical trials;
- building relationships with key customers and opinion-leading physicians;
- obtaining and maintaining FDA and other regulatory approvals;
- formulating and manufacturing drugs;
- launching, marketing and selling drugs; and
- providing management oversight for all of the above-listed operational functions.

If we fail to achieve superiority over other existing or newly developed treatments, we may be unable to obtain regulatory approval. If our competitors market drugs that are less expensive, safer or more effective than our product candidate, or that gain or maintain greater market acceptance, we may not be able to compete effectively.

We will need to outsource and rely on third-parties for the clinical development and manufacture, sales and marketing of product candidate, and our future success will be dependent on the timeliness and effectiveness of the efforts of these third-parties.

We are dependent on third-parties for important aspects of our product development strategy. We do not have the required financial and human resources to carry out independently the pre-clinical and clinical development for our product candidate, and do not have the capability or resources to manufacture, market or sell our current product candidate. As a result, we contract with and rely on third-parties for important functions, including testing, storing, and manufacturing our products and managing and conducting clinical trials from which we may obtain a benefit. We have recently entered into several agreements with third-parties for such services. If problems develop in our relationships with third-parties, or if such parties fail to perform as expected, it could lead to delays or lack of progress, significant cost increases, changes in our strategies, and even failure of our product initiatives.

Any manufacturing problem or the loss of a contract manufacturer could be disruptive to our operations and result in lost sales. Any reliance on suppliers may involve several risks, including a potential inability to obtain critical materials and reduced control over production costs, delivery schedules, reliability and quality. Any unanticipated disruption to a future contract manufacturer caused by problems at suppliers could delay shipment of our drug candidates, increase our cost of goods sold and result in lost sales.

We expect to rely on third-party manufacturers and will be dependent on their quality and effectiveness.

Our primary product candidate leronlimab and potential drug candidates require precise, high-quality manufacturing. The failure to achieve and maintain high manufacturing standards, including failure to detect or control unexpected events or unanticipated manufacturing errors or the frequent occurrence of such errors, could result in patient injury or death, discontinuance or delay of ongoing or planned clinical trials, delays or failures in product testing or delivery, cost overruns, product recalls or withdrawals and other problems that could seriously hurt our business. Contract manufacturers of biopharmaceutical drugs can encounter difficulties involving manufacturing processes, facilities, operations, production yields, quality control, compliance and shortages of qualified personnel. These manufacturers are subject to stringent regulatory requirements, including the FDA's current good-manufacturing-practices (cGMP) regulations and similar foreign laws and standards. If our contract manufacturers fail to maintain ongoing compliance at any time, we may be unable to obtain regulatory approval for our products. In addition, the production of our product candidate could be interrupted, resulting in delays or discontinuance of our clinical trials, disruption in our release of commercial supplies, or other factors that could cause increases in costs and loss of potential revenues.

If for any reason, these third-parties are unable or unwilling to perform, we may not be able to terminate our agreements with them, and we may not be able to locate alternative manufacturers or formulators or enter into favorable agreements with them, nor can we be certain that any such third-parties will have the manufacturing capacity to meet future requirements. If these manufacturers or any alternate manufacturer of finished drug product experiences any significant difficulties in its respective manufacturing processes for our active pharmaceutical ingredient, or API, or our finished products, or should these manufacturers cease doing business with us, we could experience significant interruptions in the supply of our drug candidates or may not be able to create a supply of our drug candidates at all. Were we to encounter manufacturing issues, our ability to produce a sufficient supply of our drug candidates might be negatively affected. Our inability to coordinate the efforts of our third-party manufacturing partners, or the lack of capacity available at our third-party manufacturing partners, could impair our ability to supply our drug candidates at required levels. Because of the significant regulatory requirements that we would need to satisfy in order to qualify a new bulk or finished product manufacturer, if we face these or other difficulties with our current manufacturing partners, we could experience significant interruptions in the supply of our drug candidates if we decided to transfer the manufacture of our drug candidates to one or more alternative manufacturers in an effort to deal with the difficulties.

We cannot guarantee our manufacturing and supply partners will be able to manufacture our drug candidates at commercial scale on a cost-effective basis. If the commercial-scale manufacturing costs of our drug candidates are higher than expected, these costs may significantly impact our operating results. In order to reduce costs, we may need to develop and implement process improvements. However, in order to do so, we will need, from time to time, to notify or make submissions with regulatory authorities, and the improvements may be subject to approval by such regulatory authorities. We cannot be sure that we will receive these necessary approvals or that these approvals will be granted in a timely fashion. We also cannot guarantee we will be able to enhance and optimize output in our commercial manufacturing process. If we cannot enhance and optimize output, we may not be able to reduce our costs over time.

We may not be able to identify, negotiate and maintain the strategic alliances necessary to develop and commercialize our products and technologies, and we will be dependent on our corporate partners if we do.

We may seek to enter into a strategic alliance with a pharmaceutical company for the further development and approval of one or more of our product candidates. Strategic alliances potentially provide us with additional funds, expertise, access, and other resources in exchange for exclusive or non-exclusive licenses or other rights to the technologies and products that we are currently developing or may explore in the future. We cannot give any assurance we will be able to enter into strategic relationships with a pharmaceutical company or others in the near future or at all, or maintain our current relationships. In addition, we cannot assure you any agreements we do reach will achieve our goals or be on terms that prove to be economically beneficial to us. When we do enter into strategic or contractual relationships, we become dependent on the successful performance of our partners or counterparties. If they fail to perform as expected, such failure could adversely affect our financial condition, lead to increases in our capital needs, or hinder or delay our development efforts.

We currently have no sales and marketing organization. If we are unable to secure a sales and marketing partner or establish satisfactory sales and marketing capabilities, we may not successfully commercialize leronlimab.

Approval of leronlimab is no guarantee of commercial success. The sale and marketing of drug products is a complicated and multifaceted process, and many approved drugs are not commercially successful.

At present, we have no sales or marketing personnel. In order to commercialize products that are approved for commercial sales, we must either collaborate with third-parties that have such commercial infrastructure or develop our own sales and marketing infrastructure. If we are not successful in entering into appropriate collaboration arrangements, or recruiting sales and marketing personnel or in building a sales and marketing infrastructure, we will have difficulty successfully commercializing leronlimab, which would adversely affect our business, operating results and financial condition.

We may have limited or no control over the sales, marketing and distribution activities of third-parties in connection with current and future collaboration agreements. Our future revenues may depend heavily on the success of the efforts of these third- parties. If we elect to establish a sales and marketing infrastructure we may not realize a positive return on this investment. In addition, we will have to compete with established and well-funded pharmaceutical and biotechnology companies to recruit, hire, train and retain sales and marketing personnel. Factors that may inhibit our efforts to commercialize our drug candidates without strategic partners or licensees include:

- our inability to recruit and retain adequate numbers of effective sales and marketing personnel;
- the inability of sales personnel to obtain access to or persuade adequate numbers of physicians to prescribe our drug candidates;
- the lack of complementary products to be offered by sales personnel, which may put us at a competitive disadvantage relative to companies with more extensive product lines; and
- unforeseen costs and expenses associated with creating an independent sales and marketing organization.

Even if we obtain marketing approval for leronlimab, we will be subject to ongoing regulatory obligations and oversight.

Even if we obtain marketing approval for leronlimab, we will be subject to ongoing obligations and continued regulatory review, which will result in significant risks and significant additional expenses. Additionally, leronlimab could be subject to labeling and other restrictions and withdrawal from the market and we may be subject to penalties if we fail to comply with regulatory requirements, or if we experience unanticipated problems with leronlimab.

Even if we obtain FDA approval of leronlimab for an indication, the FDA may still impose significant restrictions on its indicated uses or marketing or the conditions of approval, or impose ongoing requirements for potentially costly and time-consuming post-approval studies, including Phase 4 clinical trials, and post-market surveillance to monitor safety and efficacy. Leronlimab will also be subject to ongoing regulatory requirements governing the manufacturing, labeling, packaging, storage, distribution, safety surveillance, advertising, promotion, recordkeeping and reporting of adverse events and other post-market information. In addition, manufacturers of drug products and their facilities are subject to continual review and periodic inspections by the FDA and other regulatory authorities for compliance with current cGMPs, which are requirements relating to quality control, quality assurance and corresponding maintenance of records and documents.

With respect to sales and marketing activities by us or any future partner, advertising and promotional materials must comply with FDA rules in addition to other applicable federal, state and local laws in the United States and similar legal requirements in other countries. In the United States, the distribution of product samples to physicians must comply with the requirements of the U.S. Prescription Drug Marketing Act. Application holders must obtain FDA approval for product and manufacturing changes, depending on the nature of the change. We may also be subject, directly or indirectly through our customers and partners, to various fraud and abuse laws, including, without limitation, the U.S. Anti-Kickback Statute, U.S. False Claims Act, and similar state laws, which impact, among other things, our proposed sales, marketing, and scientific/educational grant programs. If we participate in the U.S. Medicaid Drug Rebate Program, the Federal Supply Schedule of the U.S. Department of Veterans Affairs, or other government drug programs, we will be subject to complex laws and regulations regarding reporting and payment obligations. All of these activities are also potentially subject to U.S. federal and state consumer protection and unfair competition laws. Similar requirements exist in many of these areas in other countries.

In addition, if any of our drug candidates are approved for an indication, our product labeling, advertising and promotion would be subject to regulatory requirements and continuing regulatory review. The FDA strictly

regulates the promotional claims that may be made about prescription products. In particular, a product may not be promoted for uses that are not approved by the FDA as reflected in the product's approved labeling. If we receive marketing approval for any of our drug candidates, physicians may nevertheless legally prescribe such products to their patients in a manner that is inconsistent with the approved label. However, if we are found to have promoted such off-label uses, we may become subject to significant liability and government fines. The federal government has levied large civil and criminal fines against companies for alleged improper promotion and has enjoined several companies from engaging in off-label promotion. The FDA has also requested that companies enter into consent decrees of permanent injunctions under which specified promotional conduct is changed or curtailed.

If we or a regulatory agency discover previously unknown problems with a product, such as adverse events of unanticipated severity or frequency or problems with the facility where the product is manufactured, or if we or our manufacturers fail to comply with applicable regulatory requirements, we may be subject to the following administrative or judicial sanctions:

- restrictions on the marketing or manufacturing of the product, withdrawal of the product from the market, or voluntary or mandatory product recalls;
- issuance of warning letters or untitled letters;
- injunctions or the imposition of civil or criminal penalties or monetary fines;
- suspension of any ongoing clinical trials;
- refusal to approve pending applications or supplements to approved applications filed by us, or suspension or revocation of product license approvals;
- suspension of, or imposition of restrictions on, operations, including costly new manufacturing requirements; and/or
- product seizure or detention or refusal to permit the import or export of product.

The occurrence of any event or penalty described above may inhibit our ability to commercialize our drug candidates and generate revenue. Adverse regulatory action, whether pre- or post-approval, can also potentially lead to product liability claims and increase our product liability exposure.

Our future growth depends, in part, on our ability to enter into and succeed in markets outside of the United States, where we may choose to rely on third-party collaborations and will be subject to additional regulatory and commercial burdens, risks and other uncertainties.

Our future profitability will depend, in part, on our ability to gain approval of and commercialize our drug candidates in non-U.S. markets. In some or all of these non-U.S. markets, we intend to enter into licensing and contractual collaborations with third-parties to handle some or all of the tasks and responsibilities necessary to succeed. Our activities in non-U.S. markets are subject to additional risks and uncertainties, including:

- our ability to enter into favorable licensing and contractual arrangements with our partners;
- our ability to select partners who are capable of achieving success at the tasks they agree to perform;
- obtaining timely and sufficient favorable approval terms for our drug candidates;
- obtaining favorable pricing and reimbursement;
- our inability to directly control commercial activities because we are relying on third-parties;
- the burden of complying with complex and changing foreign regulatory, tax, accounting and legal requirements;
- different medical practices and customs in foreign countries affecting acceptance in the marketplace;

- import or export licensing requirements;
- longer accounts receivable collection times;
- longer lead times for shipping;
- language barriers for technical training;
- reduced protection of intellectual property rights in some foreign countries;
- foreign currency exchange rate fluctuations; and
- the interpretation of contractual provisions governed by foreign laws in the event of a contract dispute.

International sales of our drug candidates could also be adversely affected by the imposition of governmental controls, political and economic instability, and trade restrictions and changes in tariffs, any of which may adversely affect our results of operations.

We may not be able to successfully manufacture our product candidate in sufficient quantities for late-stage clinical development, and scale-up manufacturing processes for commercial production, which would delay or prevent us from developing our product candidate and commercializing approved product, if any.

In order to conduct larger-scale or late-stage clinical trials, we need to maintain sufficient product inventory. A failure to manufacture a product candidate in a timely manner or unexpected failure of product in inventory due to unacceptable test results may lead to significant delays in clinical development. For commercialization of any resulting product, if that candidate is approved for sale, we will need to manufacture it in larger quantities while preserving its quality. Our CMOs may not be able to successfully increase the manufacturing capacity for our product candidate in a timely or cost-effective manner, or at all. In addition, quality issues may arise during development, scale-up and validation of commercial manufacturing processes. If we are unable to successfully develop robust, commercial-scale processes to manufacture our product candidate in sufficient quality and quantity, the regulatory approval or commercial launch of our product candidate may be delayed, which could significantly harm our business.

We may be subject to potential product liability and other claims that could materially affect our business and financial condition.

The development and sale of medical products exposes us to the risk of significant damages from product liability and other claims, and the use of our product candidate in clinical trials may result in adverse effects. We cannot predict all the possible harms or adverse effects that may result. We maintain a modest amount of product liability insurance to provide some protections from claims. Nonetheless, we may not have sufficient resources to pay for any liabilities resulting from a personal injury or other claim, even if it is partially covered by insurance. In addition to the possibility of direct claims, we may be required to indemnify third-parties against damages and other liabilities arising out of our development, commercialization and other business activities, which would increase our liability exposure. If third-parties that have agreed to indemnify us fail to do so, we may be held responsible for those damages and other liabilities as well.

If we market our drug candidates in a manner that violates healthcare fraud and abuse laws, or if we violate government price reporting laws, we may be subject to civil or criminal penalties.

The FDA enforces laws and regulations which require that the promotion of pharmaceutical products be consistent with the approved prescribing information. While physicians may prescribe an approved product for a so-called “off label” use, it is unlawful for a pharmaceutical company to promote its products in a manner that is inconsistent with its approved label and any company which engages in such conduct may be subject to significant liability. Similarly, industry codes in the European Union and other foreign jurisdictions prohibit companies from engaging in off-label promotion and regulatory agencies in various countries enforce violations

of the code with civil penalties. While we intend to ensure our promotional materials are consistent with our label, regulatory agencies may disagree with our assessment and may issue untitled letters, warning letters or may institute other civil or criminal enforcement proceedings. In addition to FDA restrictions on marketing of pharmaceutical products, several other types of state and federal healthcare fraud and abuse laws have been applied in recent years to restrict certain marketing practices in the pharmaceutical industry. These laws include the U.S. Anti-Kickback Statute, U.S. False Claims Act and similar state laws. Because of the breadth of these laws and the narrowness of the safe harbors, it is possible some of our business activities could be subject to challenge under one or more of these laws.

The U.S. Anti-Kickback Statute prohibits, among other things, knowingly and willfully offering, paying, soliciting or receiving remuneration to induce, or in return for, purchasing, leasing, ordering or arranging for the purchase, lease or order of any healthcare item or service reimbursable under Medicare, Medicaid or other federally financed healthcare programs. This statute has been interpreted broadly to apply to arrangements between pharmaceutical manufacturers on the one hand and prescribers, purchasers and formulary managers on the other. Although there are several statutory exemptions and regulatory safe harbors protecting certain common activities from prosecution, the exemptions and safe harbors are drawn narrowly, and practices that involve remuneration intended to induce prescribing, purchasing or recommending may be subject to scrutiny if they do not qualify for an exemption or safe harbor. Our practices may not, in all cases, meet all of the criteria for safe harbor protection from anti-kickback liability. Moreover, recent health care reform legislation has strengthened these laws. For example, the Health Care Reform Law, among other things, amends the intent requirement of the U.S. Anti-Kickback Statute and criminal health care fraud statutes; a person or entity no longer needs to have actual knowledge of this statute or specific intent to violate it. In addition, the Health Care Reform Law provides that the government may assert that a claim including items or services resulting from a violation of the U.S. Anti-Kickback Statute constitutes a false or fraudulent claim for purposes of the U.S. False Claims Act. Federal false claims laws prohibit any person from knowingly presenting, or causing to be presented, a false claim for payment to the federal government or knowingly making, or causing to be made, a false statement to get a false claim paid.

Over the past few years, pharmaceutical and other healthcare companies have been prosecuted under these laws for a variety of alleged promotional and marketing activities, such as: allegedly providing free trips, free goods, sham consulting fees and grants and other monetary benefits to prescribers; reporting to pricing services inflated average wholesale prices that were then used by federal programs to set reimbursement rates; engaging in off-label promotion that caused claims to be submitted to Medicare or Medicaid for non-covered, off-label uses; and submitting inflated best price information to the Medicaid Rebate Program to reduce liability for Medicaid rebates. Most states also have statutes or regulations similar to the U.S. Anti-Kickback Statute and the U.S. False Claims Act, which apply to items and services reimbursed under Medicaid and other state programs, or, in several states, apply regardless of the payor. Sanctions under these federal and state laws may include substantial civil monetary penalties, exclusion of a manufacturer's products from reimbursement under government programs, substantial criminal fines and imprisonment.

Legislative, regulatory, or medical cost reimbursement changes may adversely affect our business.

New laws, regulations and judicial decisions, or new interpretations of existing laws, regulations and decisions, that relate to the health care system in the U.S. and in other jurisdictions may change the nature of and regulatory requirements relating to drug discovery, clinical testing and regulatory approvals, limit or eliminate payments for medical procedures and treatments, or subject the pricing of pharmaceuticals to government control. Outside the U.S., and particularly in the EU, the pricing of prescription pharmaceuticals is subject to governmental control. In addition, third-party payers in the U.S. are increasingly attempting to contain health care costs by limiting both coverage and the level of reimbursement of new drug products. Consequently, significant uncertainty exists as to the reimbursement status of newly approved health care products. Significant changes in the health care system in the U.S. or elsewhere, including changes resulting from adverse trends in third-party reimbursement programs, could have a material adverse effect on our projected future operating results and our ability to raise capital, commercialize products, and remain in business.

Third-party coverage and reimbursement and health care cost containment initiatives and treatment guidelines may constrain our future revenues.

Our ability to successfully market our product candidate will depend in part on the level of reimbursement that government health administration authorities, private health coverage insurers and other organizations provide for the cost of our product and related treatments. Countries in which our product candidate is expected to be sold through reimbursement schemes under national health insurance programs frequently require that manufacturers and sellers of pharmaceutical products obtain governmental approval of initial prices and any subsequent price increases. In certain countries, including the United States, government-funded and private medical care plans can exert significant indirect pressure on prices. We may not be able to sell our drug candidates profitably if adequate prices are not approved or coverage and reimbursement is unavailable or limited in scope. Increasingly, third-party payors attempt to contain health care costs in ways that are likely to impact our development of products including:

- failing to approve or challenging the prices charged for health care products;
- introducing reimportation schemes from lower priced jurisdictions;
- limiting both coverage and the amount of reimbursement for new therapeutic products;
- denying or limiting coverage for products that are approved by the regulatory agencies but are considered to be experimental or investigational by third-party payors; and
- refusing to provide coverage when an approved product is used in a way that has not received regulatory marketing approval.

If we are unable to effectively maintain a system of internal control over financial reporting, we may not be able to accurately or timely report our financial results and our stock price could be adversely affected.

Section 404 of the Sarbanes-Oxley Act of 2002 and related regulations require us to evaluate the effectiveness of our internal control over financial reporting as of the end of each fiscal year, and to include a management report assessing the effectiveness of our internal control over financial reporting in our Annual Report on Form 10-K for that fiscal year. Management determined that as of May 31, 2020, our disclosure controls and procedures and internal control over financial reporting were effective. Prior to the fiscal year ended May 31, 2017, our disclosure controls and procedures and internal control over financial reporting were not effective, due to material weaknesses in our internal control over financial reporting related to inadequate segregation of duties over authorization, review and recording of transactions, as well as the financial reporting of such transactions. Any failure to maintain our controls or operation of these controls, could harm our operations, decrease the reliability of our financial reporting, and cause us to fail to meet our financial reporting obligations, which could adversely affect our business and reduce our stock price.

We may not be able to attract or retain a majority of independent directors.

The Company's Board of Directors (the "Board") may not be comprised of a majority of independent directors in the future. Currently our Board consists of six members; four of whom are independent and two of whom are members of management. It is difficult to retain and recruit independent directors. If the Board is not made up of a majority of independent directors, there may be a lower level of oversight on executive management, and the Board may be influenced by the concerns, issues or objectives of management, including compensation and governance issues, to a greater extent than would occur with a majority of independent directors. As a result, the composition of the Board may afford less protection to our stockholders than if the Board were composed of a majority of independent directors.

A lack of independent directors may also make it difficult to create appropriately sized board committees meeting the requirements of the charters of the Board Committees and the listing standards of The Nasdaq Stock Market, pursuant to which we evaluate director independence. Historically, we have strived to have each of our

Board Committees comprised solely of independent directors. Currently, our Audit Committee has only two members, one of whom is an audit committee financial expert, and our Compensation and Nominating & Corporate Governance Committees also consist of two independent directors. Due to the fact that we currently only have four independent directors, it is difficult to establish appropriately sized and effective operating board committees comprised of independent members to oversee committee functions without overburdening our existing directors.

As we attempt to identify new board members, we may find that highly-qualified individuals are not available or willing to serve as directors or on a committee. There can be no assurance that we will be able to identify, recruit and ultimately secure the services of such individuals in a timely manner or at all. If we are unable to attract and retain qualified individuals who possess the necessary technical, scientific and financial expertise and management and operational experience, our ability to successfully develop, test and commercialize our product candidate and generate revenues may be negatively affected.

Our success depends substantially upon our ability to obtain and maintain intellectual property protection relating to our product candidates and research technologies.

Due to evolving legal standards relating to the patentability, validity and enforceability of patents covering pharmaceutical inventions and the claim scope of patents, our ability to enforce our existing patents and to obtain and enforce patents that may issue from any pending or future patent applications is uncertain and involves complex legal, scientific and factual questions. To date, no consistent policy has emerged regarding the breadth of claims allowed in biotechnology and pharmaceutical patents.We have pending patents for certain indications for our core product candidate, and continue to seek patent coverage for various potential therapeutic applications for leronlimab. However, we cannot be sure that any patents will issue from any pending or future patent applications owned by or licensed to us. Even if patents do issue, we cannot be sure that the claims of these patents will be held valid or enforceable by a court of law, will provide us with any significant protection against competing products, or will afford us a commercial advantage over competitive products. If one or more products resulting from our product candidates is approved for sale by the FDA and we do not have adequate intellectual property protection for those products, competitors could duplicate them for approval and sale in the United States without repeating the extensive testing required of us or our partners to obtain FDA approval.

Known third-party patent rights could delay or otherwise adversely affect our planned development and sale of leronlimab. We have identified but not exhaustively analyzed other patents that could relate to our proposed products.

We are aware of patent rights held by a third-party that may cover certain compositions within our leronlimab candidate. The patent holder has the right to prevent others from making, using, or selling a drug that incorporates the patented compositions, while the patent remains in force. While we believe that the third-party's patent rights will not affect our planned development, regulatory clearance, and eventual marketing, commercial production, and sale of leronlimab, there can be no assurance that this will be the case. The relevant patent expires before we expect to commercially introduce leronlimab. In addition, the Hatch-Waxman exemption to U.S. patent law permits all uses of compounds in clinical trials and for other purposes reasonably related to obtaining FDA clearance of drugs that will be sold only after patent expiration, so our use of leronlimab in those FDA-related activities does not infringe the patent holder's rights. However, were the patent holder to assert its rights against us before expiration of the patent for activities unrelated to FDA clearance, the development and ultimate sale of a leronlimab product could be significantly delayed, and we could incur the expense of defending a patent infringement suit and potential liability for damages for periods prior to the patent's expiration.

In connection with our acquisition of rights to leronlimab, our patent counsel conducted afreedom-to-operate search that identified other patents that could relate to our proposed leronlimab candidate. Sufficient research and analysis is currently being conducted to enable us to reach the conclusion that leronlimab likely does not infringe those patent rights. If any of the holders of the identified patents were to assert patent

rights against us, the development and sale of leronlimab could be delayed, we could be required to spend time and money defending patent litigation, and we could incur liability for infringement or be enjoined from producing our products if the patent holders prevailed in an infringement suit.

If we are sued for infringing on third-party intellectual property rights, it will be costly and time-consuming, and an unfavorable outcome would have a significant adverse effect on our business.

Our ability to commercialize our product candidate depends on our ability to use, manufacture and sell that product without infringing the patents or other proprietary rights of third-parties. Numerous U.S. and foreign issued patents and pending patent applications owned by third-parties exist in the monoclonal antibody therapeutic area in which we are developing our product candidate and seeking new potential product candidates. There may be existing patents, unknown to us, on which our activities with our product candidate could infringe.

If a third-party claims our actions or products or technologies infringe on its patents or other proprietary rights, we could face a number of issues that could seriously harm our competitive position, including, but not limited to:

- infringement and other intellectual property claims that, even if meritless, can be costly and time-consuming, delay the regulatory approval process and divert management's attention from our core business operations;
- substantial damages for infringement, if a court determines that our products or technologies infringe a third-party's patent or other proprietary rights;
- a court prohibiting us from selling or licensing our products or technologies unless the holder licenses the patent or other proprietary rights to us, which it is not required to do; and
- even if a license is available from a holder, we may have to pay substantial royalties or grant cross-licenses to our patents or other proprietary rights.

If any of these events occur, it could significantly harm our operations and financial condition and negatively affect our stock price.

Although no third-party has asserted a claim of infringement against us, others may hold proprietary rights that could prevent our product candidate from being marketed. Any patent-related legal action against us claiming damages and seeking to enjoin commercial activities relating to our product candidate or our processes could subject us to potential liability for damages and require us to obtain a license to continue to manufacture or market leronlimab or any other product candidates. We cannot predict whether we would prevail in any such actions or that any license required under any of these patents would be made available on commercially acceptable terms, if at all. In addition, we cannot be sure that we could redesign leronlimab or any other product candidates or processes to avoid infringement, if necessary. Accordingly, an adverse determination in a judicial or administrative proceeding, or the failure to obtain necessary licenses, could prevent us from developing and commercializing leronlimab or another product candidate, which could harm our business, financial condition and operating results.

We may undertake infringement or other legal proceedings against third-parties, causing us to spend substantial resources on litigation and exposing our own intellectual property portfolio to challenge.

We may come to believe that third-parties are infringing on our patents or other proprietary rights. To prevent infringement or unauthorized use, we may need to file infringement and/or misappropriation suits, which are very expensive and time-consuming and would distract management's attention. Also, in an infringement or misappropriation proceeding a court may decide that one or more of our patents is invalid, unenforceable, or both, in which case third-parties may be able to use our technology without paying license fees or royalties. Even if the validity of our patents is upheld, a court may refuse to stop the other party from using the technology at issue on the ground that the other party's activities are not covered by our patents.

We may become involved in disputes with our present or future contract partners over intellectual property ownership or other matters, which would have a significant effect on our business.

Inventions discovered in the course of performance of contracts with third-parties may become jointly owned by our strategic partners and us, in some cases, and the exclusive property of one of us, in other cases. Under some circumstances, it may be difficult to determine who owns a particular invention or whether it is jointly owned, and disputes could arise regarding ownership or use of those inventions. Other disputes may also arise relating to the performance or alleged breach of our agreements with third-parties. Any disputes could be costly and time-consuming, and an unfavorable outcome could have a significant adverse effect on our business.

We are involved in a number of legal proceedings and, while we cannot predict the outcomes of such proceedings and other contingencies with certainty, some of these outcomes could adversely affect our business and financial condition.

We are, or may become, involved in legal proceedings, government and agency investigations, and derivative litigation (see discussion of Legal Proceedings in Item 1 of this Report). We have faced and will continue to face allegations by securities litigation law firms claiming our disclosures are misleading, incomplete, or that we or our officers and directors have violated securities laws. We cannot predict with certainty the outcomes of these legal proceedings. The outcome of some of these legal proceeding could require us to take, or refrain from taking, actions which could negatively affect our operations or could require us to pay substantial amounts of money adversely affecting our financial condition and results of operations. Additionally, defending against lawsuits and legal proceedings may involve significant expense and diversion of management's attention and resources. Negative publicity surrounding such legal proceedings may also harm our reputation and adversely impact our business and financial condition.

We are subject to the oversight of the SEC and other regulatory agencies. Investigations by those agencies could divert management's focus and could have a material adverse effect on our reputation and financial condition.

We are subject to the regulation and oversight of the SEC and state regulatory agencies, in addition to the FDA. As a result, we may face legal or administrative proceedings by these agencies. We are unable to predict the effect of any investigations on our business, financial condition or reputation. In addition, publicity surrounding any investigation, even if ultimately resolved in our favor, could have a material adverse effect on our business.

If the FDA or comparable foreign regulatory authorities approve generic or biosimilar versions of any product candidate that receive marketing approval, or if any product approval we obtain does not provide us with the exclusivity periods we hope to achieve, sales of our product could be adversely affected.

As part of the ongoing efforts of governmental authorities to lower health care costs by facilitating generic competition to pharmaceutical products, the Biologics Price Competition and Innovation Act ("BPCIA") enacted as part of the Health Care Reform Law, created a new abbreviated regulatory approval pathway in the United States for biological products that are found to be "biosimilar" to or "interchangeable" with a biological "reference product" previously licensed under a BLA. This abbreviated approval pathway is intended to permit a biosimilar to come to market more quickly and less expensively by relying to some extent on the data generated by the reference product's sponsor and the FDA's previous review and approval of the reference product. Under the BPCIA, a biosimilar sponsor's ability to seek or obtain approval through the abbreviated pathway is limited by periods of exclusivity granted by the FDA to the holder of the reference product's BLA, and no biosimilar application may be accepted by the FDA for review until four years after the date the reference product was first licensed by the FDA, and no biosimilar application, once accepted, may receive final approval until 12 years after the reference product was first licensed by the FDA.

Once approved, biosimilars likely would compete with, and in some circumstances may be deemed under applicable laws to be "interchangeable with," the previously approved reference product. The extent to which a

biosimilar, once approved, will be substituted for any one of our product candidates, if approved, in a way that is similar to traditional generic substitution for non-biological products is not yet clear, and will depend on a number of marketplace and regulatory factors that are still developing. Although there is uncertainty regarding the impact of this new program, it seems likely that if any of our product candidates are approved by the FDA, there is risk that the approval of a biosimilar competitor to one of our products could have an adverse impact on our business. In particular, a biosimilar could be significantly less costly to bring to market and priced significantly lower than our product, if approved by the FDA.

We may also be subject to competition from biosimilar products in Europe. To date a number of biosimilar products have been authorized by the EMA. As in the United States the regulatory approval pathway for biosimilar products in Europe is abbreviated. A biosimilar sponsor must however still provide all of the preclinical and clinical data required to demonstrate the similarity of their product with the reference product. The level of data required is assessed on a case by case basis but it will be less than that required for an original biological product. The pathway is more complex than the abridged procedure that may be followed to obtain authorization of a generic version of a non-biological product but it would still allow the biosimilar product to be brought to market more quickly and less expensively than our original product. That said, in Europe applications for marketing authorizations in relation to biosimilar products are subject to the same data and market exclusivity as apply to generic non-biologic products so no biosimilar product could be approved or placed on the market during the periods such exclusivity applies to our product. Marketing authorization of a biosimilar product in Europe does not guarantee that the biosimilar product may be substituted for the reference product. Interchangeability of a biosimilar product with the reference product is not assessed by the EMA but this determination is left to each of the member states. We cannot know at this stage the extent to which any biosimilar product would be interchangeable with our reference product, and this may vary between member states.

Our business success partially depends on our ability to successfully commercialize novel diagnostic tests and services, which is time consuming and complex, and our development efforts may fail.

Part of our business strategy is to develop and commercialize the PCa Test. We have not yet applied for clearance or approval from the FDA for the PCa Test, and would need to complete additional validations before we are ready to apply. We believe it would likely take two years or more to conduct the studies and trials necessary to obtain approval from the FDA to commercially launch the PCa Test. Once we do apply, we may not receive FDA clearance or approval for the commercial use of our test on a timely basis, or at all. We believe the long-term success of our business partially depends on our ability to fully validate, develop and commercialize the PCa Test. Research, development and commercialization of diagnostic tests is time-consuming, uncertain and complex.

Our diagnostic test may not succeed in reliably diagnosing or predicting cancer with the sensitivity and specificity necessary to be clinically useful, and thus may not succeed commercially. Prior to commercializing our diagnostic test, we must undertake time-consuming and costly development activities, including clinical studies, and obtain regulatory clearance or approval, which may be denied. This development process involves a high degree of risk, substantial expenditures and will occur over several years. Our development efforts may fail for many reasons, including:

- failure of the test at the research or development stage;
- difficulty in accessing archival tissue samples, especially tissue samples with known clinical results; or
- lack of sufficient clinical validation data to support the effectiveness of the test.

Tests that appear promising in early development may fail to be validated in subsequent studies, and even if we achieve positive results, we may ultimately fail to obtain the necessary regulatory clearances or approvals. There is substantial risk that our research and development projects will not result in commercial tests, and that

success in early clinical trials will not be replicated in later studies. At any point, we may abandon development of a test or be required to expend considerable resources repeating clinical trials, which would adversely impact the timing for generating potential revenues from the test. In addition, as we develop our test, we will have to make significant investments in research, development and marketing resources. If a clinical validation study of a particular test then fails to demonstrate the outlined goals of the study, we might choose to abandon the development of that test. Further, our ability to develop and launch any diagnostic tests will likely depend on our receipt of additional funding. Additionally, if the supply of reagents or equipment on which our test in development or commercial test relies becomes unavailable and we have to source replacement reagents or equipment for our test, additional validation activities will be required and we may need to obtain regulatory clearances or approvals for the modified test.

The diagnostic business is heavily regulated, and if we are unable to obtain regulatory clearance or approvals in the United States, if we experience delays in receiving clearance or approvals, or if we do not gain acceptance from customers, our diagnostics growth strategy may not be successful.

In the United States, diagnostic tests and services are regulated under CLIA, the Federal Food, Drug, and Cosmetic Act, and various state laws. Diagnostic tests offered solely for use within a proprietary laboratory may be marketed as laboratory developed tests ("LDTs"). LDTs are regulated by the Center for Medicare and Medicaid Services ("CMS") under CLIA, but, under the FDA's enforcement framework, are not currently regulated by FDA. Although the FDA has statutory authority to assure that medical devices, including LDTs, are safe and effective for their intended uses, the FDA has generally exercised its enforcement discretion and not enforced applicable regulations with respect to LDTs. Specifically, under current FDA enforcement policies and more recent draft guidance, LDTs generally do not require FDA premarket clearance or approval before commercialization.

Under our current strategy, the PCa Test would be subject to the FDA's applicable medical device regulations. For example, this test could become subject to the FDA's requirements for premarket review. Unless an exemption applies, generally, before a new medical device or a new use for a medical device may be sold or distributed in the United States, the medical device must receive premarket marketing authorization from the FDA, which is generally either FDA clearance of a 510(k) premarket notification or premarket approval of a Premarket Approval application. As a result, before we can market or distribute our test in the United States for use by other clinical testing laboratories, we must first obtain premarket marketing authorization (generally referred to as premarket clearance or premarket approval throughout this document) from the FDA. We have not yet applied for clearance or approval from the FDA, and would need to complete additional validations before we are ready to apply. We believe it would likely take two years or more to conduct the studies and trials necessary to obtain approval from the FDA to commercially launch the PCa Test. Once we do apply, we may not receive FDA clearance or approval for the commercial use of our test on a timely basis, or at all. If we are unable to obtain clearance or approval or if clinical diagnostic laboratories do not accept our test, our ability to grow our business by deploying our test could be compromised.

The commercial success of our prospective diagnostic business could be compromised if third-party payors, including insurance companies, managed care organizations and Medicare, do not provide coverage and reimbursement, refuse to enter into contracts with us, or delay payments for our diagnostic tests.

Pathologists and oncologists may not order our diagnostic test unless third-party payors, such as insurance companies, managed care organizations and government payors, such as Medicare and Medicaid, pay a substantial portion of the test price. If reimbursement is not available, or is available only to limited levels, we may not be able to successfully commercialize our diagnostic test. Even if coverage is provided, the approved reimbursement amount may not be high enough to allow us to establish or maintain pricing sufficient to realize a sufficient return on our investment. Coverage and reimbursement by a third-party payor may depend on a number of factors, including a payor's determination that tests using our technologies are:

- not experimental or investigational;

- medically necessary;
- appropriate for the specific patient;
- cost-effective;
- supported by peer-reviewed publications; and
- included in clinical practice guidelines.

Uncertainty surrounds third-party payor coverage and reimbursement of any test incorporating new technology, including the PCa Test. Even if we obtain marketing clearance or approval to market diagnostic tests, our future revenues will depend upon the size of any markets in which our product candidate has received clearance or approval, and our ability to achieve sufficient market acceptance, reimbursement from third-party payors and adequate market share for our product candidate in those markets.

Because each payor generally determines for its own enrollees or insured patients whether to cover or otherwise establish a policy to reimburse a diagnostic test, seeking payor approvals is a time-consuming and costly process. We cannot be certain that coverage for our tests (FDA-cleared/approved or LDT) will be provided in the future by third-party payors. If we cannot obtain coverage and reimbursement from private and governmental payors such as Medicare and Medicaid for our new tests or test enhancements we may develop in the future, our ability to generate revenues from our diagnostic tests and clinical services could be limited, which may have a material adverse effect on our financial condition, results of operations and cash flow. Further, we may likely experience in the future, delays and temporary interruptions in the receipt of payments from third-party payors due to missing documentation and other issues, which could cause delay in collecting our future revenue.

If we are unable to successfully validate our laboratory tests and services, we will not be able to increase revenues

Prospective customers such as physicians may not order our proprietary test, and third-party payors may not reimburse for our test, unless we are able to provide compelling evidence that the test is useful and produces actionable information with respect to diagnosis and prognosis. We believe that we will need to finance and successfully complete additional and more powerful studies, and then effectively disseminate the results of those studies, to drive widespread adoption of our test.

If the market for our test and services does not experience significant growth or if our test and services do not achieve broad acceptance, our operations will suffer.

We cannot accurately predict the future growth rate or the size of the market for our prospective test and services. The expansion of this market depends on a number of factors, such as:

- the results of clinical trials;
- the cost, performance and reliability of our test and services, and the tests and services offered by competitors;
- customers' perceptions regarding the benefits of our test and services;
- customers' satisfaction with our test and services; and
- marketing efforts and publicity regarding our test and services.

If we are unable to execute our marketing strategy for our test and our test is unable to gain acceptance in the market, we may be unable to generate sufficient revenue to sustain our business.

Although we believe our prospective diagnostic test represents promising commercial opportunities, our tests may never gain significant acceptance in the marketplace and therefore may never generate substantial

revenue or profits for us. We need to develop a market for our test through physician education and awareness programs. Gaining acceptance in medical communities requires that we perform additional studies after validating the efficacy of our test and services for the diagnosis, prognosis and treatment of cancer, and that we obtain acceptance of the results of those studies using our tests for publication in leading peer-reviewed medical journals. The results of any studies are always uncertain and even if we believe such studies demonstrate the value of our tests, the process of publication in leading medical journals is subject to a peer review process and peer reviewers may not consider the results of our studies sufficiently novel or worthy of publication. Failure to have our studies published in peer-reviewed journals would limit the adoption of our tests. Our ability to successfully market the tests that we may develop will depend on numerous factors, including:

- whether health care providers believe our diagnostic test provides clinical utility;
- whether the medical community accepts that our diagnostic test is sufficiently sensitive and specific to be meaningful in patient care and treatment decisions; and
- whether health insurers, government health programs and other third-party payors will cover and pay for our diagnostic test and, if so, whether they will adequately reimburse us.

Failure to achieve widespread market acceptance of our diagnostic test would materially harm our business, financial condition and results of operations.

If we cannot develop tests to keep pace with rapid advances in technology, medicine and science, our operating results and competitive position could be harmed.

In recent years, there have been numerous advances in technologies relating to the diagnosis and treatment of cancer. There are several new cancer drugs under development that may increase patient survival time. There have also been advances in methods used to analyze very large amounts of genomic information. We must continuously develop new tests to keep pace with evolving standards of care. Our tests could become obsolete unless we continually innovate and expand them to demonstrate benefit in patients treated with new therapies. If we cannot adequately demonstrate the applicability of our tests to new treatments, sales of our tests and services could decline, which would have a material adverse effect on our business, financial condition and results of operations.

The 2017 comprehensive tax reform bill could adversely affect our business and financial condition.

On December 22, 2017, President Trump signed into law new tax legislation, the Tax Cuts and Jobs Act (TCJA), which significantly reforms the Internal Revenue Code of 1986, as amended. The TCJA, among other things, contains significant changes to corporate taxation, including reduction of the corporate tax rate from a top marginal rate of 35% to a flat rate of 21%; limitation of the tax deduction for interest expense to 30% of adjusted earnings (except for certain small businesses); limitation of the deduction of net operating losses generated in tax years beginning after December 31, 2017 to 80% of taxable income, indefinite carryforward of net operating losses generated in tax years after 2018 and elimination of net operating loss carrybacks; changes in the treatment of offshore earnings regardless of whether they are repatriated; current inclusion in U.S. federal taxable income of certain earnings of controlled foreign corporations, mandatory capitalization of research and development expenses beginning in 2022; immediate deductions for certain new investments instead of deductions for depreciation expense over time; further deduction limits on executive compensation; and modifying, repealing and creating many other business deductions and credits, including the reduction in the orphan drug credit from 50% to 25% of qualifying expenditures. Notwithstanding the reduction in the corporate income tax rate, the overall impact of the TCJA is uncertain and our business and financial condition could be adversely affected.

Any impairment of our intangible assets could negatively impact our results of operations and financial condition.

We evaluate assets on our balance sheet, including intangible assets, in connection with our fiscal year end reporting or whenever events or changes in circumstances indicate that their carrying value may not be

recoverable. We monitor factors or indicators, such as unfavorable variances from forecasted cash flows, established business plans or volatility inherent to external markets and industries that would require an impairment test. The test for impairment of intangible assets requires a comparison of the carrying value of the asset or asset group with their estimated undiscounted future cash flows. If the sum of the undiscounted expected future cash flows over the remaining useful life of a long-lived asset group is less than its carrying value, the asset is considered impaired. Impairment losses are measured as the amount by which the carrying amount of the asset group exceeds the fair value of the asset. We may experience unforeseen events that could adversely affect the value of our intangible assets and trigger an impairment evaluation. Future determinations of significant impairments of intangible assets as a result of an impairment test or any accelerated amortization of intangible assets could have a negative impact on the Company's results of operations and financial condition.

The manufacture of pre-launch inventories involves the risk that the FDA may not approves such products for marketing on a timely basis or at all.

Pre-launch inventories consist primarily of our product candidate prior to the date that we anticipate that such products will receive FDA final marketing approval. Approval may require additional or different testing and/or specifications than what was performed in the manufacture of such pre-launch inventory. If any of these risks were to materialize with respect to a given product or if the launch of such product is significantly postponed, we may have to write-off the pre-launch inventories, which could be material.

Risks Relating to Our Common Stock

The significant number of shares of common stock issuable upon the exercise of outstanding common stock options and warrants could adversely affect the trading price of our common stock.

If our existing stockholders sell, or indicate an intent to sell, substantial amounts of our common stock in the public market, the trading price of our common stock could decline significantly. In addition, as of July 31, 2020, we have 15,423,661 shares subject to outstanding options under our stock option plans, 299,354 shares reserved for future issuance under our equity compensation plan and 72,737,302 shares issuable upon exercise of outstanding warrants. If our existing stockholders sell substantial amounts of our common stock in the public market, or if the public perceives that such sales could occur, this could have an adverse impact on the market price of our common stock, even if there is no relationship between such sales and the performance of our business.

We are subject to variable conversion prices and adjustments related to certain of our convertible notes and our convertible preferred stock which could cause significant dilution to stockholders and adversely impact the price of our common stock.

We have currently outstanding shares of Series B, Series C and Series D Preferred Stock, as well as convertible secured promissory notes, all of which is convertible into common stock at variable conversion prices and adjustments. As a result, future conversion of debt and or convertible preferred shares or issuance of new convertible debt may result in significant dilution to our stockholders. As of July 31, 2020, we have reserved 37,902,576 shares of common stock that is potentially issuable upon conversion of our outstanding shares of preferred stock and convertible notes.

Although we have filed an application to list our securities on Nasdaq, there can be no assurance that our securities will be so listed or, if listed, that we will be able to comply with the continued listing standards.

On July 15, 2020, we announced that we had filed a comprehensive listing application package with The Nasdaq Stock Market to request an uplisting of the Company's common stock. Although we believe we satisfy the initial listing requirements for The Nasdaq Capital Market,® the Nasdaq has not approved our application, and there can be no assurance that Nasdaq will agree, approve us for listing on the Nasdaq and, even if our

securities are listed, we cannot assure you that we will be able to maintain such listing. In addition, if after listing, Nasdaq delists our securities from trading on its exchange for failure to meet the continued listing standards, our Company and our shareholders could face significant material adverse consequences including a limited availability of market quotations for our common stock, confirmation that our stock is "penny stock" and subject to increased regulations, and a decreased ability to issue additional securities or obtain additional financing in the future.

The price of our common stock has been and could remain volatile, and the market price of our common stock may decrease.

The market price of our common stock has historically experienced and may continue to experience significant volatility. From June 1, 2019 through May 31, 2020, the market price of our common stock has fluctuated from a high of $3.84 per share to a low of $0.26 per share, and our stock price reached a 52 week high of $10.01 on June 30, 2020. The volatile nature of our common share price may cause investment losses for our stockholders. In addition, the market price of stock in small capitalization biotech companies is often driven by investor sentiment, expectation and perception, all of which may be independent of fundamental, objective and intrinsic valuation metrics or traditional financial performance metrics, thereby exacerbating volatility. In addition, our common stock is quoted on the OTCQB of the OTC Markets marketplace, which may increase price quotation volatility and could limit liquidity, all of which may adversely affect the market price of our shares.

If we implement a reverse stock split, there can be no assurances that the price per share of our common stock will increase proportionately with the reverse stock split, or at all.

Reducing the number of outstanding shares of our common stock through a reverse stock split is intended, absent other factors, to increase the per share market price of our common stock, including in preparation for a potential uplisting to a national securities exchange. However, other factors, such as our financial results, market conditions and the market perception of our business, may adversely affect the market price of our common stock. As a result, there can be no assurance that a reverse stock split, if completed, will result in making our common stock more attractive to a broader range of institutional and other investors, that the per share market price of our common stock will increase following a reverse stock split or that the per share market price of our common stock will not decrease in the future. Additionally, we cannot assure shareholders that the per share market price per share of our common stock after a reverse stock split, if completed, will increase in proportion to the reduction in the number of shares of our common stock outstanding before the reverse stock split. Accordingly, the total market capitalization of our common stock after a reverse stock split may be lower than the total market capitalization before the reverse stock split.

If the beneficial ownership of our stock becomes highly concentrated, it may prevent you and other stockholders from influencing significant corporate decisions.

Our significant stockholders may exercise substantial influence over the outcome of corporate actions requiring stockholder approval, including the election of directors, any merger, consolidation or sale of all or substantially all of our assets, or any other significant corporate transactions. These stockholders may also vote against a change of control, even if such a change of control would benefit our other stockholders. See "Security Ownership of Certain Beneficial Owners and Management and Related Stockholder Matters" below.

Our common stock is classified as "penny stock" and trading of our shares may be restricted by the SEC's penny stock regulations.

Rules 15g-1 through 15g-9 promulgated under the Securities Exchange Act of 1934 (the "Exchange Act") impose sales practice and disclosure requirements on certain brokers-dealers who engage in transactions involving a "penny stock." The SEC has adopted regulations which generally define "penny stock" to be any

equity security that has a market price of less than $5.00 per share or an exercise price of less than $5.00 per share, subject to certain exceptions. Our common stock is covered by the penny stock rules, which impose additional sales practice requirements on broker-dealers who sell to persons other than established customers and "accredited investors." The penny stock rules require a broker-dealer, prior to a transaction in a penny stock not otherwise exempt from the rules, to deliver a standardized risk disclosure document in a form prepared by the SEC which provides information about penny stocks and the nature and level of risks in the penny stock market. The broker-dealer also must provide the customer with current bid and offer quotations for the penny stock, the compensation of the broker-dealer and its salesperson in the transaction, and monthly account statements showing the market value of each penny stock held in the customer's account. In addition, the penny stock rules require that, prior to a transaction in a penny stock that is not otherwise exempt, the broker-dealer must make a special written determination that the penny stock is a suitable investment for the purchaser and receive the purchaser's written agreement to the transaction. These disclosure requirements may have the effect of reducing the level of trading activity in the secondary market for stock that is subject to these penny stock rules. Consequently, these penny stock rules may affect the ability of broker-dealers to trade our securities. We believe that the penny stock rules may discourage investor interest in and limit the marketability of our common stock.

Future sales of our securities could adversely affect the market price of our common stock and our future capital-raising activities could involve the issuance of equity securities, which would dilute your investment and could result in a decline in the trading price of our common stock.

We may sell securities in the public or private equity markets if and when conditions are favorable, or at prices per share below the current market price of our common stock, even if we do not have an immediate need for additional capital at that time. Sales of substantial amounts of our common stock, or the perception that such sales could occur, could adversely affect the prevailing market price of our shares and our ability to raise capital. We may issue additional shares of common stock in future financing transactions or as incentive compensation for our executive management and other key personnel, consultants and advisors. Issuing any equity securities would be dilutive to the equity interests represented by our then-outstanding shares of common stock. Moreover, sales of substantial amounts of shares in the public market, or the perception that such sales could occur, may adversely affect the prevailing market price of our common stock and make it more difficult for us to raise additional capital.

Purchasers in future offerings may experience immediate and substantial dilution.

The current trading price of the common stock is higher than the current net tangible book value per share of our common stock. Therefore, if you purchase shares of common stock in future offerings, if any, you may incur immediate and substantial dilution in the pro forma net tangible book value per share of common stock from the price per share that you pay for the common stock. In addition, you will experience dilution when we issue additional shares of common stock that we are permitted or required to issue under convertible notes, outstanding options and warrants and under our equity incentive plan or other compensation plans.

Our certificate of incorporation allows for our Board to create new series of preferred stock without further approval by our stockholders, which could adversely affect the rights of the holders of our common stock.

Our Board has the authority to fix and determine the relative rights and preferences of preferred stock. Currently, our Board has the authority to designate and issue up to 5,000,000 shares of our preferred stock without further stockholder approval. As a result, our Board of Directors could authorize the issuance of a series of preferred stock that would grant to holders the preferred right to our assets upon liquidation, the right to receive dividend payments before dividends are distributed to the holders of common stock and the right to the redemption of the shares, together with a premium, prior to the redemption of our common stock. In addition, our Board could authorize the issuance of a series of preferred stock that has greater voting power than our common stock or that is convertible into our common stock, which could decrease the relative voting power of our common stock or result in dilution to our existing stockholders.

We do not expect any cash dividends to be paid on our common shares in the foreseeable future.

We have never declared or paid a cash dividend on our common shares and we do not anticipate declaring or paying dividends on our common shares for the foreseeable future. We expect to use future financing proceeds and earnings, if any, to fund operating expenses. Consequently, common stockholders' only opportunity to achieve a return on their investment is if the price of our stock appreciates and they sell their shares at a profit. We cannot assure common stockholders of a positive return on their investment when they sell their shares or that stockholders will not lose the entire amount of their investment.

Anti-takeover provisions of our certificate of incorporation, our bylaws and Delaware law could make an acquisition of us, which may be beneficial to our stockholders, more difficult and may prevent attempts by our stockholders to replace or remove the current members of our Board and management.

Certain provisions of our amended and restated certificate of incorporation and bylaws could discourage, delay or prevent a merger, acquisition or other change of control that stockholders may consider favorable, including transactions in which stockholders might otherwise receive a premium for shares of common stock. Furthermore, these provisions could prevent or frustrate attempts by our stockholders to replace or remove members of our Board. These provisions also could limit the price that investors might be willing to pay in the future for our common stock, thereby depressing the market price of our common stock. Stockholders who wish to participate in these transactions may not have the opportunity to do so. Among other things, these provisions:

- allow us to designate and issue shares of preferred stock, without stockholder approval, that could adversely affect the rights, preferences and privileges of the holders of our common stock and could make it more difficult or less economically beneficial to acquire or seek to acquire us.
- provide that special meetings of stockholders may be called only by the Board of Directors acting pursuant to a resolution approved by the affirmative majority of the entire Board of Directors.
- provide that stockholders may, at a special stockholders meeting called for the purpose of removing directors, remove the entire Board or any lesser number, but only with cause, by a majority vote of the shares entitled to vote at an election of directors.
- do not include a provision for cumulative voting in the election of directors. Under cumulative voting, a minority stockholder holding a sufficient number of shares may be able to ensure the election of one or more directors. The absence of cumulative voting may have the effect of limiting the ability of minority stockholders to effect changes in our Board of Directors.

In addition, we are governed by the provisions of Section 203 of the Delaware General Corporation Law, which may, unless certain criteria are met, prohibit large stockholders, in particular those owning 15% or more of the voting rights on our common stock, from merging or combining with us for a prescribed period of time.

Item 1B. Unresolved Staff Comments.

None.

Item 2. Properties.

Our principal office location is 1111 Main Street, Suite 660, Vancouver, Washington 98660. We lease 4,969 square feet in a commercial office building pursuant to a lease that expires on April 30, 2026 at a current cost of $9,901 per month, plus modest annual increases. We also lease 1,911 square feet of office space in Fort Lauderdale, Florida pursuant to a lease that expires on March 31, 2022 at a cost of approximately $8,300 per month, plus modest annual increase. Such space is currently being marketed for a subtenant.

Item 3. Legal Proceedings.

As of May 31, 2020, we were not a party to any material pending legal proceeds except as described below. From time to time, we may become involved in claims and suits that arise in the ordinary course of our business.

Management currently believes that the resolution of any such claims against us, if any, will not have a material adverse effect on our business, financial condition or results of operations.

On April 24, 2020, certain stockholders of the Company, including two former directors and a company controlled by a former director filed a derivative stockholder complaint in the Court of Chancery of the State of Delaware, alleging claims for breach of fiduciary duty and unjust enrichment against the Company's CEO, current and former CFO, CMO, and current and former members of the Company's board of directors in connection with certain equity grant awards to these individuals in December 2019 and January 2020. The Company was named as a nominal defendant. The plaintiffs seek the rescission of the awards, a finding that the named directors breached their fiduciary duty to the Company, and an unnamed amount of damages. The Company has appointed a special litigation committee, consisting solely of independent directors not named in the complaint, to investigate the allegations in the complaint. The litigation has been stayed by the court pending resolution of the investigation by the special litigation committee.

On July 25, 2019, the Company's Board terminated the employment of Dr. Richard G. Pestell, the Company's former Chief Medical Officer. On August 22, 2019, Dr. Pestell filed a lawsuit naming the Company and its Chief Executive Officer and the Chairman of the Board in the U.S. District Court for the District of Delaware, and has amended his complaint several times since its initial filing. The complaint alleges a breach of Dr. Pestell's employment agreement, wage and hour claims, and seeks damages in the amount of certain severance entitlements thereunder pertaining to non-cause termination, among other relief. The treatment of those entitlements and of certain previously granted unvested stock options and shares of restricted common stock, which were subject to a repurchase option, are expected to be determined by the outcome of this litigation. The Company has filed counterclaims as well a motion to dismiss the action, which was partially granted as to certain wage and hour claims in June 2020. The Company disputes Pestell's claims and intends to vigorously defend the action.

Item 4. Mine Safety Disclosures.

Not applicable.

Part II

Item 5. Market for Registrant's Common Equity, Related Stockholder Matters and Issuer Purchases of Equity Securities.

Market Information

Our common stock is presently quoted on the OTCQB of the OTC Markets marketplace under the trading symbol CYDY. Historically, trading in our stock has been very limited and the trades that have occurred cannot be characterized as amounting to an established public trading market. As a result, the trading prices of our common stock may not reflect the price that would result if our stock was actively traded.

The following are high and low bid prices quoted on the OTCQB during the periods indicated. The quotations reflect inter-dealer prices, without retail mark-up, mark-down or commission and may not represent actual transactions:

	High	Low
Fiscal Year Ended May 31, 2020:		
First quarter ended August 31, 2019	$0.55	$0.38
Second quarter ended November 30, 2019	$0.41	$0.26
Third quarter ended February 28, 2020	$1.65	$0.26
Fourth quarter ended May 31, 2020	$3.84	$0.81

	High	Low
Fiscal Year Ended May 31, 2019:		
First quarter ended August 31, 2018	$0.71	$0.40
Second quarter ended November 30, 2018	$0.70	$0.50
Third quarter ended February 28, 2019	$0.62	$0.46
Fourth quarter ended May 31, 2019	$0.55	$0.37

Holders

The number of record holders of our common stock on July 31, 2020 was approximately 910.

Dividends

Holders of our common stock are entitled to receive dividends as may be declared from time to time by our Board. While we have no restrictions on our ability to pay dividends, other than the preferential rights provided to the holders of our outstanding preferred stock, as described below, we have not paid any cash dividends since inception on our common stock and do not anticipate paying any in the foreseeable future. Our current policy is to retain earnings, if any, for use in our operations.

Holders of 8,452 shares of Series D Convertible Preferred Stock are entitled to receive, at the option of the holder, cumulative dividends at the rate of ten percent (10%) per share per annum of the stated value of the Series D Preferred Stock, to be paid per share of Series D Preferred Stock. Any dividends paid by us will first be paid to the holders of Series D Preferred Stock prior and in preference to any payment or distribution to holders of Common Stock. Dividends on the Series D Preferred Stock are mandatory and cumulative and there are no sinking fund provisions applicable to the Series D Preferred Stock. The Series D Preferred Stock does not have redemption rights. The stated value per share for the Series D Preferred Stock is $1,000 (the "Stated Value"). Dividends payable to holders of Series D are payable on December 31 of each year and the holder can elect to be paid in cash or in common stock. If all holders elected to receive the 2020 dividend in the form of common stock, approximately 960,000 shares of common stock would be issued in the form of dividend. If such 2020 dividends were to be paid in the form of cash, such cash dividends would total approximately $768,000 at December 31, 2019.

Holders of 8,203 shares of Series C Convertible Preferred Stock are entitled to receive, at the option of the holder, cumulative dividends at the rate of ten percent (10%) per share per annum of the stated value of the Series C Preferred Stock, to be paid per share of Series C Preferred Stock. Any dividends paid by us will first be paid to the holders of Series C Preferred Stock prior and in preference to any payment or distribution to holders of Common Stock. Dividends on the Series C Preferred Stock are mandatory and cumulative and there are no sinking fund provisions applicable to the Series C Preferred Stock. The Series C Preferred Stock does not have redemption rights. The stated value per share for the Series C Preferred Stock is $1,000 (the "Stated Value"). Dividends payable to holders of Series C are payable on December 31 of each year and the holder can elect to be paid in cash or in common stock. If all holders elected to receive the 2020 dividend in the form of common stock, approximately 2,381,000 shares of common stock would be issued in the form of dividend. If such 2020 dividends were to be paid in the form of cash, such cash dividends would total approximately $1,191,000 at December 31, 2019.

Holders of 92,100 shares of Series B Convertible Preferred Stock are entitled to receive, in preference to the common stock, annual cumulative dividends equal to $0.25 per share per annum from the date of issuance, which shall accrue, whether or not declared. At the time shares of Series B Preferred Stock are converted into common shares, accrued and unpaid dividends will be paid, at the election of the Company, in cash or with common shares. In the event we elect to pay dividends with common shares, the shares issued will be valued at $0.50 per share. On July 30, 2020, the Board declared a dividend and elected to pay such dividend in the form of cash in the aggregate amount of approximately $243,000 to all Series B Convertible Preferred stockholders.

Unregistered Sales of Equity Securities

From June 3, 2019 to July 26, 2019, we received four redemption notices from the holder of our convertible note issued on June 26, 2018 requesting the redemptions of $655,000 of the outstanding balance thereof. In satisfaction of the redemption notices, we issued 1,984,769 shares of Common Stock to the note holder in accordance with the terms of the convertible note. Following the redemptions, the outstanding balance of the convertible note, including accrued but unpaid interest, was approximately $4.2 million. We relied on the exemption from registration afforded by Section 4(a)(2) of the Securities Act of 1933 in connection with the issuance and sale of the convertible promissory note and underlying shares of Common Stock.

The information required regarding our equity compensation plans will be contained in, and is incorporated herein by reference to our 2020 Proxy Statement under the caption “Equity Compensation Plan Information.”

Item 6. Selected Financial Data

As a smaller reporting company we are not required to provide the information required by this Item.

Item 7. Management’s Discussion and Analysis of Financial Condition and Results of Operations

The following discussion and analysis of our financial condition and results of operations should be read in conjunction with the other sections of this Annual Report, including our consolidated financial statements and related notes set forth in Item 8. This discussion and analysis contains forward-looking statements, including information about possible or assumed results of our financial condition, operations, plans, objectives and performance that involve risks, uncertainties and assumptions. The actual results may differ materially from those anticipated and set forth in such forward-looking statements.

Business Highlights

During the past fiscal year ending May 31, 2020, we commenced several initiatives to advance our lead product candidate, leronlimab. The following is a brief summary of key accomplishments during the most recent fiscal year:

- Raised approximately $85 million in capital through offerings of equity and convertible debt securitities, combined with proceeds from the exercise of warrants and stock options;
- Filed with the FDA the final two sections of our first BLA, which is now subject to our submission of additional requested information before the FDA will confirm the filing is complete;
- Entered into our first commercialization and supply agreements for the distribution and sale of leronlimab in the U.S. for HIV, upon FDA approval, with Vyera Pharmaceuticals, LLC;
- Our drug candidate, leronlimab, received over 60 Emergency Investigational New Drug (EIND) authorizations from the FDA to treat COVID-19 patients;
- Initiated negotiations for a distribution and supply agreement with American Regent, Inc. for distribution of leronlimab for the treatment of COVID-19 in the U.S. (the definitive agreement was executed in July 2020);
- Initiated two double-blinded, placebo controlled clinical trials forCOVID-19, a Phase 2 for patients with mild to moderate indications and a Phase 3 for patients with severe to critical symptoms

- Advanced the clinical trials to evaluate the safety and efficacy of leronlimab for several cancer indications by treating the first patients in metatstatic triple-negative breast cancer, metastatic breast cancer and a basket trial for 22 solid tumor cancers
- Initiated a Phase 2 trial for colon cancer; and
- Initiated a Phase 2 clinical trial with leronlimab for the treatment ofnon-alcoholic steatohepatitis (NASH).

Results of Operations

Clinical Trials Update

Phase 2b Extension Study for HIV, as Monotherapy

Currently, there are four patients in this ongoing extension study and each has surpassed six years of suppressed viral load with leronlimab0 as a single agent therapy. This extension study will be discontinued upon any FDA approval of leronlimab.

Phase 2b/3 Pivotal Trial for HIV, as Combination Therapy

This trial was successfully completed and is the basis for our current BLA, for which the remaining two sections were submitted to the FDA in April and May of 2020. The completion of the filing is subject to the Company providing additional information requested by the FDA. This trial for leronlimab as a combination therapy to existing HAART drug regimens for highly treatment experienced HIV patients achieved its primary endpoint with a p-value of 0.0032. Nearly all patients who have completed this trial have transitioned to a FDA-cleared rollover study, as requested by the treating physicians to enable the patients to have continued access to leronlimab.

Rollover Study for HIV as Combination Therapy

This study is designed for patients who successfully completed the pivotal Phase 2b/3 Combination Therapy trial and for whom the treating physicians request a continuation of leronlimab therapy in order to maintain suppressed viral load. This extension study will be discontinued upon any FDA approval of leronlimab.

Phase 2b/3 Investigative Trial for HIV, as Long-term Monotherapy

Enrollment for this trial is now closed after reaching 500 patients. This trial assesses the subcutaneous use of leronlimab as a long-acting single-agent maintenance therapy for 48 weeks in patients with suppressed viral load with CCR5-tropic HIV-1 infection. The primary endpoint is the proportion of participants with a suppressed viral load to those who experienced virologic failure. The secondary endpoint is the length of time to virologic failure. We completed the evaluation two higher-dose arms, one with 525 mg dose (a 50% increase from the original dosage of 350 mg), as well as a 700 mg dose. We recently reported that interim data suggested that both the 525 mg and the 700 mg dosages are achieving a responder rate of approximately 90% after the initial 10 weeks. This trial has also been used to provide safety data for the BLA filing for leronlimab as a combination therapy. In view of the high responder rate at the increased dosage levels, coupled with the newly developed CCR5 occupancy test, we filed a pivotal trial protocol with the FDA for leronlimab as a monotherapy. Upon finalization with the FDA of the pivotal trial protocol for monotherapy, the Phase2b/3 investigative trial will likely be discontinued. In the interim, several patients are continuing in an extension study who have requested continued access to leronlimab.

Cancer and Immunological Applications for Leronlimab

We are continuing to explore opportunities for clinical applications for leronlimab involving the CCR5 receptor, other thanHIV-related treatments, such as inflammatory conditions, autoimmune diseases and cancer.

The target of leronlimab is the immunologic receptor CCR5. We believe that the CCR5 receptor is more than the door for HIV to enterT-cells: it is also a crucial component in inflammatory responses. This could open the potential for multiple pipeline opportunities for leronlimab.

The CCR5 receptor is a protein located on the surface of white blood cells that serves as a receptor for chemical attractants called chemokines. Chemokines are the key orchestrators of leukocyte trafficking by attracting immune cells to the sites of inflammation. At the site of an inflammatory reaction, chemokines are released. These chemokines are specific for CCR5 and cause the migration of T-cells to these sites promoting further inflammation. The mechanism of action of PRO 140 has the potential to block the movement of T-cells to inflammatory sites, which could be instrumental in diminishing or eliminating inflammatory responses. Some disease processes that could benefit from CCR5 blockade include transplantation rejection, autoimmunity and chronic inflammation such as rheumatoid arthritis and psoriasis.

Due to leronlimab's MOA, we believe leronlimab may have significant advantages in terms of reduced side effects over other CCR5 antagonists. Prior studies have demonstrated that leronlimab does not cause direct activation of T-cells. We have reported encouraging human safety data for our clinical trials with leronlimab in HIV-infected patients.

We have initiated our first clinical trial with leronlimab in an immunological indication – a Phase 2 clinical trial with leronlimab for GvHD in reduced intensity conditioning ("RIC") patients with acute myeloid leukemia ("AML") or myelodysplastic syndrome ("MDS") who are undergoing bone marrow stem cell transplantation. GvHD represents an unmet medical need, with patients who contract GvHD during stem cell transplant having a significantly decreased 1-year survival rate with relapsed GvHD as the leading cause of death. Ourpre-clinical study in GvHD has been published in the peer-reviewed journal *Biology of Blood and Marrow Transplantation*. The FDA has granted orphan drug designation to leronlimab for the prevention of acute GvHD.

GvHD is a risk when patients receive bone marrow stem cells donated from another person. GvHD is a serious complication that limits the use of Bone Marrow Stem Cell ("BMSC") transplantation in patients with blood cancers. GvHD occurs when the donor's immune cells attack the patient's normal tissues (skin, liver, gut). GvHD can be acute or chronic. Its severity depends on the differences in tissue type between patient and donor. Acute GvHD can occur soon after the transplanted cells begin to appear in the recipient and can range from mild to severe and can be life-threatening.

The CCR5 receptor, the target for leronlimab, appears to be an important mediator of GvHD, especially in the organ damage that is the usual cause of death. We believe that the CCR5 receptor on engrafted cells is critical for the development of acute GvHD and by blocking this receptor from recognizing certain immune signaling molecules could be a viable approach to mitigating acute GvHD. The potential of leronlimab to prevent this life-threatening condition could help extend the use of BMSC transplantation to effectively treat more patients.

COVID-19

*Phase 2 Trial to Evaluate the Efficacy and Safety of Leronlimab for Mild to Moderate Coronavirus Disease 2019 (COVID-19)***.**

This is a two-arm, randomized, double blind, placebo controlled multicenter study to evaluate the safety and efficacy of leronlimab in patients with mild-to-moderate symptoms of respiratory illness caused by coronavirus 2019 infection was completed in July 2020. Patients were randomized to receive weekly doses of 700 mg leronlimab, or placebo. Leronlimab and placebo were administered via subcutaneous injection. The study has three phases: Screening Period, Treatment Period and Follow-Up Period. A total of 75 subjects were randomized 2:1 (active drug to placebo) in this study. The primary outcome measures are clinical improvement as assessed by change in total symptom score (for fever, myalgia, dyspnea and cough). Secondary outcome measures include: (1) time to clinical resolution, (2) change from baseline in National Early Warning Score 2 (NEWS2), (3) change from baseline in pulse oxygen saturation, (4) change from baseline in the patient's health status on a 7-category ordinal scale, (5) incidence of hospitalization, (6) duration (days) of hospitalization,

(7) incidence of mechanical ventilation supply, (8) duration (days) of mechanical ventilation supply, (9) incidence of oxygen use, (10) duration (days) of oxygen use, (11) mortality rate, (12) time to return to normal activity. Enrollment was completed in July 2020 and the Company has recently reported positive safety results. The topline report from the trial, including efficacy and complete safety data, is expected to be submitted to the FDA in August 2020.

Phase 3 Trial to Evaluate the Efficacy and Safety of Leronlimab for Patients With Severe or Critical Coronavirus Disease 2019 (COVID-19).

This is a two-arm, randomized, double blind, placebo controlled, adaptive design multicenter study to evaluate the safety and efficacy of leronlimab in patients with severe or critical symptoms of respiratory illness caused by coronavirus 2019 infection. Patients will be randomized to receive weekly doses of 700 mg leronlimab, or placebo. Leronlimab and placebo will be administered via subcutaneous injection. The study will have three phases: Screening Period, Treatment Period, and Follow-Up Period. The primary outcome measured in this study is:all-cause mortality at Day 28. Secondary outcomes measured are: (1) all-cause mortality at Day 14, (2) change in clinical status of subject at Day 14, (3) change in clinical status of subject at Day 28, and (4) change from baseline in Sequential Organ Failure Assessment (SOFA) score at Day 14. Recently, the Data Safety Monitoring Committee for the ongoing Phase 3 trial completed its first safety review of patients with severe and critical COVID-19 and reported it saw no cause to modify the study. The DSMC reviewed compiled safety data from 149 of the 169 patients enrolled in the Phase 3 trial. The DSMC did not raise any concerns regarding safety and recommended that the trial continue. As such, the Company will conduct a full interim analysis once 195 patients are enrolled, as provided in the trial's protocol.

Phase 2 Trial for Graft-versus-Host Disease

This Phase 2 multi-center 100-day study with 60 patients is designed to evaluate the feasibility of the use of leronlimab as anadd-on therapy to standard GvHD prophylaxis treatment for prevention of acute GvHD in adult patients with AML or MDS undergoing allogeneic hematopoietic stem cell transplantation ("HST"). Enrollment of the first patient was announced in May of 2017. On October 5, 2017, we announced that the FDA had granted orphan drug designation to leronlimab (PRO 140) for the prevention of GvHD. In March 2018, we announced that the Independent Data Monitoring Committee ("IDMC") for leronlimab (PRO 140) Phase 2 trial in GvHD had completed a planned interim analysis of trial data on the first 10 patients enrolled. Following this review of data from the first 10 patients in the Phase 2 trial, we filed amendments to the protocol with the FDA. The amendments included switching the pretreatment conditioning regimen from aggressive myeloablative ("MA") conditioning to a reduced intensity conditioning ("RIC"), and switching from a blinded one-for-one randomized placebo-controlled design to an open-label design under which all enrollees receive leronlimab. The amendments also provide for a 100% increase in the dose of leronlimab, to 700 mg, to more closely mimic pre-clinical dosing. The next review of data by the IDMC will occur following enrollment of 10 patients under the amended protocol after each patient has been dosed for 30 days. Due to the necessary prioritization of limited capital, enrollment under the amended protocol has been temporarily delayed.

Phase 1b/2 Trial for Triple-Negative Breast Cancer

This trial is to evaluate the feasibility of leronlimab combined with carboplatin in patients with CCR5+ metastatic triple negative breast cancer. The Phase 1b portion is a dose escalation phase with three dose levels (cohorts) of leronlimab in combination with a fixed dose of carboplatin. The Phase 2 portion is a single arm study with 30 patients to test the hypothesis that the combination of carboplatin intravenously and maximum tolerated dose of leronlimab subcutaneously will increase progression free survival. In May 2019, the FDA granted leronlimab Fast Track designation for use in combination with carboplatin. The change in circulating tumor cells ("CTCs") number will be evaluated every 21 days during treatment and will be used as an initial prognostic marker for efficacy. The first patient was treated in September 2019.

Compassionate Use Study of Leronlimab in Breast Cancer

This is a single arm, compassionate use study with 30 patients for leronlimab (PRO 140) combined with a treatment of physician's choice (TPC) in patients with CCR5+ mTNBC. Leronlimab (PRO 140) will be administered subcutaneously as weekly dose of 350 mg until disease progression or intolerable toxicity. Treatment of Physician's Choice (TPC) is defined as one of the following single-agent chemotherapy drugs administrated according to local practice: eribulin, gemcitabine, capecitabine, paclitaxel, nab-paclitaxel, vinorelbine, ixabepilone, or carboplatin. In this study, patients will be evaluated for tumor response approximately every 3 months or according to institution's standard practice by CT, PET/CT or MRI with contrast (per treating investigator's discretion) using the same method as at baseline.

Basket Trial for 22 Solid Tumor Cancers

This is a Phase 2 study to test the safety and efficacy of leronlimab on 22 different solid tumor cancers, including brain-glioblastoma, melanoma, lung, breast, ovarian, pancreas, bladder, throat, stomach, colon, testicular, uterine, among other indications. The first patient was treated in April 2020.

Licensing Opportunities

We continue to evaluate strategic licensing opportunities and conduct exploratory discussions with third parties with respect to our assets, including pre-clinical and clinical findings for leronlimab for a wide array of clinical indications. As recently completed license agreements demonstrate, such agreements are country or region specific and are limited to a specific clinical indication for leronlimab.

Results of operations for the years ended May 31, 2020, 2019 and 2018, are as follows:

For the years ended May 31, 2020, May 31, 2019 and 2018, we had no activities that produced revenues from operations. The following schedule sets forth the percentage of total expenses as a percent of net loss for the years ended May 31, 2020, 2019 and 2018.

	Percentage of Total Net Loss					
	Years Ended May 31,					
	2020		2019		2018	
Operating expenses:						
General and administrative	$ 19,972,804	(0.16)%	$ 12,116,743	(0.22)%	$ 7,340,605	(0.15)%
Research and development	52,639,981	(0.42)	42,490,144	(0.76)	38,222,580	(0.76)
Amortization and depreciation	2,034,440	(0.02)	1,245,167	(0.02)	356,128	(0.01)
Total operating expenses	74,647,225	(0.73)	55,852,054	(0.99)	45,919,313	(0.92)
Operating loss	(74,647,225)	(0.60)	(55,852,054)	(0.99)	(45,919,313)	(0.92)
Other income (expense):						
Other income	500,000	0.00	—	—	—	—
Interest income	5,318	0.00	4,306	0.00	3,620	0.00
Legal settlement	(22,500,000)	0.18	—	—	—	—
Loss on extinguishment of convertible notes	—	—	(1,519,603)	(0.03)	—	—
Change in fair value of derivative liability	(9,541,704)	0.08	1,666,469	0.03	1,690,935	0.03
Interest expense:						
Finance charges	(935,630)	0.01	—	—	—	—
Amortization of discount on convertible notes	(1,644,625)	0.01	(1,707,068)	(0.03)	(1,666,017)	(0.03)
Amortization of debt issuance costs	(404,340)	0.00	(459,085)	(0.01)	(435,609)	(0.01)
Interest related to derivative liability	—	—	—	—	—	—
Inducement interest – warrant exercises and debt conversion	(7,904,353)	0.06	—	—	—	—
Inducement interest related to warrant extension	—	—	—	—	(826,252)	(0.02)
Inducement interest related to warrant tender offer	—	—	(195,927)	(0.00)	(393,685)	(0.01)
Inducement interest related to convertible notes	—	—	—	—	(2,352,045)	(0.05)
Interest on convertible notes payable	(7,330,843)	0.06	(950,617)	(0.02)	(251,315)	(0.01)
Total interest expense	(18,219,791)	0.15	(3,312,697)	(0.06)	(5,924,923)	(0.12)
Loss before income taxes	(124,403,402)	1.00	(59,013,579)	(1.05)	(50,149,681)	(1.00)
Income tax benefit	—	—	2,826,919	0.05	—	—
Net loss	$(124,403,402)	(1.00)%	$ (56,186,660)	(1.00)%	$ (50,149,681)	(1.00)%
Basic and diluted loss per share	$ (0.30)		$ (0.21)		$ (0.29)	
Basic and diluted weighted average common shares outstanding	421,077,605		272,040,933		174,885,422	

Results of operations for the years ended May 31, 2020 and 2019

For the years ended May 31, 2020 and 2019, we had a net loss of approximately $124.4 million and $56.2 million, respectively. The increase in net loss of approximately $68.2 million for fiscal 2020 over 2019 was primarily attributable to increased R&D expenses of approximately $10.1 million, an increase in G&A expenses of approximately $7.9 million, a non-cash legal settlement charge of $22.5 million an increase in interest expense of approximately $14.9 million, and an increase of approximately $11.2 million in the change in fair value of derivative liability. The loss per share for the fiscal year ended May 31, 2020 was $(0.30) compared to $(0.21) for the prior fiscal year.

Total operating expenses for the years ended May 31, 2020 and 2019 were approximately as follows:

	2020	2019
General and administrative:		
Salaries and other compensation	$ 5,488,000	$ 3,781,000
Stock-based compensation	6,548,000	3,388,000
Other	7,937,000	4,948,000
Total general and administrative	19,973,000	12,117,000
Research and development	52,640,000	42,490,000
Amortization and depreciation	2,034,000	1,245,000
Total operating expenses	$74,647,000	$55,852,000

For the fiscal year ended May 31, 2020 and May 31, 2019, operating expenses totaled approximately $74.6 million and $55.9 million, respectively, consisting primarily of research and development (“R&D”) expenses of $52.6 million, general and administrative expenses of approximately $20.0 million and amortization and depreciation of approximately $2.0 million. The increase in operating expenses over the comparable 2019 period was attributable to an increase in R&D expenses of approximately $10.1 million owing to higher clinical trial and scale-up manufacturing related expenses and to an increase in general and administrative expenses of approximately $7.9 million, or 64.8% over the prior fiscal year.

General and administrative expenses, totaled approximately $20.0 million and $12.1 million, respectively, for fiscal 2020 and 2019. General and administrative expenses were comprised of salaries and benefits, non-cash stock-based compensation expense, professional fees, insurance and various other expenses. The increase in general and administrative expenses of approximately $7.9 million, or 64.8%, for the fiscal year ended May 31, 2020 over the comparable 2019 period was primarily due to increased non-cash stock-based compensation, employee compensation and related expenses, along with higher professional services fees.

We record research and development expenses where directly identifiable, which approximated the following for the years ended May 31, 2020 and 2019:

	2020	2019
Research and development:		
Clinical	$29,553,000	$25,264,000
Non-Clinical	2,999,000	155,000
CMC	19,392,000	16,353,000
Licenses and patent fees	696,000	718,000
Total research and development	$52,640,000	$42,490,000

R&D expenses totaled approximately $52.6 million for the fiscal year ended May 31, 2020 and increased approximately $10.1 million, or 23.9%, over the same 2019 period. This increase was attributable to higher clinical trial expenses associated with the Phase 2b/3 investigative monotherapy trial and various oncology

studies, offset in part by lower expenses for the completed Phase 3 combination therapy trial. Higher CMC-related expenses in connection with the preparation of the Company's BLA filing also contributed to the increase in R&D expenses over the prior fiscal year. The future trend of R&D expenses will be dependent on the timing of resubmission of and FDA approval of our BLA filing, the timing of FDA clearance of our pivotal trial protocol for leronlimab as a monotherapy for HIV patients, the clinical progression of the triple-negative breast cancer and GvHD trials, along with the outcome of the pre-clinical studies for several cancer indications. R&D expenses will also increase due to CMCscale-up manufacturing related activities in preparation for approval and commercialization of leronlimab.

Amortization and depreciation expense of approximately $2.0 million rose by approximately $0.8 million due in part to the increased amortization attributable to recording a full year of amortization expense related to the intangible assets acquired in the November 2018 transaction with ProstaGene LLC.

For the fiscal year ended May 31, 2020, the Company recognizednon-cash charges from the increase in the fair value of derivative liabilities of approximately $9.5 million, as compared to a non-cash benefit of approximately $1.7 million in the comparable 2019 period. Certain warrants and two convertible note instruments that each contain a contingent cash settlement provision giving rise to a derivative liability were issued in September 2016, June 2018 and January 2019, respectively. For each reporting period, the Company determines the fair value of the derivative liabilities and records a corresponding non-cash benefit or non-cash charge, as a consequence of a decrease or increase, respectively, in the calculated derivative liabilities.

Legal settlement expense (non-cash) for the fiscal year ended May 31, 2020 of $22.5 million related to the issuance of shares of common stock as a settlement for a claim filed by the note holder of the January 2019 Note alleging that the note holder was owed additional shares upon conversion of the note. The $22.5 million increase over the 2019 fiscal year was attributable to no legal settlement expense in the prior year.

Interest expense for the fiscal year ended May 31, 2020 of approximately $18.2 million increased approximately $14.9 million from the 2019 fiscal year due primarily to an increase in interest accrued on convertible notes payable of approximately $6.4 million, inducement interest expense related to warrant exercises and debt extensions of $7.7 million, and vendor finance charges of $0.9 million.

The future trends of all expenses will be driven, in large part, by the future outcomes of clinical trials and the corresponding effect on research and development expenses, as well as general and administrative expenses, in addition to the manufacturing of new commercial leronlimab upon any FDA approval. We require a significant amount of additional capital, and our ability to continue to fund operations will continue to depend on our ability to raise such capital. See in particular, "Liquidity and Capital Resources" below and Item 1A "Risk Factors" above.

Results of operations for the years ended May 31, 2019 and 2018

For the years ended May 31, 2019 and 2018, the Company had a net loss of approximately $56.2 million and $50.1 million, respectively. The increase in net loss of approximately $6.1 million for fiscal 2019 over 2018 was primarily attributable to increased R&D expenses of approximately $4.3 million and an increase in G&A expenses of approximately $4.8 million, offset by a decreased interest expense of $2.6 million. The loss per share for the fiscal year ended May 31, 2019 was $(0.21) compared to $(0.29) for the prior fiscal year.

Total operating expenses for the years ended May 31, 2019 and 2018 were approximately as follows:

	2019	2018
General and administrative:		
Salaries and other compensation	$ 3,781,000	$ 2,454,000
Stock-based compensation	3,388,000	1,291,000
Other	4,948,000	3,596,000
Total general and administrative	12,117,000	7,341,000
Research and development	42,490,000	38,223,000
Amortization and depreciation	1,245,000	356,000
Total operating expenses	$55,852,000	$45,920,000

For the fiscal year ended May 31, 2019 and May 31, 2018, operating expenses totaled approximately $55.9 million and $45.9 million, respectively, consisting primarily of R&D expenses of $42.5 million, general and administrative expenses of approximately $12.1 million and amortization and depreciation of approximately $1.2 million. The increase in operating expenses over the comparable 2018 period was attributable to an increase in R&D expenses of approximately $4.3 million owing to higher clinical trial and manufacturing related expenses and to an increase in general and administrative expenses of approximately $4.8 million, or 65.1% over the prior fiscal year.

General and administrative expenses, totaled approximately $12.1 million and $7.3 million, respectively, for fiscal 2019 and 2018. General and administrative expenses were comprised of salaries and benefits, non-cash stock-based compensation expense, professional fees, insurance and various other expenses. The increase in general and administrative expenses of approximately $4.8 million, or 65.1%, for the fiscal year ended May 31, 2019 over the comparable 2018 period was primarily due to increased non-cash stock-based compensation, employee compensation and related expenses, along with higher professional services fees.

We record research and development expenses where directly identifiable, which approximated the following for the years ended May 31, 2019 and 2018:

	2019	2018
Research and development:		
Clinical	$25,264,000	$22,543,000
Non-Clinical	155,000	$ 887,000
CMC	16,353,000	$14,240,000
Licenses and patent fees	718,000	$ 553,000
Total research and development	$42,490,000	$38,223,000

R&D expenses totaled approximately $42.5 million for the fiscal year ended May 31, 2019 and increased approximately $4.3 million, or 11.2%, over the same 2018 period. This increase was attributable to higher clinical trial expenses associated with the Phase 2b/3 investigative monotherapy trial and various oncology studies, offset in part by lower expenses for the completed Phase 3 combination therapy trial. Higher CMC-related expenses in connection with the preparation of our BLA filing also contributed to the increase in R&D expenses over the prior fiscal year.

Amortization and depreciation expense of approximately $1.2 million rose by approximately $0.9 million due in part to the increased amortization attributable to the intangible assets acquired in the November 2018 transaction with ProstaGene LLC.

For the fiscal year ended May 31, 2019, the Company recognized an unrealizednon-cash benefit from the decrease in derivative liability of approximately $1.7 million, as compared to a similar non-cash benefit in the

comparable 2018 period. The total net change in derivative liability is attributable to three underlying financial instruments: (i) certain warrants that contain a contingent cash settlement provision, which originated in September 2016, accounted for approximately $0.9 million, (ii) a certain long-term convertible note payable, originating in June 2018, which was subsequently amended to provide for variable rate redemptions by the holder and (iii) a certain long-term convertible note payable, which originated in January 2019. The combined change in derivative liability ascribed to the two long-term convertible notes contributed approximately $0.8 million to the unrealized non-cash benefit for the fiscal year ended May 31, 2019. For each reporting period, the Company determines the fair value of the derivative liabilities and records a corresponding non-cash benefit or non-cash charge, as a consequence of a decrease or increase, respectively, in the calculated derivative liabilities.

Interest expense for the fiscal year ended May 31, 2019 of approximately $3.3 million decreased approximately $2.6 million from the 2018 fiscal year due primarily to lower non-cash inducement interest on a private warrant tender offer that was completed in May 2019, and no comparable inducement interest expense related to warrant extensions and convertible notes, which were in incurred in the 2018 fiscal year, offset by an increase in interest accrued on convertible notes payable of approximately $0.7 million.

Fluctuations in Quarterly Operating Results

The Company has historically experienced significant fluctuations in our quarterly operating results and such fluctuations are expected to continue in the future. The Company's operating results may fluctuate due to a number of factors, such as the timing of product manufacturing activities, patient enrollment or completion rates in various trials, coupled with potential amendments to clinical trial protocol. As a non-revenue generating company, we are regularly conducting offerings to raise capital, which can create various forms of amortization of issuance costs or non-cash interest expense. In addition, a portion of the aforementioned derivative liabilities is tied to certain securities which include a contingent cash settlement provision, which can vary substantially from quarter to quarter, thereby creating a non-cash charge or benefit.

Liquidity and Capital Resources

The Company's cash position of approximately $14.3 million at May 31, 2020 increased approximately $10.8 million as compared to a balance of approximately $3.5 million at May 31, 2019. The increase was attributable to net cash provided by financing activities of approximately $79.7 million exceeding net cash used in operating activities of approximately $68.8 million by approximately $10.9 million. Despite the Company's negative working capital position, vendor relations remain accommodative and we do not currently anticipate delays in our business initiatives schedule due to liquidity constraints.

Cash Flows

Net cash used in operating activities totaled approximately $68.8 million during the fiscal year ended May 31, 2020, which reflects an increase of approximately $18.3 million of net cash used in operating activities over the approximate $50.5 million in fiscal 2019. The increase in net cash used in operating activities was due to an increase in net loss of approximately $68.2 million, attributable to an increase in non-cash legal settlement expense of $22.5 million, an increase in interest related expenses of approximately $13.8 million, an increase in losses from change in fair value of derivative liabilities of approximately $11.2 million, an increase in stock-based compensation of approximately $3.2 million, an increase in deferred tax benefit of approximately $2.8 million, and a net change in the components of net working capital of approximately $2.8 million.

The Company made nominal investments in equipment and website development costs totaling approximately $61,000 during the fiscal year ended May 31, 2020.

Net cash provided by financing activities of approximately $79.7 million for the year ended May 31, 2020 increased approximately $27.0 million over $52.7 million of net cash provided by financing activities during

fiscal year ended May 31, 2019. The increase in net cash provided from financing activities was primarily attributable to an increase in proceeds from warrant exercises of approximately $38.4 million, an increase of approximately $10.3 million in proceeds from the sale of preferred stock and increase of approximately $5.6 million in proceeds from stock option exercises, coupled with a decrease to proceeds received from the sale of common stock and warrants of $25.6 million during the 2020 fiscal year.

Capital Requirements

The Company has not generated revenue to date, and does not expect to generate product revenue until after it receives approval from the FDA for its BLA for leronlimab as a combination therapy with HAART for highly treatment experienced HIV patients. The Company expects it will continue to incur operating losses as expenses continue to increase as we proceed with completion of our BLA, prepare for commercialization of leronlimab and continue our clinical trial programs. The future trends of all expenses will be driven, in large part, by the timing of the anticipated approval of the Company's BLA, the magnitude of our commercialization readiness, future clinical trial strategy and timing of the commencement of our future revenue stream. The Company will require a significant amount of additional capital in the future in anticipation of a fully commercialized leronlimab product.

Contract Manufacturing

During the fourth quarter of fiscal 2019, the Company entered into a Master Services Agreement and Product Specific Agreement (collectively, the "Samsung Agreement") with Samsung BioLogics Co., Ltd. ("Samsung"), pursuant to which Samsung will perform technology transfer, process validation, manufacturing and supply services for the commercial supply of leronlimab. During fiscal year 2020, the Company delivered to Samsung purchase orders totaling $28 million related to the manufacture of leronlimab and payments totaling $14 million with additional payments scheduled to be made throughout calendar 2020.

Under the Samsung Agreement, a purchase order is binding and the Company is obligated to pay the full amount of the purchase order. Under the terms of the Samsung Agreement, the Company is obligated to make specified minimum purchases of leronlimab from Samsung pursuant to forecasted requirements, which the Company is required to provide to Samsung. The first forecast schedules 11 manufacturing batches all beginning in the first quarter of fiscal year 2021, setting forth the total quantity of commercial grade leronlimab that the Company expects to require in the following years. The Company estimates that initial ramp-up costs to manufacture commercial grade leronlimab at scale could total approximately $116 million, with approximately $69 million payable over the course of calendar 2020, of which $30 million has been paid as of the date of this filing, and approximately $23 million payable during calendar 2021, and approximately $24 million payable in January of 2022. Thereafter, the Company will pay Samsung per 15,000L batch according to the pricing terms specified in the Samsung Agreement.

The Samsung Agreement has an initial term ending in December 2027 and will be automatically extended for additional two-year periods unless either party gives notice of termination at least six months prior to the then-current term. Either party may terminate the Samsung Agreement in the event of the other party's insolvency or uncured material breach, and the Company may terminate the agreement in the event of a voluntary or involuntary complete market withdrawal of leronlimab from commercial markets, with one and half year's prior notice. Neither party may assign the agreement without the consent of the other, except in the event of a sale of all or substantially all of the assets of a party to which the agreement relates.

On May 22, 2020, the Company entered into a Drug Product Manufacturing Services Agreement with Samsung (the "Samsung Vial Filling Agreement"), pursuant to which Samsung will perform technology transfer, process validation, vial filling and storage services for clinical, pre-approval inspection, and commercial supply of leronlimab. Under the terms of the Samsung Vial Filling Agreement, the Company is obligated to have specified minimum quantities of vials filed with leronlimab by Samsung pursuant to forecasted requirements which the Company is required to provide to Samsung. The Company has not provided a forecast to Samsung, however, based on set-up related costs and manufacturing commitments pursuant to the Samsung Agreement, the

Company expects to deliver commitments of approximately $2.3 million in the form of purchase orders related to the Samsung Vial Filling Agreement through January 2021.

In addition to the Samsung Agreement, we have also previously entered into an arrangement with another third-party contract manufacturer to provide process transfer, validation and manufacturing services for leronlimab. In the event that we terminate the agreement with this manufacturer, we may incur certain financial penalties which would become payable to the manufacturer. Conditioned upon the timing of termination, the financial penalties may total approximately $2.1 million. These amount and timing of the financial commitments under an agreement with our secondary contract manufacturer will depend on the timing of the anticipated approval of our BLA and the initial product demand forecast, which is critical to align the timing of capital resources in order to ensure availability of sufficient quantities of commercial product.

Management believes two contract manufacturers may best serve our strategic objectives for the anticipated BLA filing and, if approved, the long-term commercial manufacturing capabilities for leronlimab. Management will continue to assess manufacturing capacity requirements as new market information becomes available regarding anticipated demand, subject to FDA approval.

Distribution

On July 2, 2020, the Company entered into an exclusive Distribution and Supply Agreement (the "Distribution Agreement") with American Regent, Inc. ("American Regent") with respect to the distribution of the Company's leronlimab (PRO140) drug for the treatment of COVID-19 in the United States. Under the Distribution Agreement, the Company appointed American Regent as the sole and exclusive authorized distributor in the United States of any subcutaneous injectable biopharmaceutical drug product labeled for treating COVID-19 that contains CytoDyn's leronlimab as the only active pharmaceutical ingredient (the "Product"). The grant of exclusive distribution rights to American Regent does not extend to any intravenous or infusible biopharmaceutical drug product, or any other product of CytoDyn containing leronlimab that is not labeled for treating COVID-19. Under the Distribution Agreement, American Regent shall, at its cost, use commercially reasonable efforts to market the Product in the United States, and the Company remains responsible, at its cost, to pursue, own and maintain the applicable regulatory approvals necessary to market and manufacture the Product. As described above, the Company is currently conducting a Phase 2b/3 clinical trial for 390 severe-to-critically ill COVID-19 patients, and a Phase 2 randomized clinical trial with 75 patients in the mild-to-moderate COVID-19 population. If results from these trials indicate positive clinical outcomes for the COVID-19 patients to sufficiently meet the primary and secondary endpoints for the trials, the Company expects to seek approval from the U.S. Food and Drug Administration.

Contract Research

The Company entered into project work orders for each of our clinical trials with our CRO and related laboratory vendors. Under the terms of these agreements, the Company prepaid certain execution fees for direct services costs. In connection with its clinical trials, the Company has entered into separate project work orders for each trial with its CRO. In the event the Company terminates any trial, it may incur certain financial penalties which would become payable to the CRO. Conditioned upon the form of termination of any one trial, the financial penalties may range up to $0.8 million. In the remote circumstance the Company terminates all clinical trials, the collective financial penalties may range from an approximate low of $1.6 million to an approximate high of $3.6 million.

Licensing

Under the Progenics Purchase Agreement, we are required to pay Progenics the following ongoing milestone payments and royalties: (i) $5.0 million at the time of the first U.S. new drug application approval by the FDA or other non-U.S. approval for the sale of leronlimab (PRO 140); and (ii) royalty payments of up to five percent (5%) on net sales during the period beginning on the date of the first commercial sale of leronlimab

(PRO 140) until the later of (a) the expiration of the last to expire patent included in the acquired assets, and (b) 10 years, in each case determined on a country-by country basis. In addition, under a Development and License Agreement, dated April 30, 1999 (the "PDL License"), between Protein Design Labs (now AbbVie Inc.) and Progenics, which was previously assigned to us, we are required to pay AbbVie Inc. additional milestone payments and royalties as follows: (i) $0.5 million upon filing a BLA with the FDA or non-U.S. equivalent regulatory body; (ii) $0.5 million upon FDA approval or approval by another non-U.S. equivalent regulatory body; and (iii) royalties of up to 3.5% of net sales for the longer of 10 years and the date of expiration of the last to expire licensed patent. Additionally, the PDL License provides for an annual maintenance fee of $150,000 until royalties paid exceed that amount.

On December 17, 2019, the Company entered into a Commercialization and License Agreement and a Supply Agreement with Vyera Pharmaceuticals, LLC. Pursuant to the License Agreement, the Company granted Vyera an exclusive royalty-bearing license to commercialize pharmaceutical preparations containing leronlimab for treatment of HIV in humans in the United States.

Pursuant to the terms of the License Agreement, and subject to the conditions set forth therein, Vyera will bear the cost of, and be responsible for, among other things, commercializing the product in the territory and will use commercially reasonable efforts to commercialize the product in the field in the territory. Under the terms of the License Agreement, CytoDyn is permitted to license the product outside of the territory for uses in the field or outside the field or inside the territory for uses outside of the field.

In consideration of the license and other rights granted by the Company, Vyera has agreed to pay the Company, within three business days of the effective date of the License Agreement, a $0.5 million license issue fee, with additional payments totaling up to approximately $87.0 million to be made upon the achievement of certain sales and regulatory milestones. Certain milestones are subject to reduction if not achieved within an agreed-upon timeframe. Vyera may also pay the Company additional potential milestone payments upon the regulatory approval of the Product for certain subsequent indications in the field. Whether a particular subsequent indication qualifies for an additional milestone payment shall be determined in good faith by the parties. In addition, during the Royalty Term (as defined below), Vyera is obligated to pay the Company a royalty equal to 50% of Vyera's gross profit margin from product sales (defined in the License Agreement as "Net Sales") in the territory. The royalty is subject to reduction during the Royalty Term after patent expiry and expiry of regulatory exclusivity. Following expiration of the Royalty Term, Vyera will continue to maintain non-exclusive rights to commercialize the Product.

The Company appointed American Regent as the sole and exclusive authorized distributor in the United States of any subcutaneous injectable biopharmaceutical drug product labeled for treating COVID-19 that contains CytoDyn's leronlimab (a humanized monoclonal antibody (also known as PRO 140) targeting against the CCR5 receptor) as the only active pharmaceutical ingredient (the "Product"). The grant of exclusive distribution rights to American Regent does not extend to any intravenous or infusible biopharmaceutical drug product, or any other product of CytoDyn containing leronlimab that is not labeled for treating COVID-19.

Under the Agreement, American Regent shall, at its cost, use commercially reasonable efforts to market the Product in the United States, including, without limitation, directing the methods of sale and distribution, organization and management of sales and marketing and pricing in accordance with the terms and conditions of the Agreement. American Regent shall solely set the resale prices for the Product in accordance with applicable law. Pursuant to the Agreement, the Company remains responsible, at its cost, to pursue, own and maintain the applicable regulatory approvals necessary to market the Product in the United States, and for manufacturing the Product once regulatory approvals have been received.

The term of the Agreement extends for three years after the date of the first commercial sale of the Product, and will renew by mutual agreement of the parties for one additional one-year term, unless American Regent notifies the Company of its intention to have the Agreement terminate at the end of the initial term at least six (6) months prior to the end of the initial term. Either party is entitled to terminate the Agreement at any time in

the event of material breach by the other party that remains uncured after thirty (30) calendar days following written notice thereof, and either party may terminate the Agreement immediately, at its option, upon written notice in the event that a court of competent jurisdiction declares the other party insolvent or bankrupt, or a bankruptcy proceeding is commenced against the other party or the other party files a proposal, assignment for the benefit of creditors, arrangement, composition or seeks similar relief under any applicable law, or the other party is in receivership. The Company is also entitled to terminate the Agreement at any time after the first Commercial Sale upon six (6) months advance written notice to American Regent, or upon ninety (90) days written notice to American Regent following American Regent's change of control. American Regent is entitled to terminate the Agreement upon six (6) months advance written notice to the Company if, following due diligence and/or a quality inspection of the manufacturing facility associated with the Product, it determines that the distribution of the Product by American Regent should not be pursued, or if there is an unresolved supply interruption as described in the Agreement. In addition, American Regent may terminate the Agreement immediately upon written notice to the Company if (a) American Regent determines there is an unacceptable risk of using American Regent's NDC Number on the Product labeling, (b) if the parties fail to execute a quality agreement and safety data exchange agreement within forty five (45) days of July 2, 2020, (c) if American Regent is named in any patent or trade secret infringement matter filed by a third party (with certain exceptions) resulting from American Regent's marketing of the Product and such matter survives a motion to dismiss or has not been resolved within six (6) months after American Regent first receives written notice of the alleged infringement, (d) if any regulatory authority in the United States requires the cessation of sale or distribution of the Product, (e) if the Company materially impedes American Regent's efforts to implement a recall, market withdrawal or field correction of the Product, or (f) if there is a negative net profit from American Regent's sales of the Product for two (2) consecutive calendar quarters.

As of the date of this filing, the Company had filed all three portions of its BLA, however, in July 2020, the Company received a Refusal to File letter from the FDA requesting additional information. The Company has requested a Type A meeting and plans to supply the additional information in a timely manner.

Going Concern

As reported in the accompanying financial statements, during the year ended May 31, 2020, May 31, 2019 and May 31, 2018, the Company incurred net losses of approximately $124.4 million, $56.2 million and $50.1 million, respectively. The Company has no activities that produced revenue in the periods presented and have sustained operating losses since inception.

The Company currently requires and will continue to require a significant amount of additional capital to fund operations, pay its accounts payables, and its ability to continue as a going concern is dependent upon its ability to raise such additional capital, commercialize its product and achieve profitability. If the Company is not able to raise such additional capital on a timely basis or on favorable terms, it may need to scale back operations or slow CMC-related activities, which could materially delay commercialization initiatives, thereby deferring its ability to achieve profitability. The Company's failure to raise additional capital could also affect its relationships with key vendors, disrupting its ability to timely execute its business plan. In extreme cases, it could be forced to file for bankruptcy protection, discontinue its operations or liquidate its assets.

Since inception, the Company has financed its activities principally from the sale of public and private equity securities and proceeds from convertible notes payable and related party notes payable. The Company intends to finance its future operating activities and its working capital needs largely from the sale of equity and debt securities, combined with additional potential funding from other traditional financing sources. As of the date of this filing, the Company has approximately 105 million shares of common stock authorized and available for issuance under our certificate of incorporation, as amended, and approximately $135 million available for future registered offerings of securities under our universal shelf registration statement on Form S-3, which was declared effective on March 7, 2018 and expires March 7, 2021 (assuming the full exercise of outstanding warrants, at the currently applicable exercise prices, that were previously issued in registered transactions thereunder).

The sale of equity and convertible debt securities to raise additional capital may result in dilution to stockholders and those securities may have rights senior to those of common shares. If the Company raises additional funds through the issuance of preferred stock, convertible debt securities or other debt financing, these activities or other debt could contain covenants that would restrict its operations. On March 31, 2020 and July 29, 2020, the Company entered into long-term convertible notes, which are secured by all of our assets, except for our intellectual property, and also include certain restrictive provisions, such as a limitation on additional indebtedness and future dilutive issuances of securities, any of which could impair our ability to raise additional capital on acceptable terms and conditions. Any other third-party funding arrangements could require the Company to relinquish valuable rights. The Company expects to require additional capital beyond currently anticipated needs. Additional capital, if available, may not be available on reasonable or non-dilutive terms. Please refer to the matters discussed under the heading “Risk Factors” above.

The accompanying consolidated financial statements have been prepared on a going concern basis, which contemplates the realization of assets and the satisfaction of liabilities in the normal course of business. The Company has incurred losses for all periods presented and has a substantial accumulated deficit. As of May 31, 2020, these factors, among several others, could raise substantial doubt about our ability to continue as a going concern.

The consolidated financial statements do not include any adjustments relating to the recoverability and classification of liabilities that might be necessary should the Company be unable to continue as a going concern. The Company’s continuation as a going concern is dependent upon its ability to obtain a significant amount of additional operating capital, complete development of its product candidate, obtain FDA approval, outsource manufacturing of its product, and ultimately to attain profitability. The Company intends to seek additional funding through equity or debt offerings, licensing agreements or strategic alliances to implement our business plan. There are no assurances, however, that it will be successful in these endeavors.

Off-Balance Sheet Arrangements

The Company does not have any off-balance sheet arrangements that have or are reasonably likely to have a current or future effect on our financial condition, changes in financial condition, revenues or expenses, results of operations, liquidity, capital expenditures or capital resources that is material to investors.

Critical Accounting Policies and Estimates

The preparation of financial statements in conformity with accounting principles generally accepted in the United States of America requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of expenses during the reporting period. Actual results could differ from those estimates.

We believe that the following critical policies affect our more significant judgments and estimates used in preparation of our consolidated financial statements.

We follow the provisions of FASB ASC815-Derivatives and Hedging (“ASC 815”), FASB ASC480-Distinguishing liabilities from equity (“ASC 480”), ASC 470- Debt and debt with conversion and other options (“ASC 470”). We have issued instruments that meet the criteria of derivative liabilities. Derivative financial instruments consist of financial instruments that contain a notional amount and one or more underlying variable (e.g., contingent cash settlement provision), require no initial net investment and permit net settlement. Derivative financial instruments may be free-standing or embedded in other financial instruments. We have induced conversion of certain instruments with bifurcated conversion options. We have followed the general extinguishment model to record certain conversion and the extinguishment of derivative liabilities. We utilized a Binomial Lattice Model to value the conversion options, which utilizes assumptions that market participants would likely consider in negotiating the transfer of the convertible options, including early conversions. The assumptions in the model are subject to estimates and judgement.

We value inventory at the lower of cost or net realizable value using the average cost method. Inventories currently consist solely of specialized raw materials to be used for commercial production of the Company's biologic, leronlimab, which is awaiting regulatory approval. Inventory purchased in preparation for product launches is evaluated for recoverability by considering the likelihood that revenue will be obtained from the future sale of the related inventory, in light of the status of the product within the regulatory approval process. The Company evaluates its inventory levels on a quarterly basis and writes down inventory that has become obsolete, or has a cost in excess of its expected net realizable value, and inventory quantities in excess of expected requirements. In assessing the lower of cost or net realizable value to pre-launch inventory, the Company relies on independent analysis provided by a third-party knowledgeable of the range of likely commercial prices comparable to current comparable commercial product.

We capitalize inventories procured or produced in preparation for product launches sufficient to support estimated initial market demand. Typically, capitalization of such inventory begins when the results of clinical trials have reached a status sufficient to support regulatory approval, uncertainties regarding ultimate regulatory approval have been significantly reduced and the we have determined it is probable that these capitalized costs will provide some future economic benefit in excess of capitalized costs. The material factors considered by the Company in evaluating these uncertainties include the receipt and analysis of positive Phase 3 clinical trial results for the underlying product candidate, results from meetings with the relevant regulatory authorities prior to the filing of regulatory applications, and the compilation of the regulatory application. We closely monitor the status of the product within the regulatory review and approval process, including all relevant communication with regulatory authorities. If we are aware of any specific material risks or contingencies other than the normal regulatory review and approval process or if there are any specific issues identified relating to safety, efficacy, manufacturing, marketing or labeling, the related inventory may no longer qualify for capitalization.

For inventories we capitalize in preparation of product launch anticipated future sales, shelf lives, and expected approval date are taken into account when evaluating realizability. The shelf-life of a product is determined as part of the regulatory approval process; however, in assessing whether to capitalize pre-launch inventory, the Company considers the product stability data of all of the pre-approval inventory procured or produced to date to determine whether it has an adequate shelf life.

We use the Black-Scholes option pricing model to estimate the fair value of stock-based awards on the date of grant utilizing certain assumptions that require judgments and estimates. These assumptions include estimates for volatility, expected term and risk-free interest rates in determining the fair value of the stock-based awards.

We periodically issue stock options and warrants to consultants for various services. Costs for these transactions are measured at the fair value of the consideration received or the fair value of the equity instruments issued, whichever is more readily measurable. This determination requires judgment in terms of the consideration being measured.

We have historically issued convertible promissory notes with detachable warrants to purchase common stock. The conversion options are fixed, but may be beneficial to the note holders at the respective commitment dates. The valuation of the beneficial conversion feature of the notes and of the warrants gives rise to the recognition of a debt discount, which requires the use of certain assumptions inherent in the Black-Scholes option pricing model, including various judgments and estimates.

As discussed in Notes 8 and 9 to the consolidated financial statements, we have significant license and contingent milestone and royalty liabilities. We must estimate the likelihood of paying these contingent liabilities periodically based on the progress of our clinical trials.

Item 7A. Quantitative and Qualitative Disclosure about Market Risk

As a smaller reporting company we are not required to provide the information required by this Item.

Item 8. Financial Statements and Supplementary Data.

CYTODYN INC.

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REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

To the Board of Directors and Stockholders
CytoDyn Inc.

Opinion on the Consolidated Financial Statements

We have audited the accompanying consolidated balance sheets of CytoDyn Inc. (the Company) as of May 31, 2020 and 2019 and the related consolidated statements of operations, changes in stockholders' (deficit) equity, and cash flows for each of the years in the three-year period ended May 31, 2020, and the related notes (collectively referred to as the consolidated financial statements). In our opinion, the consolidated financial statements present fairly, in all material respects, the financial position of the Company as of May 31, 2020 and 2019, and the results of its operations and its cash flows for each of the years in the three-year period ended May 31, 2020, in conformity with accounting principles generally accepted in the United States of America.

The Company's Ability to Continue as a Going Concern

The accompanying consolidated financial statements have been prepared assuming the Company will continue as a going concern. As discussed in Note 2 to the consolidated financial statements, the Company incurred a net loss of approximately $124,403,000 for the year ended May 31, 2020 and has an accumulated deficit of approximately $354,711,000 through May 31, 2020, which raises substantial doubt about its ability to continue as a going concern. The consolidated financial statements do not include any adjustments that might result from the outcome of this uncertainty.

Basis for Opinion

These consolidated financial statements are the responsibility of the Company's management. Our responsibility is to express an opinion on the Company's consolidated financial statements based on our audits. We are a public accounting firm registered with the Public Company Accounting Oversight Board (PCAOB) and are required to be independent with respect to the Company in accordance with the U.S. federal securities laws and the applicable rules and regulations of the Securities and Exchange Commission and the PCAOB.

We conducted our audits in accordance with the standards of the PCAOB. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the consolidated financial statements are free of material misstatement, whether due to error or fraud. The Company is not required to have, nor were we engaged to perform, an audit of its internal control over financial reporting. As part of our audits, we are required to obtain an understanding of internal control over financial reporting, but not for the purpose of expressing an opinion on the effectiveness of the Company's internal control over financial reporting. Accordingly, we express no such opinion.

Our audits included performing procedures to assess the risks of material misstatement of the financial statements, whether due to error or fraud, and performing procedures that respond to those risks. Such procedures included examining, on a test basis, evidence regarding the amounts and disclosures in the consolidated financial statements. Our audits also included evaluating the accounting principles used and significant estimates made by management, as well as evaluating the overall presentation of the consolidated financial statements. We believe that our audits provide a reasonable basis for our opinion.

/s/ Warren Averett, LLC

We have served as the Company's auditor since 2007.
Birmingham, Alabama
August 14, 2020

CytoDyn Inc.
Consolidated Balance Sheets

	May 31, 2020	May 31, 2019
Assets		
Current assets:		
Cash	$ 14,281,830	$ 2,612,910
Restricted cash	10,000	853,599
Inventories	19,146,678	—
Miscellaneous receivables	—	90,824
Prepaid expenses	498,005	107,211
Prepaid service fees	2,890,519	1,704,876
Total current assets	36,827,032	5,369,420
Operating lease right-of-use assets	175,743	—
Property, plant and equipment	55,488	29,251
Intangibles, net	13,455,872	15,475,454
Total assets	$ 50,514,135	$ 20,874,125
Liabilities and Stockholders' (Deficit) Equity		
Current liabilities:		
Accounts payable	$ 29,479,313	$ 16,239,434
Accrued liabilities and compensation	6,866,003	1,588,552
Accrued license fees	12,500	208,600
Accrued interest on convertible notes	292,178	212,777
Accrued dividends on convertible preferred stock	981,438	37,351
Convertible notes payable, net	—	3,586,035
Current portion of operating leases payable	114,790	—
Current portion of long-term convertible notes payable	6,744,444	4,200,000
Warrant exercise proceeds held in trust	10,000	853,599
Total current liabilities	44,500,666	26,926,348
Long-term liabilities:		
Convertible notes payable, net	8,430,556	454,568
Operating lease liability	63,391	—
Derivative liability	—	2,407,269
Total long-term liabilities	8,493,947	2,861,837
Total liabilities	52,994,613	29,788,185
Commitments and Contingencies (Note 10)		
Stockholders' (Deficit) equity		
Preferred Stock, $0.001 par value; 5,000,000 shares authorized		
Series D convertible preferred stock, $0.001 par value; 11,737 authorized; 8,452 and 0 issued and outstanding at May 31, 2020 and May 31, 2019, respectively	8	—
Series C convertible preferred stock, $0.001 par value; 8,203 authorized; 8,203 and 3,246 issued and outstanding at May 31, 2020 and May 31, 2019, respectively	8	3
Series B convertible preferred stock, $0.001 par value; 400,000 shares authorized, 92,100 shares issued and outstanding at May 31, 2020 and May 31, 2019, respectively	92	92
Common stock, $0.001 par value; 700,000,000 shares authorized, 519,261,580 and 329,554,763 issued and 518,975,572 and 329,395,752 outstanding at May 31, 2020 and May 31, 2019, respectively	519,262	329,555
Additional paid-in capital	351,711,333	220,119,856
Accumulated (deficit)	(354,710,895)	(229,363,407)
Less: treasury stock, $.001 par value (286,008 and 159,011 shares at May 31, 2020 and May 31, 2019, respectively)	(286)	(159)
Total stockholders' (deficit)	(2,480,478)	(8,914,060)
Total liabilities and stockholders' (deficit) equity	$ 50,514,135	$ 20,874,125

See accompanying notes to consolidated financial statements.

CytoDyn Inc.
Consolidated Statements of Operations

	May 31, 2020	May 31, 2019	May 31, 2018
Operating expenses:			
General and administrative	$ 19,972,804	$ 12,116,743	$ 7,340,605
Research and development	52,639,981	42,490,144	38,222,580
Amortization and depreciation	2,034,440	1,245,167	356,128
Total operating expenses	74,647,225	55,852,054	45,919,313
Operating loss	(74,647,225)	(55,852,054)	(45,919,313)
Other income (expense):			
Other income	500,000	—	—
Interest income	5,318	4,306	3,620
Change in fair value of derivative liabilities	(9,541,704)	1,666,469	1,690,935
Loss on extinguishment of convertible note	—	(1,519,603)	—
Legal settlement	(22,500,000)	—	—
Interest expense:			
Finance charges	(935,630)	—	—
Amortization of discount on convertible notes	(1,644,625)	(1,707,068)	(1,666,017)
Amortization of debt issuance costs	(404,340)	(459,085)	(435,609)
Inducement interest	(7,904,353)	(195,927)	(3,571,982)
Interest on convertible note payable	(7,330,843)	(950,617)	(251,315)
Total interest expense	(18,219,791)	(3,312,697)	(5,924,923)
Loss before income taxes	(124,403,402)	(59,013,579)	(50,149,681)
Income tax benefit	—	2,826,919	—
Net loss	$(124,403,402)	$ (56,186,660)	$ (50,149,681)
Basic and diluted loss per share	$ (0.30)	$ (0.21)	$ (0.29)
Basic and diluted weighted average common shares outstanding	421,077,605	272,040,933	174,885,422

See accompanying notes to consolidated financial statements.

CytoDyn Inc.
Consolidated Statements of Changes in Stockholders' (Deficit) Equity

	Preferred Stock		Common Stock		Treasury Stock	
	Shares	Amount	Shares	Amount	Shares	Amount
Balance May 31, 2017	92,100	$ 92	149,468,244	$149,468	—	$ —
Stock-based compensation	—	—	—	—	—	—
Stock issued for board compensation	—	—	—	—	—	—
Stock issued for bonuses and tendered for income tax	—	—	310,526	311	159,011	(159)
Proceeds from private equity offering ($0.50/share)	—	—	35,286,904	35,286	—	—
Offering costs related to private equity offering	—	—	—	—	—	—
Proceeds from registered direct offering ($0.50/share)	—	—	25,493,853	25,494	—	—
Offering costs related to registered direct offering	—	—	—	—	—	—
Legal fees in connection with equity offerings	—	—	—	—	—	—
Proceeds from warrant exercise ($0.50/share)	—	—	6,322,263	6,322	—	—
Offering costs related to warrant tender offer	—	—	—	—	—	—
Debt discount related to convertible notes payable	—	—	—	—	—	—
Interest expense related to warrant extension	—	—	—	—	—	—
Interest expense related to warrant tender offer	—	—	—	—	—	—
Interest expense related to conversion of notes payable	—	—	—	—	—	—
Net (loss) for the year ended May 31, 2018						
Balance May 31, 2018	92,100	$ 92	216,881,790	$216,881	159,011	$ (159)
Acquisition of ProstaGene LLC	—	—	18,658,000	18,658	—	—
Issuance of stock payment shares	—	—	8,342,000	8,342	—	—
Issuance of stock for note payable redemption	—	—	3,756,406	3,757	—	—
Proceeds from registered direct offering ($0.50/share)	—	—	23,629,480	23,629	—	—
Offering costs related to registered direct offering	—	—	—	—	—	—
Proceeds from private equity offering ($0.50/share)	—	—	46,975,170	46,976	—	—
Offering costs related to private equity offering	—	—	—	—	—	—
Offering costs related to debt offering	—	—	—	—	—	—
Debt discount and issuance costs related to offering	—	—	—	—	—	—
Beneficial conversion feature on note payable and relative fair value associated with warrants	—	—	—	—	—	—
Proceeds from private warrant exchange	—	—	11,311,917	11,312	—	—
Offering costs related to private warrant exchange	—	—	—	—	—	—
Inducement interest expense on private warrant exchange	—	—	—	—	—	—
Proceeds from Series C Convertible Preferred offering	3,246	3	—	—	—	—
Dividends on Series C Convertible Preferred shares	—	—	—	—	—	—
Legal fees in connection with equity offerings	—	—	—	—	—	—
Stock-based compensation	—	—	—	—	—	—
Net (loss) for the year ended May 31, 2019						
Balance May 31, 2019	95,346	$ 95	329,554,763	$329,555	159,011	$ (159)

See accompanying notes to consolidated financial statements.

CytoDyn Inc.
Consolidated Statements of Changes in Stockholders' (Deficit) Equity

	Preferred Stock		Common Stock		Treasury Stock	
	Shares	Amount	Shares	Amount	Shares	Amount
Issuance of stock for note payable redemptions and conversions	—	$ —	22,967,227	$ 22,967	—	$ —
Note conversion and extension fees	—	—	8,232,006	8,232	—	—
Proceeds from registered direct offering	—	—	38,856,094	38,857	—	—
Offering costs related to registered direct offering	—	—	—	—	—	—
Proceeds from warrant exercises	—	—	42,023,872	42,024	—	—
Relative fair market value associated with warrants exercised	—	—	—	—	—	—
Proceeds from public warrant tender offers	—	—	45,375,923	45,376	—	—
Offering costs related to public warrant tender offers	—	—	—	—	—	—
Inducement interest expense—tender offers and debt conversions	—	—	—	—	—	—
Proceeds from private warrant exchange	—	—	20,528,745	20,527	—	—
Offering costs related to private warrant exchange	—	—	—	—	—	—
Inducement interest expense—private warrant exchange	—	—	—	—	—	—
Proceeds from Series C Preferred offering	4,957	5	—	—	—	—
Offering costs related to Series C Preferred offering	—	—	—	—	—	—
Exercise of option to repurchase common stock	—	—	—	—	—	—
Dividends on Series C Preferred shares	—	—	—	—	—	—
Proceeds from Series D Preferred offering	8,452	8	—	—	—	—
Offering costs related to Series D Preferred offering	—	—	—	—	—	—
Dividends on Series D Preferred shares	—	—	—	—	—	—
Legal fees in connection with equity offerings	—	—	—	—	—	—
Stock issued for services	—	—	2,620,000	2,620	—	—
Stock issued for bonuses and tendered for income tax	—	—	379,880	380	126,997	(127)
Exercise of stock options	—	—	8,723,070	8,724	—	—
Stock-based compensation	—	—	—	—	—	—
Legal settlement	—	—	—	—	—	—
Net Loss for May 31, 2020	—	—	—	—	—	—
Balance May 31, 2020	108,755	$ 108	519,261,580	$519,262	286,008	$ (286)

See accompanying notes to consolidated financial statements.

CytoDyn Inc.
Consolidated Statements of Changes in Stockholders' (Deficit) Equity

	Additional Paid-In Capital	Accumulated Deficit	Total
Balance May 31, 2017	$121,736,921	$(122,989,715)	$ (1,103,234)
Stock-based compensation	1,290,777	—	1,290,777
Stock issued for board compensation	260,190	—	260,190
Stock issued for bonuses and tendered for income tax	104,394	—	104,546
Proceeds from private equity offering ($0.50/share)	17,608,165	—	17,643,451
Offering costs related to private equity offering	(1,717,597)	—	(1,717,597)
Proceeds from registered direct offering ($0.50/share)	13,585,925	—	13,611,419
Offering costs related to registered direct offering	(857,149)	—	(857,149)
Legal fees in connection with equity offerings	(533,436)	—	(533,436)
Proceeds from warrant exercise ($0.50/share)	3,154,809	—	3,161,131
Offering costs related to warrant tender offer	(85,381)	—	(85,381)
Debt discount related to convertible notes payable	1,645,011	—	1,645,011
Interest expense related to warrant extension	826,252	—	826,252
Interest expense related to warrant tender offer	393,685	—	393,685
Interest expense related to conversion of notes payable	2,352,045	—	2,352,045
Net (loss) for the year ended May 31, 2018	—	(50,149,681)	(50,149,681)
Balance May 31, 2018	$159,764,611	$(173,139,396)	$(13,157,971)
Acquisition of ProstaGene LLC	11,539,342	—	11,558,000
Issuance of stock payment shares	(8,342)	—	—
Issuance of stock for note payable redemption	1,451,243	—	1,455,000
Proceeds from registered direct offering ($0.50/share)	11,791,110	—	11,814,739
Offering costs related to registered direct offering	(1,129,516)	—	(1,129,516)
Proceeds from private equity offering ($0.50/share)	23,440,608	—	23,487,584
Offering costs related to private equity offering	(2,697,149)	—	(2,697,149)
Offering costs related to debt offering	260,636	—	260,636
Debt discount and issuance costs related to offering	3,059,159	—	3,059,159
Beneficial conversion feature on note payable and relative fair value associated with warrants	3,534,992	—	3,534,992
Proceeds from private warrant exchange	2,955,200	—	2,966,512
Offering costs related to private warrant exchange	(266,986)	—	(266,986)
Inducement interest expense on private warrant exchange	195,927	—	195,927
Proceeds from Series C Convertible Preferred offering	3,083,697	—	3,083,700
Dividends on Series C Convertible Preferred shares	—	(37,351)	(37,351)
Legal fees in connection with equity offerings	(242,771)	—	(242,771)
Stock-based compensation	3,388,095	—	3,388,095
Net (loss) for the year ended May 31, 2019	—	(56,186,660)	(56,186,660)
Balance May 31, 2019	$220,119,856	$(229,363,407)	$ (8,914,060)

See accompanying notes to consolidated financial statements.

CytoDyn Inc.
Consolidated Statements of Changes in Stockholders' (Deficit) Equity

	Additional Paid-In Capital	Accumulated Deficit	Total
Issuance of stock for note payable redemptions and conversions	$ 10,799,221	$ —	$ 10,822,188
Note conversion and extension fees	3,890,973	—	3,899,205
Proceeds from registered direct offering	12,626,942	—	12,665,799
Offering costs related to registered direct offering	(377,859)	—	(377,859)
Proceeds from warrant exercises	20,458,091	—	20,500,115
Relative fair market value associated with warrants exercised	11,948,972	—	11,948,972
Proceeds from public warrant tender offers	11,854,884	—	11,900,260
Offering costs related to public warrant tender offers	(1,058,466)	—	(1,058,466)
Inducement interest expense—tender offers and debt conversions	2,713,014	—	2,713,014
Proceeds from private warrant exchange	6,000,566	—	6,021,093
Offering costs related to private warrant exchange	(197,253)	—	(197,253)
Inducement interest expense—private warrant exchange	5,191,338	—	5,191,338
Proceeds from Series C Preferred offering	4,956,995	—	4,957,000
Offering costs related to Series C Preferred offering	(432,368)	—	(432,368)
Exercise of option to repurchase common stock	(8,342)	—	(8,342)
Dividends on Series C Preferred shares	—	(671,971)	(671,971)
Proceeds from Series D Preferred offering	8,451,992	—	8,452,000
Offering costs related to Series D Preferred offering	(4,645)	—	(4,645)
Dividends on Series D Preferred shares	—	(272,115)	(272,115)
Legal fees in connection with equity offerings	(15,877)	—	(15,877)
Stock issued for services	(2,620)	—	—
Stock issued for bonuses and tendered for income tax	154,299	—	154,552
Exercise of stock options	5,593,817	—	5,602,541
Stock-based compensation	6,547,803	—	6,547,803
Legal settlement	22,500,000	—	—
Net Loss for May 31, 2020	—	(124,403,402)	(124,403,402)
Balance May 31, 2020	$351,711,333	$(354,710,895)	$ (2,480,478)

See accompanying notes to consolidated financial statements.

CytoDyn Inc.
Consolidated Statements of Cash Flows

	Year Ended		
	May 31, 2020	May 31, 2019	May 31, 2018
Cash flows from operating activities:			
Net loss	$(124,403,402)	$(56,186,660)	$(50,149,681)
Adjustments to reconcile net loss to net cash used by operating activities:			
Amortization and depreciation	2,034,440	1,245,167	356,128
Amortization of debt issuance costs	404,340	459,085	435,609
Amortization of discount on convertible notes	1,644,625	1,707,068	1,666,017
Legal settlement	22,500,000	—	—
Inducement interest	7,904,353	195,927	—
Interest expense associated with warrant extension	—	—	826,252
Interest expense associated with warrant tender offer	—	—	393,685
Interest expense associated with conversion of notes	—	—	2,352,045
Interest expense associated with accretion of convertible notes payable	6,615,146	512,594	—
Change in fair value of derivative liabilities	9,541,704	(1,666,469)	(1,690,935)
Stock-based compensation	6,547,803	3,388,095	1,290,777
Loss on extinguishment of convertible note	—	1,519,603	—
Deferred income tax benefit	—	(2,826,919)	—
Changes in current assets and liabilities:			
(Increase) in inventories	(19,146,678)	—	—
Decrease in miscellaneous receivables	90,824	(90,824)	—
Decrease (increase) in prepaid expenses	(1,576,437)	(464,201)	2,256,173
Increase (decrease) in accounts payable and accrued expenses	19,039,667	1,741,370	12,365,959
Net cash used in operating activities	(68,803,615)	(50,466,164)	(29,897,971)
Cash flows from investing activities:			
Intangibles	—	(19,553)	—
Furniture and equipment purchases	(41,095)	(25,731)	—
Net cash used in investing activities	(41,095)	(45,284)	—
Cash flows from financing activities:			
Proceeds from sale of common stock and warrants	12,665,799	38,268,839	25,224,212
Proceeds from sale of preferred stock	13,409,000	3,083,700	—
Proceeds from stock option excercises	5,602,541	—	—
Proceeds from warrant exercises	38,421,468	—	3,161,131
Principal paid on maturity of short-term convertible notes	(460,000)	—	—
Convertible note redemptions paid in cash	(1,725,000)	—	—
Exercise of option to repurchase shares held in escrow	(8,342)	—	—
Payment of bonuses and payroll taxes related to tender of common stock for income tax withholding	(88,568)	—	(102,064)
(Release) proceeds of funds held in trust for warrant tender offer	(843,599)	853,599	—
Proceeds from convertible note payable, net	15,000,000	15,460,000	4,888,500
Payment of debt issuance costs	—	(583,200)	—
Repayment of principal and interest on convertible note	—	—	(259,157)
Payment of offering costs	(2,303,268)	(4,336,426)	(3,558,789)
Net cash provided by financing activities	79,670,031	52,746,512	29,353,833
Net change in cash	10,825,321	2,235,064	(544,138)
Cash, beginning of period	3,466,509	1,231,445	1,775,583
Cash, end of period	$ 14,291,830	$ 3,466,509	$ 1,231,445

See accompanying notes to consolidated financial statements.

	Year Ended		
	May 31, 2020	May 31, 2019	May 31, 2018
Supplemental disclosure of cash flow information:			
Cash paid during the period for interest	$ 242,817	$ —	$ 9,157
Non-cash investing and financing transactions:			
Derivative liability associated with warrants	$11,948,972	$ —	$ —
Common stock issued for accrued bonus compensation	$ 154,552	$ —	$ 214,263
Accrued dividends on Series D Convertible Preferred stock	$ 272,115	$ —	$ —
Common stock issued for services	$ 2,620	$ 8,342	$ 260,190
Accrued dividends on Series C Convertible Preferred stock	$ 671,971	$ 37,351	$ —
Issuance of stock for note payable redemption and conversions	$14,938,193	$ 1,455,000	$ 5,788,500
Accrued interest converted into note payable	$ 153,876	$ 225,245	$ —
Common stock issued for acquisition of ProstaGene, LLC	$ —	$11,558,000	$ —
Beneficial conversion feature and fair value of warrant issued with note payable	$ —	$ 3,534,992	$ —
Debt discount associated with convertible notes payable	$ —	$ 3,059,159	$ 1,574,628
Derivative liability associated with a convertible note payable	$ —	$ 2,750,006	$ —
Financing costs associated with placement agent warrants	$ —	$ 260,635	$ 70,383
Common stock issued for accrued interest payable	$ —	$ —	$ 242,158

See accompanying notes to consolidated financial statements.

CYTODYN INC.
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS
AS OF MAY 31, 2020

Note 1 – Organization

CytoDyn Inc. (the "Company") was originally incorporated under the laws of Colorado on May 2, 2002 under the name RexRay Corporation (its previous name) and, effective August 27, 2015, reincorporated under the laws of Delaware. The Company is a late-stage biotechnology company developing innovative treatments for multiple therapeutic indications based on leronlimab, a novel humanized monoclonal antibody targeting the CCR5 receptor. Leronlimab is in a class of therapeutic monoclonal antibodies designed to address unmet medical needs in the areas of Human Immunodeficiency Virus ("HIV"), Cancer, and Immunology.

With respect to HIV, the CCR5 receptor appears to play a key role in the ability of HIV to enter and infect healthy T-cells. The Company's lead product candidate, leronlimab, belongs to a class of HIV therapies known as entry inhibitors. These therapies block HIV from entering into and infecting certain cells.

With respect to Cancer and Immunology, the CCR5 receptor also appears to be implicated in human metastasis and in immune-mediated illnesses such as triple-negative breast cancer, other metastatic solid tumor cancers, graft-vs-host disease ("GvHD"), and Non-Alcoholic Steatohepatitis ("NASH").

More recently, the Company is expanding the clinical focus with leronlimab to include evaluating its effectiveness in multiple other autoimmune indications where CCR antagonism has shown initial promise, as well as the novel coronavirus disease ("COVID-19"). The Company targets leronlimab treatment as a therapy for patients who experience respiratory complications as a result of contracting COVID-19. The Company believes leronlimab provides therapeutic benefit by enhancing the immune response while mitigating the "cytokine storm" that leads to morbidity and mortality in patients experiencing this syndrome.

Note 2 – Summary of Significant Accounting Policies

Principles of Consolidation

The consolidated financial statements include the accounts of CytoDyn Inc. and its wholly owned subsidiaries, CytoDyn Operations Inc., Advanced Genetic Technologies, Inc. ("AGTI") and CytoDyn Veterinary Medicine LLC ("CVM"), of which both AGTI and CVM are dormant entities. All intercompany transactions and balances are eliminated in consolidation.

Reclassifications

Certain prior year amounts shown in the accompanying consolidated financial statements have been reclassified to conform to the 2020 presentation. These reclassifications did not have any effect on total current assets, total assets, total current liabilities, total liabilities, total stockholders' (deficit) equity, net loss or earnings per shares.

Going Concern

The consolidated accompanying financial statements have been prepared on a going concern basis, which contemplates the realization of assets and the satisfaction of liabilities in the normal course of business. As shown in the accompanying consolidated financial statements, the Company had losses for all periods presented. The Company incurred a net loss of $124,403,402, $56,186,660 and $50,149,681 for the years ended May 31, 2020, May 31, 2019, and May 31, 2018, respectively, and has an accumulated deficit of $354,710,895 as of May 31, 2020. These factors, among several others, raise substantial doubt about the Company's ability to continue as a going concern.

The consolidated financial statements do not include any adjustments relating to the recoverability of assets and classification of liabilities that might be necessary should the Company be unable to continue as a going concern. The Company's continuation as a going concern is dependent upon its ability to obtain additional operating capital, complete development of its product candidate, obtain U.S. Food and Drug Administration (the "FDA") approval, outsource manufacturing of the product candidate, and ultimately achieve initial revenues and attain profitability. The Company is currently engaging in significant research and development activities related to its product candidate, and expects to incur significant research and development expenses in the future primarily related to its clinical trials. These research and development activities are subject to significant risks and uncertainties. The Company intends to finance its future development activities and its working capital needs largely from the sale of equity and debt securities, combined with additional funding from other traditional sources. There can be no assurance, however, that the Company will be successful in these endeavors.

Use of Estimates

The preparation of the consolidated financial statements in accordance with U.S. GAAP requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and the disclosure of contingent assets and liabilities at the date of consolidated financial statements and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from those estimates.

Cash

Cash is maintained at federally insured financial institutions and, at times, balances may exceed federally insured limits. The Company has never experienced, nor does it expect to experience any losses related to these balances. Balances in excess of federally insured limits at May 31, 2020 and May 31, 2019 approximated $14.0 million and $3.3 million, respectively, which included restricted cash of approximately $0.0 million and $0.9 million, respectively.

Identified Intangible Assets

The Company follows the provisions of FASB ASC Topic 350 Intangibles-Goodwill and Other, which establishes accounting standards for the impairment of long-lived assets such as intangible assets subject to amortization. The Company reviews long-lived assets to be held and used for impairment whenever events or changes in circumstances indicate that the carrying amount of the assets may not be recoverable. If the sum of the undiscounted expected future cash flows over the remaining useful life of a long-lived asset group is less than its carrying value, the asset is considered impaired. Impairment losses are measured as the amount by which the carrying amount of the asset group exceeds the fair value of the asset. There were no impairment charges for the years ended May 31, 2020, May 31, 2019, and May 31, 2018. The value of the Company's patents would be significantly impaired by any adverse developments as they relate to the clinical trials pursuant to the patents acquired as discussed in Note 8.

Research and Development

Research and development costs are expensed as incurred. Clinical trial costs incurred through third-parties are expensed as the contracted work is performed. Where contingent milestone payments are due to third-parties under research and development collaboration arrangements or other contractual agreements, the milestone payment obligations are expensed when the milestone conditions are probable and the amount of payment is reasonably estimable.

Inventories

The Company values inventory at the lower of cost or net realizable value using the average cost method. Inventories currently consist solely of specialized raw materials to be used for commercial production of the

Company's biologic, leronlimab, which is awaiting regulatory approval. Inventory purchased in preparation for product launches is evaluated for recoverability by considering the likelihood that revenue will be obtained from the future sale of the related inventory, in light of the status of the product within the regulatory approval process. The Company evaluates its inventory levels on a quarterly basis and writes down inventory that has become obsolete, or has a cost in excess of its expected net realizable value, and inventory quantities in excess of expected requirements. In assessing the lower of cost or net realizable value to pre-launch inventory, the Company relies on independent analysis provided by a third-party knowledgeable of the range of likely commercial prices of current comparable commercial product.

Inventories Procured or Produced in Preparation for Product Launches

The Company capitalizes inventories procured or produced in preparation for product launches sufficient to support estimated initial market demand. Typically, capitalization of such inventory begins when the results of clinical trials have reached a status sufficient to support regulatory approval, uncertainties regarding ultimate regulatory approval have been significantly reduced and the Company has determined it is probable that these capitalized costs will provide some future economic benefit in excess of capitalized costs. The material factors considered by the Company in evaluating these uncertainties include the receipt and analysis of positive Phase 3 clinical trial results for the underlying product candidate, results from meetings with the relevant regulatory authorities prior to the filing of regulatory applications, and the compilation of the regulatory application. The Company closely monitors the status of the product within the regulatory review and approval process, including all relevant communication with regulatory authorities. If the Company is aware of any specific material risks or contingencies other than the normal regulatory review and approval process or if there are any specific issues identified relating to safety, efficacy, manufacturing, marketing or labeling, the related inventory may no longer qualify for capitalization.

For inventories capitalized in preparation for product launch, anticipated future sales, shelf lives, and expected approval date are taken into account when evaluating realizability. The shelf-life of a product is determined as part of the regulatory approval process; however, in assessing whether to capitalize pre-launch inventory, the Company considers the product stability data of all of the pre-approval inventory procured or produced to date to determine whether it has an adequate shelf life.

Fair Value of Financial Instruments

At May 31, 2020 and May 31, 2019, the carrying value of the Company's cash, accounts payable and accrued liabilities approximate their fair value due to the short-term maturity of the instruments. The Company carries derivative financial instruments at fair value as required by U.S. GAAP.

Derivative financial instruments consist of financial instruments that contain a notional amount and one or more underlying variables (e.g., interest rate, security price, variable conversion rate or other variables), require no initial net investment and permit net settlement. Derivative financial instruments may be free-standing or embedded in other financial instruments. The Company follows the provisions of ASC 815, Derivatives and Hedging as their instruments are recorded as a derivative liability, at fair value, and ASC 480, Distinguishing Liabilities from Equity as it relates to warrant liability, with changes in fair value reflected in income.

Fair Value Hierarchy

The three levels of inputs that may be used to measure fair value are as follows:

Level 1. Quoted prices in active markets for identical assets or liabilities.

Level 2. Observable inputs other than Level 1 prices, such as quoted prices for similar assets or liabilities, quoted prices in markets with insufficient volume or infrequent transactions (less active markets), or model-derived

valuations in which all significant inputs are observable or can be derived principally from or corroborated with observable market data for substantially the full term of the assets or liabilities. Level 2 inputs also include non-binding market consensus prices that can be corroborated with observable market data, as well as quoted prices that were adjusted for security-specific restrictions.

Level 3. Unobservable inputs to the valuation methodology are significant to the measurement of the fair value of assets or liabilities. These Level 3 inputs also include non-binding market consensus prices or non-binding broker quotes that the Company was unable to corroborate with observable market data.

Liabilities measured at fair value on a recurring basis by level within the fair value hierarchy as of May 31, 2020 and May 31, 2019 is as follows:

	Fair Value Measurement at May 31, 2020 (1)		Fair Value Measurement at May 31, 2019 (1)	
	Using Level 3	Total	Using Level 3	Total
Liabilities:				
Derivative liability - convertible note redemption provision	$ —	$ —	$2,005,137	$ 2,005,137
Derivative liability - warrants	—	—	402,132	402,132
Total liability	$ —	$ —	$2,407,269	$ 2,407,269

(1) The Company did not have any assets or liabilities measured at fair value using Level 1 or 2 of the fair value hierarchy as of May 31, 2020 and May 31, 2019. As of May 31, 2020, there were no longer any assets or liabilities measured at fair value using Level 3 inputs because all derivative warrants and convertible debt had been converted according to the terms of the agreements.

A financial instrument's level within the fair value hierarchy is based on the lowest level of any input that is significant to the fair value measurements. These instruments are not quoted on an active market. The Company uses a Binomial Lattice Model to estimate the value of the warrant derivative liability and a Monte Carlo Simulation to value the derivative liability of the redemption provision within a convertible promissory note. These valuation models were used because management believes they reflect all the assumptions that market participants would likely consider in negotiating the transfer of the instruments. The Company's derivative liabilities are classified within Level 3 of the fair value hierarchy because certain unobservable inputs were used in the valuation models.

The following is a reconciliation of the beginning and ending balances for liabilities measured at fair value on a recurring basis using significant unobservable inputs (Level 3) from inception to May 31, 2020:

Investor warrants issued with registered direct equity offering	$ 4,360,000
Placement agent warrants issued with registered direct equity offering	819,200
Fair value adjustments	(3,855,468)
Balance at May 31, 2018	1,323,732
Inception date value of redemption provisions	2,750,006
Fair value adjustments - convertible notes	(744,869)
Fair value adjustments - warrants	(921,600)
Balance at May 31, 2019	$ 2,407,269
Fair value adjustments - convertible notes	(2,005,137)
Fair value adjustments - warrants	11,546,840
Exercise of derivative warrants	(11,948,972)
Balance at May 31, 2020	$ —

Operating Leases

Effective June 1, 2019, the Company now determines whether an arrangement is considered a lease at inception. Operating leases are included in operating lease right-of-use ("ROU") assets, other current liabilities, and operating lease liabilities on its consolidated balance sheets.

Operating lease ROU assets and operating lease liabilities are recognized based on the present value of the future minimum lease payments over the lease term at commencement date. As the Company's leases do not provide an implicit rate, the Company uses its incremental borrowing rate based on the information available at commencement date in determining the present value of future payments. The operating lease ROU asset also includes any lease payments made and excludes lease incentives and initial direct costs incurred. The Company's lease terms do not include options to extend or terminate the lease as it is not reasonably certain that it will exercise these options. Lease expense for minimum lease payments is recognized on a straight-line basis over the lease term. The Company has lease agreements with lease and non-lease components, which are generally accounted for separately.

Stock-Based Compensation

U.S. GAAP requires companies to measure the cost of employee services received in exchange for the award of equity instruments based on the fair value of the award at the date of grant. The expense is to be recognized over the period during which an employee is required to provide services in exchange for the award (requisite service period) or when designated milestones have been achieved.

The Company accounts for stock-based awards established by the fair market value of the instrument using the Black-Scholes option pricing model utilizing certain weighted average assumptions including stock price volatility, expected term and risk-free interest rates, as of the grant date. The risk-free interest rate assumption is based upon observed interest rates appropriate for the expected term of the stock-based award. The expected volatility is based on the historical volatility of the Company's common stock on monthly intervals. The computation of the expected option term is based on the "simplified method," as the Company issuances are considered "plain vanilla" options. For stock-based awards with defined vesting, the Company recognizes compensation expense over the requisite service period or when designated milestones have been achieved. The Company estimates forfeitures at the time of grant and revised, if necessary, in subsequent periods, if actual forfeitures differ from those estimates. Based on limited historical experience of forfeitures, the Company estimated future unvested forfeitures at 0% for all periods presented.

Common Stock

Under the Company's Certificate of Incorporation, as amended, the Company is authorized to issue up to 800,000,000 shares of common stock. As of May 31, 2020, the Company had 518,975,572 shares of common stock outstanding.

Preferred Stock

The Company's Board is authorized to issue up to 5,000,000 shares of preferred stock without stockholder approval. As of May 31, 2020, the Company had 400,000 shares authorized and 92,100 shares outstanding of Series B convertible preferred stock, 8,203 shares authorized and outstanding of Series C convertible preferred stock, and 11,737 shares authorized and 8,452 shares outstanding of Series D convertible preferred stock. The remaining authorized preferred shares have no specified rights.

Treasury Stock

As of the year ended May 31, 2020, the Company holds 286,008 shares of $0.001 par value common stock as treasury stock.

Debt Discount

During the years ended May 31, 2020, May 31, 2019 and May 31, 2018, the Company incurred approximately $2.1 million, $4.2 million, and $1.5 million, respectively, of debt discount related to the issuance of convertible promissory notes, as described in Note 5. The discount was amortized over the life of the convertible promissory notes and the Company recognized approximately $1.6 million, $1.7 million, and $1.6 million, of related amortization expense for the years ended May 31, 2020, May 31, 2019 and May 31, 2018, respectively.

Debt Issuance Costs

During the years ended May 31, 2020 and May 31, 2019, the Company incurred direct costs associated with the issuance of convertible promissory notes, as described in Note 5, and recorded approximately $0.0 million and $1.0 million, respectively, of debt issuance costs. The Company recognized approximately $0.4 million, $0.5 million, and $0.4 million of related amortization expense for the years ended May 31, 2020, May 31, 2019 and May 31, 2018, respectively.

Offering Costs

During the years ended May 31, 2020, May 31, 2019 and May 31, 2018, the Company incurred approximately $2.3 million, $4.3 million, and $3.5 million respectively, in direct incremental costs associated with the sale of equity securities. The offering costs were recorded as a component of equity upon receipt of the proceeds, as fully described in Notes 11, 12, and 13.

Stock Based Compensation for Services

The Company periodically issues warrants to consultants for various services. The Black-Scholes option pricing model, as described more fully above, is utilized to measure the fair value of the equity instruments on the date of issuance. The Company recognizes the compensation expense associated with the equity instruments over the requisite service or vesting period.

Loss per Common Share

Basic loss per share is computed by dividing the net loss by the weighted average number of common shares outstanding during the period. Diluted loss per share would include the weighted average common shares outstanding and potentially dilutive common share equivalents. Because of the net losses for all periods presented, the basic and diluted weighted average shares outstanding are the same since including the additional shares would have an anti-dilutive effect on the loss per share. For this reason, common stock options and warrants to purchase 131,360,528, 178,591,849; and 132,385,269 shares of common stock were not included in the computation of basic and diluted weighted average common shares outstanding for the years ended May 31, 2020, May 31, 2019 and May 31, 2018, respectively. As of May 31, 2020 and May 31, 2019 the Company had convertible notes outstanding, including accrued interest, that could convert into 3,864,298 and 11,345,852 common shares, respectively; and shares of Series D, Series C and Series B convertible preferred stock, including undeclared dividends, that could potentially convert in the aggregate into 30,129,860, and 7,973,911 common shares, respectively.

Income Taxes

Deferred taxes are provided on the asset and liability method, whereby deferred tax assets are recognized for deductible temporary differences and operating loss and tax credit carry forwards and deferred tax liabilities are recognized for taxable temporary differences. Temporary differences are the differences between the reported amounts of assets and liabilities and their tax bases. Future tax benefits for net operating loss carry forwards are recognized to the extent that realization of these benefits is considered more likely than not. Deferred tax assets are reduced by a valuation allowance when, in the opinion of management, it is more likely than not that some portion or all of the deferred tax assets will not be realized.

The Company follows the provisions of FASB ASC740-10 Uncertainty in Income Taxes ("ASC740-10"). A reconciliation of the beginning and ending amount of unrecognized tax benefits has not been provided since there are no unrecognized benefits for all periods presented. The Company has not recognized interest expense or penalties as a result of the implementation of ASC 740-10. If there were an unrecognized tax benefit, the Company would recognize interest accrued related to unrecognized tax benefit in interest expense and penalties in operating expenses.

In accordance with Section 15 of the Internal Revenue Code, we utilized a federal statutory rate of 21% for our fiscal 2020 and 2019 tax years. The Company had no net tax expense for the year ended May 31, 2020 and a tax benefit of $2.8 million for the year ended May 31, 2019. The Company has a full valuation allowance as of May 31, 2020 and May 31, 2019, as management does not consider it more than likely than not that the benefits from the deferred taxes will be realized.

Note 3 – Recent Accounting Pronouncements

Recent accounting pronouncements, other than below, issued by the Financial Accounting Standards Board ("FASB") (including its Emerging Issues Task Force), the AICPA and the SEC did not, or are not, believed by management to have a material effect on the Company's present or future financial statements.

In December 2019, the FASB issued"ASU 2019-12, Simplifying the Accounting for Income Taxes." The objective of the standard is to improve areas of GAAP by removing certain exceptions permitted by ASC 740 and clarifying existing guidance to facilitate consistent application. The standard will become effective for us beginning on January 1, 2021. The Company is currently evaluating the new standard to determine the potential impact on its financial condition, results of operations, cash flows, and financial statement disclosures.

In July 2017, the FASB issued "ASU2017-11, Earnings Per Share (Topic 260); Distinguishing Liabilities from Equity (Topic 480); Derivatives and Hedging (Topic 815): (Part I) Accounting for Certain Financial Instruments with Down Round Features, (Part II) Replacement of the Indefinite Deferral for Mandatorily Redeemable Financial Instruments of Certain Nonpublic Entities and Certain Mandatorily Redeemable Noncontrolling Interests with a Scope Exception." ASU 2017-11 allows companies to exclude a down round feature when determining whether a financial instrument (or embedded conversion feature) is considered indexed to the entity's own stock. As a result, financial instruments (or embedded conversion features) with down round features may no longer be required to be accounted for as derivative liabilities. A company will recognize the value of a down round feature only when it is triggered and the strike price has been adjusted downward. For equity-classified freestanding financial instruments, an entity will treat the value of the effect of the down round as a dividend and a reduction of income available to common shareholders in computing basic earnings per share. For convertible instruments with embedded conversion features containing down round provisions, entities will recognize the value of the down round as a beneficial conversion discount to be amortized to earnings. The guidance in ASU 2017-11 is effective for fiscal years beginning after December 15, 2018, and interim periods within those fiscal years. Early adoption is permitted, and the guidance is to be applied using a full or modified retrospective approach. The Company adopted ASU 2017-11 for the year ended May 31, 2020, and applied ASU2017-11 on a full retrospective basis. Prior to fiscal year 2020 the company did not evaluate the impact of ASU 2017-11. The effect of the restrospective and current period adoption is immaterial to the Company's financial statements.

In August 2020, the FASB issued "ASU 2020-06, Debt with Conversion and Other Options (Subtopic 47020) and Derivatives and Hedging—Contracts in Entity's Own Equity (Subtopic 815-40)" which simplifies the accounting for convertible instruments. The guidance removes certain accounting models which separate the embedded conversion features from the host contract for convertible instruments. Either a modified retrospective method of transition or a fully retrospective method of transition is permissible for the adoption of this standard. Update No. 2020-06 is effective for fiscal years beginning after December 15, 2021, including interim periods within those fiscal years. Early adoption is permitted no earlier than the fiscal year beginning after December 15, 2020. The Company is currently evaluating the potential on its financial statements.

Note 4 – Inventories

The Company's inventory as of May 31, 2020 and May 31, 2019 was $19,146,678 and $0, respectively. Inventory as of May 31, 2020 consisted of raw materials purchased for use in the commercial manufacturing of pre-launch inventories of leronlimab to support the Company's expected approval of the product as a combination therapy for HIV patients in the United States. The Company believes that material uncertainties related to the ultimate regulatory approval of leronlimab for commercial sale have been significantly reduced based on positive data from Phase 3 clinical trial results, and information gathered from pre-filing meetings with the FDA for the BLA. The BLA was initially submitted with the FDA in April 2020 and the BLA submission was completed on May 11, 2020. In July 2020, the Company received a Refusal to File letter from the FDA regarding its BLA filing requesting additional information, and the Company has requested a Type A meeting to discuss the FDA's request for additional information, which the Company expects will be resolved on a timely basis during calendar year 2020.

Note 5 – Convertible Instruments

Series D Convertible Preferred Stock

On January 28, 2020, the Company filed a certificate of designation (the "Series D Certificate of Designation") to authorize 11,737 shares of Series D Convertible Preferred Stock, $0.001 par value per share ("Series D Preferred Stock"), and on January 31, 2020 issued 7,570 shares of Series D Convertible Preferred Stock, at $1,000.00 per share for cash proceeds totaling approximately $7,565,000, net of offering costs of $5,000. On March 13, 2020, the Company issued an additional 882 shares of Series D Preferred Stock at $1,000.00 per share resulting in net proceeds of $882,000. As of May 31, 2020, 8,452 shares remain outstanding. The Series D Certificate of Designation provides, among other things, that holders of Series D Preferred Stock shall be entitled to receive cumulative dividends at the rate of ten percent (10%) per share per annum of the stated value of the Series D Preferred Stock, to be paid, at the option of the holder, in cash or in shares of common stock at the rate of $0.50 per share. Any dividends paid by the Company will first be paid to the holders of Series D Preferred Stock prior and in preference to any payment or distribution to holders of common stock. Dividends on the Series D Preferred Stock shall be cumulative and there are no sinking fund provisions applicable to the Series D Preferred Stock. The Series D Dividends are to be paid annually in arrears on the last day of December each year. The Series D Preferred Stock does not have redemption rights. The stated value per share for the Series D Preferred Stock is $1,000.00 (the "Series D Stated Value"). In the event of any liquidation, dissolution or winding up of the Company, the holders of Series D Preferred Stock will be entitled, on a pari passu basis with the holders of the Series C Preferred Stock and in preference to any payment or distribution to any holders of the Series B Preferred Stock or Common Stock, an amount per share equal to the Series D Stated Value plus the amount of any accrued and unpaid dividends.. If, at any time while the Series D Preferred Stock is outstanding, the Company effects any reorganization, merger or sale of the Company or substantially all of its assets (each a "Fundamental Transaction"), a holder of the Series D Preferred Stock will have the right to receive any shares of the acquiring corporation or other consideration it would have been entitled to receive if it had been a holder of the number of shares of common stock then issuable upon conversion in full of the Series D Preferred Stock immediately prior to the Fundamental Transaction. Each share of Series D Preferred Stock is convertible at any time at the holder's option into that number of fully paid and nonassessable shares of common stock determined by dividing the Series D Stated Value by the conversion price of $0.80 (subject to adjustment as set forth in the certificate of designation for the Series D Preferred Stock). No fractional shares will be issued upon the conversion of the Series D Preferred Stock. Except as otherwise provided in the Series D Certificate of Designation or as otherwise required by law, the Series D Preferred Stock has no voting rights. As of May 31, 2020, the accrued dividends were approximately $272,000, or 544,000 shares of common stock. There were no accrued dividends as of May 31, 2019.

Series C Convertible Preferred Stock

On March 20, 2019, the Company filed a certificate of designation (the "Series C Certificate of Designation") to authorize 5,000 shares and issued 3,246 shares of Series C Convertible Preferred Stock, $0.001 par value per

share ("Series C Preferred Stock"), at $1,000.00 per share for cash proceeds totaling $3,083,700, net of placement agent fees of $162,300. On August 29, 2019, the Company issued the remaining 1,754 shares of Series C Preferred Stock at $1,000.00 per share for cash proceeds totaling $1,542,545, net of placement agent fees and legal fees totaling $211,455. On October 11, 2019, the Company amended its certificate of designation to authorized an increase in authorized Series C Preferred Stock from 5,000 shares to 20,000 shares. Between October 21, 2019 and November 8, 2019, the Company issued an additional 2,788 shares of Series C Convertible Preferred Stock, and on December 6, 2020 the Company issued 415 shares of Series C Convertible Preferred Stock. On January 28, 2020, the Company further amended its Series C Certificate of Designation to reduce the number of authorized shares of Series C Preferred Stock from 20,000 shares to 8,203 shares, all of which remain outstanding as of May 31, 2020. The Series C Certificate of Designation provides, among other things, that holders of Series C Preferred Stock shall be entitled to receive, out of any assets at the time legally available therefor, cumulative dividends at the rate of ten percent (10%) per share per annum of the stated value of the Series C Preferred Stock, to be paid per share of Series C Preferred Stock, which dividends shall accrue whether or not declared. Any dividends paid by the Company will first be paid to the holders of Series C Preferred Stock prior and in preference to any payment or distribution to holders of common stock. Dividends on the Series C Preferred Stock are mandatory and cumulative and there are no sinking fund provisions applicable to the Series C Preferred Stock. The Series C Dividends are to be paid annually in arrears on the last day of December each year. The Series C Preferred Stock does not have redemption rights. The stated value per share for the Series C Preferred Stock is $1,000.00 (the "Series C Stated Value"). In the event of any liquidation, dissolution or winding up of the Company, the Series C Preferred Stock will be paid, on a pari passu basis with the holders of the Series D Preferred Stock and prior and in preference to any payment or distribution on any shares of common stock, currently outstanding series of preferred stock, or subsequent series of preferred stock, an amount per share equal to the Series C Stated Value and the amount of any accrued and unpaid dividends. If, at any time while the Series C Preferred Stock is outstanding, the Company effects any Fundamental Transaction, a holder of the Series C Preferred Stock will have the right to receive any shares of the acquiring corporation or other consideration it would have been entitled to receive if it had been a holder of the number of shares of common stock then issuable upon conversion in full of the Series C Preferred Stock immediately prior to the Fundamental Transaction. Each share of Series C Preferred Stock is convertible at any time at the holder's option into that number of fully paid and nonassessable shares of the Company's common stock determined by dividing the Series C Stated Value by the conversion price of $0.50 per share (subject to adjustment as set forth in the Certificate of Designation). No fractional shares will be issued upon the conversion of the Series C Preferred Stock. Except as otherwise provided in the Series C Certificate of Designation or as otherwise required by law, the Series C Preferred Stock has no voting rights. As of May 31, 2020, the accrued dividends were approximately $709,000 or 1,419,000 shares of common stock. There were no accrued dividends as of May 31, 2019.

Series B Convertible Preferred Stock

During fiscal 2010, the Company issued 400,000 shares of Series B Convertible Preferred Stock, $0.001 par value per share ("Series B Preferred Stock") at $5.00 per share for cash proceeds totaling $2,009,000, of which 92,100 shares remained outstanding at May 31, 2020. Each share of the Series B Preferred Stock is convertible into ten shares of the Company's common stock. At the option of the Company, dividends on the Series B Preferred Stock may be paid in cash or shares of the Company's common stock, valued at $0.50 per share. The holders of the Series B Preferred Stock can only convert their shares to shares of common stock provided the Company has sufficient authorized shares of common stock at the time of conversion. Accordingly, the conversion option was contingent upon the Company increasing its authorized common shares, which occurred in April 2010, when the Company's stockholders approved an increase in the authorized shares of common stock to 100,000,000. At the commitment date, which occurred upon such stockholder approval, the conversion option related to the Series B Preferred Stock was beneficial. The intrinsic value of the conversion option at the commitment date resulted in a constructive dividend to the Series B Preferred Stock holders of approximately $6,000,000. The constructive dividend increased and decreased additional paid-in capital by identical amounts. The Series B Preferred Stock has liquidation preferences over the common shares at $5.00 per share, plus any accrued and unpaid dividends. Dividends are payable to the Series B Preferred Stock holders when declared by

the Board of Directors at the rate of $0.25 per share per annum. Such dividends are cumulative and accrue whether or not declared and whether or not there are any profits, surplus or other funds or assets of the Company legally available. Except as provided by law, the Series B holders have no voting rights. As of May 31, 2020, and May 31, 2019, the undeclared dividends were approximately $245,000 or 490,000, shares of common stock, and approximately $222,000, or 444,000 shares of common stock, respectively. On July 30, 2020, in connection with the conversion of 5,000 shares of Series B Preferred Stock to common stock, the Company paid to the holders of the Series B Preferred Stock a dividend of $243,285. As of July 30, 2020, there are 87,100 shares of Series B Preferred Stock outstanding.

2018 Short-term Convertible Notes

During the fiscal year ended May 31, 2018, the Company issued approximately $4.89 million in aggregate principal of short-term Convertible Notes, (the "2018 Short-term Convertible Notes") with a maturity date of January 31, 2018, and related warrants to investors for cash. The principal amount of the 2018 Short-term Convertible Notes, including any accrued but unpaid interest thereon, was convertible at the election of the holder at any time into shares of common shares at any time prior to maturity at a conversion price of $0.75 per share. The 2018 Short-term Convertible Notes bore simple interest at the annual rate of 7%. Principal and accrued interest, to the extent not previously paid or converted, is due and payable on the maturity date. At the commitment date, the Company determined that the conversion feature related to these 2018 Short-term Convertible Notes to be beneficial to the investors. As a result, the Company determined the intrinsic value of the beneficial conversion feature utilizing the fair value of the underlying common stock on the commitment dates and the effective conversion price after discounting the 2018 Short-term Convertible Notes for the fair value of the related warrants. In connection with the sale of the 2018 Short-term Convertible Notes, detachable common stock warrants to purchase a total of 4,025,656 common shares, with an exercise price of $1.00 per share and a five-year term were issued to the investors. The Company determined the fair value of the warrants at issuance using the Black-Scholes option pricing model utilizing certain weighted average assumptions, such as expected stock price volatility, expected term of the warrants, risk-free interest rates and expected dividend yield at the grant date.

	2018
Expected dividend yield	0%
Stock price volatility	69.80%
Expected term	5 year
Risk-free interest rate	1.77 - 1.93%
Grant-date fair value	$0.30 - $0.39

The fair value of the warrants, coupled with the beneficial conversion features, were recorded as a debt discount to the 2018 Short-term Convertible Notes and a corresponding increase to additional paid-in capital was amortized over the term of the 2018 Short-term Convertible Notes. The Company incurred debt discount of approximately $1.6 million related to the beneficial conversion feature and detachable warrants issued with the notes during the year ended May 31, 2018. Accordingly, the Company recognized approximately $-0- and $1.6 million of non-cash debt discount during the year ended May 31, 2019 and May 31, 2018, respectively. In connection with the 2018 Short-term Convertible Notes, the Company incurred direct issuance costs of approximately $0.4 million during the year ended May 31, 2018. The issuance costs were amortized over the term of the 2018 Short-term Convertible Notes and accordingly the Company recognized approximately $-0- and $0.4 million of debt issuance costs during the years ended May 31, 2019 and May 31, 2018, respectively. On January 31, 2018, in connection with a registered direct equity offering, as fully described in Note 13, the 2018 Short-term Convertible Notes in an aggregate principal amount of $5,788,500, plus accrued unpaid interest of approximately $243,000 were sold for 12,062,728 shares of common stock. The 2018 Short-term Convertible Note investors also received warrants to purchase 7,718,010 shares of common stock. The securities were sold at a combined purchase price of $0.50 per share of common stock and related warrants, for aggregate gross proceeds to the Company of approximately $6.0 million. In 2018, the Company repaid one 2018 Short-term

Convertible Note, including accrued interest in the aggregate of approximately $259,000. During the years ended May 31, 2020, May 31, 2019 and May 31, 2018, the Company recognized approximately $-0-, $-0- and $75,000, of interest expense related to the note.

Activity related to the 2018 Short-term Convertible Notes was as follows:

	2018
Face amount of Short-term Convertible Notes	$ 6,038,500
Unamortized discount	—
Registered direct offering	(5,788,500)
Note repayment	(250,000)
Carrying value of Short-term Convertible Notes	$ —

2019 Short-term Convertible Notes

During the year ended May 31, 2019, the Company issued approximately $5.5 million of nine-month unsecured Convertible Notes (the "2019 Short-term Convertible Notes") and related warrants to investors for cash. The principal amount of the 2019 Short-term Convertible Notes, including any accrued but unpaid interest thereon, is convertible at the election of the holder at any time into shares of common stock at any time prior to maturity at a conversion price of $0.50 per share. The 2019 Short-term Convertible Notes bear simple interest at the annual rate of 10%. Principal and accrued interest, to the extent not previously paid or converted, is due and payable on the maturity date. At the commitment dates, the Company determined that the conversion feature related to these 2019 Short-term Convertible Notes to be beneficial to the investors. As a result, the Company determined the intrinsic value of the beneficial conversion feature utilizing the fair value of the underlying common stock on the commitment dates and the effective conversion price after discounting the 2019 Short-term Convertible Notes for the fair value of the related warrants. In connection with the sale of the 2019 short-term Notes, detachable common stock warrants to purchase a total of 5,460,000 common shares, with an exercise price of $0.30 per share and a five-year term were issued to the investors. The Company determined the fair value of the warrants at issuance using the Black-Scholes option pricing model utilizing certain weighted average assumptions, such as expected stock price volatility, expected term of the warrants, risk-free interest rates and expected dividend yield at the grant date.

	2018 - 2019
Expected dividend yield	0%
Stock price volatility	55.8 - 55.88%
Expected term	5 year
Risk-free interest rate	2.48 - 2.56%
Grant-date fair value	$0.30 - $0.38

The fair value of the warrants, coupled with the beneficial conversion features, were recorded as a debt discount to the 2019 Short-term Convertible Notes and a corresponding increase to additional paid-in capital and will be amortized over the life of the 2019 Short-term Convertible Notes. In connection with the 2019 Short-term Convertible Notes, the placement agent earned a "tail fee" comprised of warrants covering 972,000 shares of common stock and a cash fee of $583,200. The placement agent warrants are exercisable at a price of $0.50 per share and will expire five years from the date of issuance and include a cashless exercise provision. During the year ended May 31, 2019, and in connection with the 2019 Short-term Convertible Notes, the Company incurred debt discount and issuance costs of approximately $3.0 million, related to the beneficial conversion feature and detachable warrants issued with the 2019 Short-term Convertible Notes and approximately $0.8 in issuance costs. The debt discount and issuance costs will be amortized over the term of the 2019 Short-term Convertible Notes. Accordingly, the Company recognized approximately $1.7 million and $0.5 million of debt discount and issuance costs, respectively, during the year ended May 31, 2019.

Beginning on September 30, 2019 and through November 14, 2019, principal and interest totaling approximately $5.9 million came due. Holders of notes totaling approximately $1.1 million in principal and accrued interest agreed to extend their notes for another three months, and holders of notes totaling approximately $4.1 million in principal and accrued interest agreed to extend their notes for another six months. One note-holder with principal and accrued interest totaling approximately $0.2 million converted to shares of common stock of the Company.

During the quarter ended November 30, 2019, a total of approximately $0.7 million of principal and accrued interest was repaid in cash. In addition, detachable stock warrants to purchase a total of 4,750,000 warrants with a five-year term and an exercise price of $0.30 per share were issued to investors who extended their notes. One investor received 200,000 warrants with a five-year term and an exercise price of $0.45 per share for converting the entire principal and accrued interest on its note. In connection with the note extensions and conversion, the Company recorded a non-cash inducement interest expense of approximately $0.3 million during the quarter ended November 30, 2019. The new principal amount of the 2019 Short-term Convertible Notes, including any accrued but unpaid interest thereon, is convertible at the election of the holder at any time into shares of common stock at any time prior to maturity at a conversion price of $0.50 per share. The 2019 Short-term Convertible Notes bear simple interest at the annual rate of 10%. Principal and accrued interest, to the extent not previously paid or converted, is due and payable on the maturity date. At the new commitment dates, the Company determined that there was a decrease in the fair value of the embedded conversion option resulting from the modification, the value of which is not required to be recognized under U.S. GAAP.

On December 31, 2019, the holder of a 2019 Short-term Convertible Note in the aggregate principal amount of $549,912, including accrued but unpaid interest, tendered a notice of conversion at the stated conversion rate of $0.50 per share. The Company issued 1,099,823 shares of common stock in satisfaction of the conversion notice.

On January 31, 2020, the holder of a 2019 Short-term Convertible Note in the aggregate principal amount of $512,063, including accrued but unpaid interest, tendered a notice of conversion at the stated conversion rate of $0.50 per share. The Company issued 1,025,205 shares of common stock in satisfaction of the conversion notice.

During April 2020, the holders of the remaining outstanding 2019 Short-term Convertible Note in the aggregate principal amount of $4,116,005, including accrued but unpaid interest, tendered notices of conversion at the stated conversion rate of $0.50. The Company issued 8,232,006 shares of common stock in satisfaction of the conversion notices.

Activity related to the 2019 Short-term Convertible Notes was as follows:

	May 31, 2020	May 31, 2019	May 31, 2018
Face value of Short-term convertible Notes	$ 5,460,000	$ 5,460,000	$ —
Unamortized discount	—	(1,469,625)	—
Unamortized issuance costs	—	(404,340)	—
Accrued interest converted into principal	153,876	—	—
Note repayment	(460,000)	—	—
Note conversions into common stock	(5,153,876)	—	—
Carrying value of Short-term Convertible Notes	$ —	$ 3,586,035	$ —

The Company recognized approximately $444,000, $213,000, and $-0- of interest expense for the fiscal years ended May 31, 2020, May 31, 2019, and May 31, 2018, respectively.

Long-term Convertible Notes - June 2018 Note

On June 26, 2018, the Company entered into a securities purchase agreement, pursuant to which the Company issued a convertible promissory note (the "June 2018 Note") with a two-year term to an institutional accredited

investor in the initial principal amount of $5.7 million. The investor gave consideration of $5.0 million to the Company. The June 2018 Note bears interest of 10% and is convertible into common stock, at a conversion rate of $0.55 per share. The June 2018 Note provided for conversion in total, or in part, of the outstanding balance, into common stock of the Company at any time after six months from the issue date upon five trading days' notice, subject to certain adjustments and ownership limitations specified in the June 2018 Note, and allowed for redemption, at any time after six months from the issue date upon five trading days' notice, subject to a maximum monthly redemption amount of $350,000. The securities purchase agreement required the Company to reserve shares for future conversions or redemptions by dividing the outstanding principal balance plus accrued interest by the conversion price of $0.55 per share times 1.5. As a result of the entry into the January 2019 Note (as defined below), the Company's obligations under the June 2018 Note were secured by all of the assets of the Company, excluding the Company's intellectual property.

Effective November 15, 2018, the June 2018 Note was amended to allow the Investor to redeem the monthly redemption amount of $350,000 in cash or stock, at the lesser of (i) $0.55, or (ii) the lowest closing bid price of the Company's common stock during the 20 days prior to the conversion, multiplied by a conversion factor of 85%. The variable rate redemption provision meets the definition of a derivative instrument and subsequent to the amendment, it no longer meets the criteria to be considered indexed to the Company's own stock. As of November 15, 2018, the redemption provision requires bifurcation as a derivative liability at fair value under the guidance in ASC Topic No. 815, "Derivatives and Hedging."

The amendment of the June 2018 Note was also evaluated under ASC Topic 470-50-40, "Debt Modifications and Extinguishments." Based on the guidance, the instruments were determined to be substantially different, and debt extinguishment accounting was applied. We recorded approximately $1.5 million as an extinguishment loss, which was the difference in the net carrying value of the June 2018 Note prior to the amendment of approximately $5.4 million, and the fair value of the June 2018 Note and embedded derivatives after the amendment of approximately $6.9 million. The extinguishment loss includes a write-off of unamortized debt issuance costs and the debt discount associated with the original the June 2018 Note.

During the twelve months ended May 31, 2020 and May 31, 2019, the Company recognized approximately $383,000 and $386,000, of interest expense related to the June 2018 Note. During the twelve months ended May 31, 2019, the Company received redemption notices from the holder of the Company's June 2018 Note, requesting an aggregate redemption of $1,455,000 of the outstanding balance thereof. In satisfaction of the redemption notices, the Company issued shares of common stock totaling 3,756,406 to the June 2018 Note holder in accordance with the terms of the June 2018 Note. During the year ended May 31, 2020, the Company received a redemption notice requesting an aggregate redemption of $4,476,000 settling the remaining outstanding balance in full, including accrued but unpaid interest. In satisfaction of the redemption notice, the Company issued shares of common stock totaling 8,512,622 and paid cash totaling $525,000 to the June 2018 Note holder in accordance with the terms of the June 2018 Note. Following the redemptions, the June 2018 Note has been fully satisfied and there is no outstanding balance.

Long-term Convertible Notes - January 2019 Note

On January 30, 2019, the Company entered into a securities purchase agreement, pursuant to which the Company issued a convertible promissory note (the "January 2019 Note") with a two-year term to the holder of the June 2018 Note in the initial principal amount of $5.7 million. In connection with the issuance of the January 2019 Note, the Company granted a lien against all of the assets of the Company, excluding the Company's intellectual property, to secure all obligations owed to the investor by the Company (including those under both the January 2019 Note and the June 2018 Note). The investor gave consideration of $5.0 million to the Company, reflecting original issue discount of $0.6 million and issuance costs of $0.1 million. The January 2019 Note bears interest of 10% and is convertible into common stock, at $0.50 per share. The January 2019 Note provided for conversion in total, or in part, of the outstanding balance, into common stock of the Company at any time upon five trading days' notice, subject to certain adjustments and ownership limitations specified in the Note. The Company

analyzed the conversion option for derivative accounting treatment under ASC 815 and determined that the embedded conversion option did not qualify for derivative accounting.

The January 2019 Note provided the investor may redeem any portion of the January 2019 Note upon five trading days' notice, subject to a maximum monthly redemption amount of $350,000. The monthly redemption amount may be paid in cash or stock, at the Company's election, at the lesser of (i) $0.50, or (ii) the lowest closing bid price of the Company's common stock during the 20 days prior to the conversion, multiplied by a conversion factor of 85%. The redemption provision meets the definition of a derivative instrument and does not meet the criteria to be considered indexed to the Company's own stock. Therefore, the redemption provision requires bifurcation as a derivative liability at fair value under the guidance in ASC Topic No. 815 ("ASC 815"). The securities purchase agreement requires the Company to reserve 20,000,000 shares for future conversions or redemptions.

In conjunction with the January 2019 Note, the investor received a warrant to purchase 5,000,000 shares of common stock with an exercise price of $0.30 which is exercisable until the 5-year anniversary of the date of issuance. The warrant achieved equity classification at inception. The net proceeds of $5.0 million were allocated first to the redemption provision at its fair value, then to the warrants at their relative fair value and the beneficial conversion feature at its intrinsic value as follows:

	January 30, 2019
Fair value of redemption provision	$ 1,465,008
Relative fair value of equity classified warrants	858,353
Beneficial conversion feature	2,676,639
Net proceeds of January 2019 Note	$ 5,000,000

Under the guidance of ASC 815, after allocation of proceeds to the redemption provision, relative fair value of equity classified warrants and the beneficial conversion feature, there were no proceeds remaining to allocate to convertible note payable. Therefore, principal, accrued interest, debt discount and offering costs will be recognized as interest expense, which represents the accretion of the convertible note payable and related debt discount and issuance costs. During the years ended May 31, 2020 and May 31, 2019, the Company recognized approximately $6,145,000 and $126,000, respectively, of interest expense related to the January 2019 Note. Interest expense recorded during the year ended May 31, 2020 included approximately $5,760,000 representing accretion of the remaining unamortized discount on the Note which was recognized immediately upon conversion of the debt in accordance with ASC 470-20-40-1. During the year ended May 31, 2020, the Company received a redemption notice from the holder of the Company's January 2019 Note, requesting an aggregate redemption of approximately $6,271,000 settling the remaining outstanding balance in full, including accrued interest. In satisfaction of the redemption notice, the Company issued shares of common stock totaling 10,842,255 and paid cash totaling $850,000 to the January 2019 Note holder in accordance with the terms of the January 2019 Note. Following the redemption, the January 2019 Note has been fully satisfied and there is no outstanding balance.

Activity related to the June 2018 Note and the January 2019 Note is as follows:

	Short Term	Long Term	Total
June 2018 Note	$ 2,100,000	$ 3,600,000	$ 5,700,000
Monthly redemption provision	2,100,000	(2,100,000)	—
Note amendment, net	—	111,410	111,410
Redemptions	—	(1,455,00)	(1,455,00)
Interest accretion - June 2018 and January 2019 Notes	—	298,158	298,158
Carrying value of Notes at May 31,	4,200,00	454,568	4,654,568
Redemptions	(10,688,640)	(56,597)	(10,745,237)
Interest accretion - June 2018	6,488,640	38,838	6,527,478
Extinguishment of note	—	(436,809)	(436,809)
Carrying value of Notes at May 31, 2020	$ —	$ —	$ —

March 31, 2020 Convertible Promissory Note

On March 31, 2020, the Company entered into a Securities Purchase Agreement pursuant to which the Company issued a secured convertible promissory note with a two-year maturity to an institutional accredited investor in the initial principal amount of $17.1 million. The Company received consideration of $15.0 million, reflecting an original issue discount of $2.1 million. The Note is secured by all of the assets of the Company, excluding the Company's intellectual property.

Interest accrues on the outstanding balance of the Note at 10% per annum. Upon the occurrence of an Event of Default, interest accrues at the lesser of 22% per annum or the maximum rate permitted by applicable law. In addition, upon any Event of Default, the Investor may accelerate the outstanding balance payable under the Note, which will increase automatically upon such acceleration by 15%, 10% or 5%, depending on the nature of the Event of Default.

The Investor may convert all or any part the outstanding balance of the Note into shares of Common Stock at an initial conversion price of $4.50 per share upon five trading days' notice, subject to certain adjustments and volume and ownership limitations specified in the Note. On April 3, 2020, the Company amended the Note limiting monthly issuances of Common Stock resulting from conversions to 1,000,000 shares in any calendar month during the first six months ("April 3, 2020 Conversion Limitation Amendment"), and further amended the Note to remove this conversion limitation in July 2020. In addition to standard anti-dilution adjustments, the conversion price of the Note is subject to full-ratchet anti-dilution protection, pursuant to which the conversion price will be automatically reduced to equal the effective price per share in any new offering by the Company of equity securities that have registration rights, are registered or become registered under the Securities Act of 1933, as amended. The Note provides for liquidated damages upon failure to deliver Common Stock within specified timeframes.

The Investor may redeem any portion of the Note, at any time after six months from the issue date, upon three trading days' notice, subject to a Maximum Monthly Redemption Amount of $950,000. The Note requires the Company to satisfy its redemption obligations in cash within three trading days of the Company's receipt of such notice. The Company may prepay the outstanding balance of the Note, in part or in full, at a 15% premium to par value, at any time upon fifteen trading days' notice.

Investor may sell Conversion Shares pursuant to a registration statement prior to the date that is six (6) months from the issue date and will be limited to 1,000,000 shares per calendar month (the "Volume Limitation");

provided, however, in the event any intra-day trading price of the Common Stock during the applicable time period meets or exceeds $4.50 per share then the Volume Limitation shall not apply for the remainder of the calendar month or the five trading days thereafter, whichever is longer.

Pursuant to the terms of the Agreement and the Note, the Company must obtain the Investor's consent before assuming additional debt with aggregate net proceeds to the Company of less than $15 million. Upon any such approval, the outstanding principal balance of the Notes shall increase automatically by 5% upon the issuance of such additional debt.

The Company agreed to use commercially reasonable efforts to file a Registration Statement on FormS-3 with the SEC by April 30, 2020 registering a number of shares of Common Stock sufficient to convert the entire Outstanding Balance of the Note plus, if legally permissible, 1,666,668 shares of Common Stock from Investor's February 12, 2020 warrant exercise plus 833,332 shares of Common Stock from Investor's February 4, 2020 warrant exercise, which S-3 was declared effective on May 11, 2020.

The embedded conversion feature in the secured convertible promissory Note was analyzed under ASC 815 to determine if it achieved equity classification or required bifurcation as a derivative instrument. The embedded conversion feature was considered indexed to the Company's own stock and met the conditions for equity classification. Accordingly, the embedded conversion feature does not require bifurcation from the host instrument. The Company determined there was no beneficial conversion feature since the effective conversion rate was greater than the market value of the Company's stock upon issuance.

Certain default put provisions were not considered to be clearly and closely related to the host instrument, but the Company concluded that the value of these default put provisions was *de minimis*. We reconsider the value of the default put provisions each reporting period to determine if the value becomes material to the financial statements.

The original issue discount of $2.1 million related to these convertible notes has been recorded as a discount on the convertible notes and the discount is being amortized over the term of the convertible note. Amortization of debt discounts during the year ended May 31, 2020 amounted to $175,000 and are recorded as interest expense in the accompanying consolidated statements of operations. The unamortized discount balance for the Note of $1,925,000 as of May 31, 2020, is being amortized over the term of the Note.

Note 6 – Derivative Liabilities

The investor and placement agent warrants issued in connection with a registered direct offering in September 2016 contained a provision for net cash settlement in the event that there is a fundamental transaction (contractually defined as a merger, sale of substantially all assets, tender offer or share exchange, whereby such other Person or group acquires more than 50% of the outstanding common stock). If a fundamental transaction occurs in which the consideration issued consists principally of cash or stock in a successor entity, then the warrant holder has the option to receive cash equal to the fair value of the remaining unexercised portion of the warrant. Due to this contingent cash settlement provision, the investor and placement agent warrants require liability classification as derivatives in accordance with ASC 480 "Distinguishing Liabilities from Equity" and ASC 815 "Derivatives and Hedging" and are recorded at fair value.

The following tables summarizes changes in the fair value of the warrant derivative liability and related common shares as of inception date September 15, 2016, prior year end date May 31, 2019 and current year end date May 31, 2020.

	Shares Indexed	Derivative Liability
Inception to date September 15, 2016	7,333,334	$ 5,179,200
Change in fair value of derivative liability	—	(4,777,068)
Balance May 31, 2019	7,733,334	402,132
Change in fair value of derivative liability	—	11,546,840
Fair value of warrants exercised	7,733,334	(11,948,972)
Balance May 31, 2020	—	$ —

Changes in the fair value of the derivative liability are reported as “Change in fair value of derivative liability” in the Consolidated Statements of Operations. During the years ended May 31, 2020 and May 31, 2019 the Company recognized a net, non-cash (loss) gain of approximately ($11.5) million, and $0.9 million, respectively, due to the changes in the fair value of the liability associated with such classified warrants.

ASC 820 “Fair Value Measurement” provides requirements for disclosure of liabilities that are measured at fair value on a recurring basis in periods subsequent to the initial recognition. Fair values for the warrants were determined using a Binomial Lattice valuation model.

The Company estimated the fair value of the warrant derivative liability as of inception date September 15, 2016, and May 31, 2019 using the following assumptions:

	September 15, 2016	May 31, 2019
Fair value of underlying stock	$ 0.78	$ 0.39
Risk free rate	1.20%	1.94%
Expected term (years)	5	2.29
Stock price volatility	106%	61%
Expected dividend yield	—	—
Probability of fundamental transaction	50%	50%
Probability of holder requesting cash payment	50%	50%

The Warrants were fully exercised by May 31, 2020.

Due to the fundamental transaction provision contained in the warrants, which could provide for early redemption of the warrants, the model also considered subjective assumptions related to the fundamental transaction provision. The fair value of the warrants will be significantly influenced by the fair value of the Company’s stock price, stock price volatility, changes in interest rates and management’s assumptions related to the fundamental transaction provisions.

As described above in Note 5 above, the redemption provision embedded in the June 2018 and January 2019 Notes required bifurcation and measurement at fair value as a derivative. The fair value of the Note redemption provision derivative liabilities was calculated using a Monte Carlo Simulation which uses randomly generated stock-price paths obtained through a Geometric Brownian Motion stock price simulation. The fair value of the redemption provision will be significantly influenced by the fair value of the Company's stock price, stock price volatility, changes in interest rates and management's assumptions related to the redemption factor. The Company estimated the fair value of the redemptive provision using the following assumptions on the closing date of November 15, 2018, January 30, 2019, and May 31, 2019:

			May 31, 2019	
	November 15, 2018	January 30, 2019	June Note	January Note
Fair value of underlying stock	$ 0.57	$ 0.49	$0.39	$ 0.39
Risk free rate	2.78%	2.52%	2.21%	1.95%
Expected term (in years)	1.61	2	1.07	1.67
Stock price volatility	58.8%	61%	62.2%	62.2%
Expected dividend yield	—	—	—	—
Discount factor	85%	85%	85%	85%

As discussed above, the June 2018 and January 2019 Notes have been fully satisfied and there is no outstanding balance as of May 31, 2020.

The following table summarizes the fair value of the convertible note redemption provision derivative liability related to notes which fully converted during January 2020 as of inception dates November 15, 2018 and January 30, 2019 and the fair value as of May 31, 2019:

		Derivative Liability	
	Net Proceeds	Inception date	May 31, 2019
Inception date June 2018 Note, November 15, 2018	$5,000,000	$ 1,284,988	$ 847,103
Inception date January 2019 Note, January 30, 2019	5,000,000	1,465,008	1,158,034
			$ 2,005,137

The Company recognized approximately $2,005,000 and $352,000 of non-cash gain, due to the changes in the fair value of the liability associated with such classified redemption provision for the year ended May 31, 2020 and May 31, 2019, respectively.

Note 7 – Stock Options and Warrants

The Company has one active stock-based equity plan at May 31, 2020, the CytoDyn Inc. 2012 Equity Incentive Plan (the "2012 Plan") and one stock-based equity plan that is no longer active, but under which certain prior awards remain outstanding, the CytoDyn Inc. 2004 Stock Incentive Plan (the "2004 Plan" and, together with the 2012 Plan, the "Incentive Plans"). The 2012 Plan was approved by stockholders at the Company's 2012 annual meeting to replace the 2004 Plan. The 2012 Plan was amended by stockholder approval in February 2015 to increase the number of shares available for issuance from 3,000,000 to 5,000,000 shares of common stock,in March 2016 to increase the number of shares available for issuance from 5,000,000 to 7,000,000 shares of common stock, in August 2017 to increase the number of shares available for issuance from 7,000,000 to 15,000,000 shares of common stock and in May 2019 to increase the number of shares available for issuance from 15,000,000 to 25,000,000 shares of common stock. As of May 31, 2020, the Company had 1,162,511 shares available for future stock-based grants under the 2012 Plan, as amended.

Stock Options

During the year ended May 31, 2019, the Company granted annual stock option awards to directors to purchase a total of 1,219,726 shares of common stock with an exercise prices ranging between $0.49 and $0.57 per share. These option awards vest quarterly over one year and have a ten-year term. The grant date fair value related to these options ranged from $0.29 per share to $0.31 per share.

During the year ended May 31, 2019, the Company granted, to executive management and employees, stock options covering an aggregate of 3,715,000 shares of common stock, with exercise prices ranging between $0.48 and $0.57 per share. The option awards vest annually over three years, except for one award covering 950,000 shares, which vests ratably by month over 24 months. All awards have a ten-year term and grant date fair values ranging from $0.26 per share to $0.41 per share.

During the year ended May 31, 2020, the Company granted annual stock option awards to directors to purchase a total of 3,236,815 shares of common stock with an exercise prices ranging between $0.39 and $2.25 per share. The period over which option awards vest vary, 2,512,329 of the options vest immediately at the grant date and 724,486 options vest quarterly over one year. All awards have a ten-year term and grant date fair values ranging from $0.19 per share to $1.65 per share.

During the year ended May 31, 2020, the Company granted, to executive management, employees and consultants, stock options covering an aggregate of 8,690,000 shares of common stock with exercise prices ranging between $0.30 and $1.10 per share. The option awards vesting periods vary, 437,500 options vest quarterly over a one year period, 890,000 options vest annually over a three year period, 1,112,500 vest monthly over a one year period, 1,650,000 vest upon the Company reaching certain performance milestones with regard to its submission of its BLA for HIV combination therapy to the FDA, and 4,600,000 vest immediately at the grant date. All option awards have a ten-year term and grant date fair values ranging from $0.12 per share to $0.79 per share.

During the year ended May 31, 2020, the Company issued 8,723,070 shares of common stock in connection with the exercise of stock options covering an aggregate of 8,753,828 shares. The stated exercise price ranged from $0.39 to $1.09 per share which resulted in aggregate gross proceeds of approximately $5.6 million.

Warrants

On June 15, 2018, in connection with a registered direct equity offering, as fully described in Note 13, the Company issued warrants covering 1,970,000 shares of common stock to investors. The investor warrants have a five-year term and an exercise price of $0.75 per share. In connection with the registered direct offering, the Company also issued warrants covering 133,600 shares of common stock to the placement agent. The placement agent warrants have a five-year term and an exercise price of $0.55 per share.

During the year ended May 31, 2019, in connection with a private equity offering, as fully described in Note 12, the Company issued warrants covering a total of 23,487,585 shares of common stock to investors. The investor warrants have a five-year term and an exercise price of $0.75 per share. In connection with this offering, the Company also issued warrants covering 4,446,917 shares of common stock to the placement agent. The placement agent warrants have a five-year term, an exercise price of $0.50 per share and a cashless exercise provision.

During the year ended May 31, 2019 the Company issued compensable warrants covering an aggregate of 300,000 shares of common stock to consultants. The warrants have a five-year term, an exercise price of $0.56 per share and a grant date fair value of $0.30 per share. In addition, the Company issued a warrant covering 500,000 shares of common stock to a director. The warrant has a ten-year term, an exercise price of $0.51 per share and a grant date fair value of $0.28 per share.

During the year ended May 31, 2019 in connection with the offering of 2019 Short-term Convertible Notes, as fully described in Note 5, the Company issued warrants covering a total of 5,460,000 shares of common stock to investors. The investor warrants have a five-year term and an exercise price of $0.30 per share. In connection with this offering, the Company also issued warrants covering 972,000 shares of common stock to the placement agent. The placement agent warrants have a five-year term, an exercise price of $0.50 per share and a cashless exercise provision.

On January 31, February 7 and February 13, 2019, in connection with a registered direct equity offering, the Company issued warrants covering a total of 5,364,240 shares of common stock to investors. The investor warrants have a five-year term and an exercise price of $0.50 per share. In connection with this offering, the Company also issued warrants covering 965,563 shares of common stock to the placement agent. The placement agent warrants have a five-year term, an exercise price of $0.50 per share and a cashless exercise provision.

During the year ended May 31, 2019, in connection with a Secured Convertible Promissory Note, the Company issued warrants covering a total of 5,000,000 shares of common stock to an investor. The investor warrants have a five-year term and an exercise price of $0.30 per share.

During the year ended May 31, 2019, in connection with the sale of Series C Convertible Preferred Stock, the Company issued warrants covering a total of 3,895,000 shares of common stock to investors. The investor warrants have a five-year term and an exercise price of $0.50 per share. In connection with this offering, the Company issued warrants to two lead investors covering an aggregate of 1,000,000 shares of common stock. The lead investor warrants have a five-year term, and an exercise price of $0.50 per share.

On April 5, 2019 and April 15, 2019, in connection with a registered direct equity offering, as fully described in Note 13, the Company issued warrants covering 5,465,500 shares of common stock to investors. The investor warrants have a five-year term and an exercise price of $0.50 per share. In connection with the registered direct offering, the Company also issued warrants covering 938,790 shares of common stock to the placement agent. The placement agent warrants have a five-year term and an exercise price of $0.50 per share.

On March 13, 2020, in connection with the sale of Series D convertible preferred stock the Company issued warrants covering a total of 275,625 shares of common stock to investor. The investor warrants have an exercise price of $1.00 per share and a five-year term.

During the year ended May 31, 2020, the Company issued 42,029,203 shares of common stock in connection with the exercise of 45,305,642 warrants. The stated exercise price ranged from $0.30 to $1.35 per share, which resulted in aggregate gross proceeds of approximately $20.5 million.

Compensation expense related to stock options and warrants for the fiscal years ended May 31, 2020, May 31, 2019 and May 31, 2018 was approximately $6.5 million, $3.4 million and $1.3 million, respectively. The grant date fair value of options and warrants vested during the fiscal years ended May 31, 2020, May 31, 2019, and May 31, 2018 was approximately $3.3 million, $2.1 million, and $1.4 million, respectively. As of May 31, 2020, there was approximately $0.8 million of unrecognized compensation expense related to share-based payments for unvested options, which is expected to be recognized over a weighted-average period of approximately 8.04 years.

The following table represents stock option and warrant activity for the years ended May 31, 2019 and May 31, 2020:

	Number of Shares	Weighted Average Exercise Price	Weighted Average Remaining Contractual Life in Years	Aggregate Intrinsic Value
Options and warrants outstanding—May 31, 2018	132,385,269	$ 0.80	3.78	$ 3,673
Granted	64,834,121	$ 0.57	—	—
Exercised	(7,541,279)	$ 0.40	—	—
Forfeited/expired/cancelled	(11,086,262)	$ 0.81	—	—
Options and warrants outstanding—May 31, 2019	178,591,849	$ 0.71	3.66	$ 896,400
Granted	57,720,125	$ 0.47	—	—
Exercised	(101,852,619)	$ 0.56	—	—
Forfeited/expired/cancelled	(3,098,826)	$ 0.74	—	—
Options and warrants outstanding—May 31, 2020	131,360,529	0.65	5.79	$302,961,000
Outstanding exercisable—May 31, 2020	131,357,234	$ 0.65	3.79	$295,704,000

Note 8 – Acquisition of patents and intangibles

As discussed in Note 9 below, the Company consummated an asset purchase on October 16, 2012, and paid $3,500,000 for certain assets, including intellectual property, certain related licenses and sublicenses, FDA filings and various forms of the PRO 140 drug substance. The Company followed the guidance in ASC 805 “Business Combinations” to determine if the Company acquired a business. Based on the prescribed accounting, the Company acquired assets and not a business. As of May 31, 2020 and 2019, the Company has recorded and is amortizing $3,500,000 of intangible assets related to the patent rights acquired. The Company estimates the acquired patent has an estimated life of ten years. Subsequent to the acquisition date, the Company has continued to expand, amend and file new patents central to its current clinical trial strategies, which, in turn, have extended the protection period for certain methods of using PRO 140 and formulations comprising PRO 140 out through at least 2031 and 2038, respectively, in various countries.

On November 16, 2018, the Company completed the acquisition of substantially all of the assets of ProstaGene, LLC (“ProstaGene”), a biotechnology start-up company, which included patents related to clinical research, a proprietary CCR5 technology for early cancer diagnosis, and a noncompetition agreement with ProstaGene’s founder and Chief Executive Officer, Dr. Pestell. The Company accounted for the ProstaGene acquisition as an asset acquisition under ASC 805-10-55 “Business Combinations” because the assets retained from ProstaGene do not include an assembled workforce, and the gross value of the assets acquired meets the screen test in ASC 805-10-55-5A related to substantially all of the fair value being concentrated in a single asset or group of assets (i.e., the proprietary technology and patents) and, thus, is not considered a business. Thus, management concluded that the acquisition did not include both an input and substantive processes that together significantly contribute to the ability to create outputs. The acquisition of ProstaGene’s assets expanded the Company’s clinical development of leronlimab (PRO 140) into cancer indications and potential commercialization of certain cancer diagnostic tests. The aggregate purchase price paid for the ProstaGene acquisition was $11,558,000 based on the issuance of 20,278,000 shares of the Company’s common stock at $0.57 per share, including 1,620,000 shares earned, but not yet issued, to the investment bank for advisory services. In connection with the purchase, the Company entered into a Stock Restriction Agreement with Dr. Pestell, (the “Stock Restriction Agreement”), restricting the transfer of 8,342,000 shares of common

stock payable to Dr. Pestell for a three-year period from the closing date of the ProstaGene transaction (the "Restricted Shares"). The Stock Restriction Agreement provided that in the event Dr. Pestell's employment with the Company is terminated by Dr. Pestell not for Good Reason or by the Company for Cause, as defined in Dr. Pestell's employment agreement with the Company, the Company will have an option to repurchase such Restricted Shares from Dr. Pestell at a purchase price of $0.001 per share. The Restricted Shares will vest and be released from the Stock Restriction Agreement in three equal annual installments commencing one year after the closing date of the acquisition of ProstaGene. On July 25, 2019, the Company's Board terminated the employment of Dr. Richard G. Pestell prior to the vesting of any of the Restricted Shares. The vesting and/or release or forfeiture of the Restricted Shares is currently subject to litigation between the Company and Dr. Pestell.

A summary of the net purchase price and allocation to the acquired assets is as follows:

	Prostagene LLC
CytoDyn Inc. Equity	$11,558,000
Acquisition Expenses	741,297
Release of Deferred Tax Asset	2,826,919
Total Cost of Acquisition	$15,126,216
Intangible Assets	$15,126,216
Other	—
Allocation of Acquisition Costs	$15,126,216

Assets acquired from ProstaGene include (1) patents issued in the United States and Australia related to "Prostate Cancer Cell Lines, Gene Signatures and Uses Thereof" and "Use of Modulators of CCR5 in the Treatment of Cancer and Cancer Metastasis," (2) an algorithm used to identify a 14-gene signature to predict the likelihood and severity of cancer diagnoses, and (3) a noncompetition agreement in connection with an employment agreement with Dr. Pestell as Chief Medical Officer of the Company. The fair value of the assets acquired approximates the consideration paid. The Company did not assume any liabilities. The fair value of the technology acquired is identified using the Income Approach. The fair value of the patents acquired is identified using the Cost to Reproduce Method. The fair value of noncompetition agreement acquired is identified using the Residual Value Method. Goodwill is not recorded as the transaction represents an asset acquisition in accordance with ASU 2017-01. Acquisition costs for asset acquisitions are capitalized and included in the total cost of the transaction. In addition, pursuant to ASC 805, the net tax effect of the deferred tax liability arising from the book to tax basis differences is recorded as a cost of the acquisition

As of May 31, 2020 and 2019, the Company has recorded and is amortizing $4,600,000 of intangible assets in the form of patents attributable to the PRO 140 acquisition and the ProstaGene transaction. The Company estimates the acquired patents have an estimated life of ten years. Subsequent to the acquisition dates, the Company has continued to expand, amend and file new patents central to its current clinical trial strategies, which, in turn, have extended the protection period for certain methods of using PRO 140 and formulations comprising PRO 140 out through at least 2031 and 2038, respectively, in various countries.

The following presents intangible assets activity, inclusive of patents:

	May 31, 2020	May 31, 2019
Gross carrying amounts	$ 3,500,000	$ 3,500,000
Intangible asset acquisition:		
ProstaGene, LLC	15,126,216	15,126,216
Website development costs	19,553	19,553
Accumulated amortization	(5,189,897)	(3,170,315)
Total amortizable intangible assets, net	13,455,872	15,475,454
Patents currently not amortized	—	—
Carrying value of intangibles, net	$13,455,872	$15,475,454

Amortization expense related to all intangible assets was approximately $2,020,000 for the fiscal year ended May 31, 2020, approximately $1,237,000 for the fiscal year ended May 31, 2019 and approximately $350,000 for the fiscal year ended May 31, 2018. The estimated aggregate future amortization expense related to the Company's intangible assets with finite lives is estimated to be approximately $2.0 million for the next year, approximately $1.7 million the following year, approximately $1.2 million for the next year, and $1.0 million per year for the following 2 years.

Note 9 – License Agreements

The Company has two license agreements with a third-party licensor covering the licensor's "systemknow-how" technology with respect to the Company's use of proprietary cell lines to manufacture new leronlimab (PRO 140) material. The Company accrues annual license fees of £600,000 (approximately US$741,000 utilizing current exchange rates), which fees are payable annually in December. Future annual license fees and royalty rate will vary depending on whether the Company manufactures leronlimab (PRO 140), utilizes the third-party licensor as a contract manufacturer, or utilizes an independent party as a contract manufacturer. The licensor does not charge an annual license fee when it serves as the manufacturer. In addition, the Company will incur royalties of up to 0.75% to 2% of net sales, depending upon who serves as the manufacturer, when the Company commences their first commercial sale, which will continue as long as the license agreement is maintained. For the fiscal year ended May 31, 2020 the Company had recorded a prepaid asset of approximately $100,000 recorded related to this arrangement. For the year ended May 31, 2019 the Company had recorded an accrued liability of approximately $160,000 related to this arrangement.

Note 10 – Commitments and Contingencies

During the fourth quarter of fiscal 2019, the Company entered into a Master Services Agreement and Product Specific Agreement (collectively, the "Samsung Agreement") with Samsung BioLogics Co., Ltd. ("Samsung"), pursuant to which Samsung will perform technology transfer, process validation, manufacturing and supply services for the commercial supply of leronlimab. As of fiscal year end 2020, the Company delivered to Samsung purchase orders totaling approximately $28 million related to the manufacture of leronlimab and payments totaling $14 million, with additional payments scheduled to be made throughout calendar 2020. Under the Samsung Agreement, the purchase order is binding and the Company is obligated to pay the full amount of the purchase order. Under the terms of the Samsung Agreement, the Company is obligated to make specified minimum purchases of leronlimab from Samsung pursuant to forecasted requirements which the Company is required to provide to Samsung. The first forecast schedules 11 manufacturing batches all beginning in the first quarter of fiscal year 2021, setting forth the total quantity of commercial grade leronlimab that the Company expects to require in the following years. The Company estimates that initial ramp-up costs to manufacture commercial grade leronlimab at scale could total approximately $116 million, with approximately $69 million payable over the course of calendar 2020, of which $30 million has been paid as of the date of this filing, and approximately $23 million payable during calendar 2021, and approximately

$24 million payable in Janaury of 2022. Thereafter, the Company will pay Samsung per 15,000L batch according to the pricing terms specified in the Samsung Agreement. The Samsung Agreement has an initial term ending in December 2027 and will be automatically extended for additional two-year periods unless either party gives notice of termination at least six months prior to the then current term. Either party may terminate the Samsung Agreement in the event of the other party's insolvency or uncured material breach, and the Company may terminate the agreement in the event of a voluntary or involuntary complete market withdrawal of leronlimab from commercial markets, with one and half year's prior notice. Neither party may assign the agreement without the consent of the other, except in the event of a sale of all or substantially all of the assets of a party to which the agreement relates.

On May 22, 2020, the Company entered into a Drug Product Manufacturing Services Agreement with Samsung (the "Samsung Vial Filling Agreement"), pursuant to which Samsung will perform technology transfer, process validation, vial filling and storage services for clinical, pre-approval inspection, and commercial supply of leronlimab. Under the terms of the Samsung Vial Filling Agreement, the Company is obligated to have specified minimum quantities of vials filed with leronlimab by Samsung pursuant to forecasted requirements which the Company is required to provide to Samsung. The Company has not provided a forecast to Samsung, however based on set-up related costs and manufacturing commitments pursuant to the Samsung Agreement the Company expects to deliver commitments of approximately $2.3 million in the form of purchase orders related to the Samsung Vial Filling Agreement through January 2021.

In addition to our manufacturing agreement with Samsung, the Company also previously entered into an arrangement with another third-party contract manufacturer to provide process transfer, validation and manufacturing services for leronlimab. In the event that the Company terminates the agreement with this manufacturer, the Company may incur certain financial penalties which would become payable to the manufacturer. Conditioned upon the timing of termination, the financial penalties may total approximately $2.1 million. These amount and timing of the financial commitments under an agreement with our secondary contract manufacturer will depend on the timing of the anticipated approval of our BLA and the initial product demand forecast, which is critical to align the timing of capital resources in order to ensure availability of sufficient quantities of commercial product.

The Company has entered into project work orders, as amended, for each of its CRO and related laboratory vendors. Under the terms of these agreements, the Company incurs execution fees for direct services costs, which are recorded as a current asset. In the event the Company were to terminate any trial, it may incur certain financial penalties which would become payable to the CRO. Conditioned upon the form of termination of any one trial, the financial penalties may range up to $0.8 million. In the remote circumstance that the Company would terminate all clinical trials, the collective financial penalties may range from an approximate low of $1.6 million to an approximate high of $3.6 million.

On June 29, 2020, the Company issued the note holder of the January 2019 Note 4,000,000 shares of common stock with a settlement value of $22.5 million. These shares were issued as settlement for a claim filed by the note holder against the Company alleging that the note holder was owed additional shares upon conversion of the note compared to the number of shares requested of the Company by the note holder upon conversion.

From time to time, the Company is involved in routine litigation that arises in the ordinary course of business. There are no pending significant legal proceedings to which the Company is a party for which management believes the ultimate outcome would have a material adverse effect on the Company's financial position.

Note 11 – Public Warrant Tender Offerings

During June 1, 2019 to July 31, 2019, the Company conducted two public warrant tender offers, in which accredited investors purchased common stock at either $0.30 or $0.40 per share. Pursuant to the offering, the Company sold a total of 45,375,923 shares of common stock, $0.001 par value, for aggregate gross proceeds of

approximately $11.9 million. The Company paid placement agent fees of approximately $1.1 million for services in connection with the tender offers. The Company also recorded a non-cash inducement interest expense of approximately $2.4 million in connection with the tender offers.

Note 12 – Private Securities Offerings

On November 30, 2017, the Company completed an offer and sale (the "Make-Whole Offering") of an aggregate of 503,015 shares of Common Stock (the "Make-Whole Shares") and warrants to purchase up to 251,504 shares of common stock (the "Make-Whole Warrants" and, collectively with the Make-Whole Shares, the "Make-Whole Securities"). The Make-Whole Securities issued were unregistered.

The Make-Whole Securities were offered pursuant to a form of Waiver and Subscription Agreement (the "Waiver and Subscription Agreement"). The Make-Whole Securities represented the difference in the numbers of shares of Common Stock and warrants that would have been sold to investors in the September 2017 Offering had the reduced purchase price of $0.65 per share of Common Stock and related Warrants in the October 2017 Offering, registered direct offering (as compared to $0.75 in the September 2017 Offering) and the reduced warrant exercise price of $0.75 in the October 2017 Offering (as compared to $1.00 in the September 2017 Offering) applied to the September 2017 Offering as well. The Make-Whole Securities were offered as consideration for the release of potential claims by participating investors. In connection with these arrangements, the exercise prices of any warrants previously sold in the September 2017 Offering to participating investors has also been reduced to $0.75 from $1.00. In addition, warrants previously issued to the placement agent (or its designees) in respect of participating investors have also been proportionately adjusted to reflect a reduced exercise price of $0.715 (as compared to $0.825 in the September 2017 Offering) and 26,702 additional shares.

In connection with an November 24, 2017 Offer to amend and exercise certain eligible warrants at a reduced exercise price of $0.50 per share of common stock, on March 23, 2018, the Company issued 2,470,585 shares of common stock to warrant holders who participated in the Offer, in exchange for their eligible warrants, in a private securities offering.

During the year ended May 31, 2018, the Company conducted a private equity offering, in which accredited investors purchased unregistered common stock at $0.50 per share with warrant coverage ratio of 100%, based on the number of shares of common stock purchased. Pursuant to the offering, the Company sold a total of 35,286,904 shares of common stock for aggregate gross proceeds of $17.6 million and issued warrants covering an aggregate of 35,286,904 shares of common stock with a five-year term and an exercise price of $0.75 per share. In connection with the offering, the placement agent received a warrant covering 2,813,491 shares of common stock, with a five-year term, an exercise price of $0.55 per share, and including a cashless exercise provision.

During the year ended May 31, 2019, the Company conducted private equity offerings (the "Equity Offerings"), in which accredited investors purchased unregistered common stock at $0.50 per share with warrant coverage of 50% based on the number of shares of common stock purchased. Pursuant to the Equity Offerings, the Company sold a total of 46,975,170 shares of common stock, $0.001 par value, for aggregate gross proceeds of approximately $23.5 million and issued five-year warrants covering 23,487,585 shares of common stock, with an exercise price of $.75 per share. In conjunction with the Equity Offerings, the Company paid an aggregate cash fee of approximately $2.7 million to the placement agent and issued warrants covering an aggregate of 4,446,917 shares of common stock to the placement agent as additional compensation.

On May 8, 2019, the Company entered into a private warrant exchange in which accredited investors purchased unregistered common stock at the lower of the stated exercise price on their warrant or $0.40 per share of common stock. The Company sold 7,541,279 shares of common stock, as well as 3,770,638 additional shares as an inducement to exercise their warrants, for a total of 11,311,917 shares of common stock, $0.001 par value.

Aggregate gross proceeds from the private warrant exchange were approximately $3.0 million. In conjunction with the private warrant exchange, the Company incurred a non-cash inducement interest expense of approximately $0.2 million and paid an aggregate cash fee of approximately $0.3 million to the placement agent.

On December 20, 2019, the Company entered into a private warrant exchange in which certain accredited investors purchased unregistered common stock at a range of $0.22 to $0.25 per share as compared to the stated exercise price ranging from 0.45 to $0.75 per share of common stock. The Company sold 3,350,000 shares of common stock, as well as 1,340,000 additional shares as an inducement to exercise their warrants, for a total of 4,690,000 shares of common stock, $0.001 par value. Aggregate gross proceeds from the private warrant exchange were approximately $0.8 million.

On December 30, 2019, the Company entered into a private warrant exchange in which certain accredited investors purchased unregistered common stock at a reduced exercise price per share of $0.50 for any warrant with a stated exercise price greater than $0.50 per share and no discount for warrants with a stated exercise price equal to or less than $0.50 per share. The Company sold 2,230,000 shares of common stock, as well as 446,000 additional shares as an inducement to exercise their warrants, for a total of 2,676,000 shares of common stock, $0.001 par value. Aggregate gross proceeds from the private warrant exchange were approximately $1.1 million.

During January 2020, the Company entered into a private warrant exchange in which certain accredited investors purchased unregistered common stock at a reduced exercise price per share of $0.50 for any warrant with a stated exercise price greater than $0.50 per share and no discount for warrants with a stated exercise price equal to or less than $0.50 per share. The Company issued 4,040,000 shares of common stock, as well as 408,000 additional shares as an inducement to exercise their warrants, for a total of 4,448,000 shares of common stock, $0.001 par value. Aggregate gross proceeds from the private warrant exchange were approximately $1.9 million.

From February 28, 2020, the Company entered into a private warrant exchange in which certain accredited investors purchased common stock at a range of $0.18 to $0.45 per share as compared to the stated exercise price on their warrant, which ranged from $0.30 to $0.75 per share of common stock. The Company issued 7,842,500 shares of common stock, as well as 784,245 additional shares as an inducement to exercise their warrants, for a total of 8,626,745 shares of common stock, $0.001 par value. Aggregate gross proceeds from the private warrant exchange were approximately $2.2 million.

On March 4, 2020, the Completed a private warrant exchange in which an accredited investor purchased Common Stock at a price of $0.45 per share as compared to the stated exercise price of $0.75. The Company issued 80,000 shares of Common Stock, as well as 8,000 additional shares as an inducement to exercise their warrants, for a total of 88,000 shares of common stock, $0.001 par value, resulting in gross proceeds of approximately $36,000.

For the year-ended May 31, 2020 the Company recorded non-cash inducement interest expense of approximately $5.5 million in connection with the private warrant exchange offerings.

Note 13 – Registered Direct Equity Offerings

On June 15, 2018, the Company entered into subscription agreements with certain investors for the sale of 1,970,000 shares of common stock at a purchase price of $0.50 per shares in a registered direct offering, pursuant to a registration statement on Form S-3. The investors in this offering also received warrants to purchase 1,970,000 shares of common stock with an exercise price of $0.75 per share and a five-year term. The Company received net proceeds from the offering of approximately $0.9 million. In addition, the placement agent received warrants covering 133,600 shares of common stock (or 8% of total shares sold to investors) with a per share exercise price of $0.55, a five-year term and include a cashless exercise provision.

Between January 31, 2019 and February 13, 2019, the Company entered into subscription agreements with certain investors for the sale of 10,728,480 shares of common stock at a purchase price of $0.50 per share in a

registered direct offering, pursuant to a registration statement on Form S-3. The investors in this offering also received warrants to purchase 5,364,240 shares of common stock with an exercise price of $0.50 per share and a five-year term. The Company received net proceeds from the offering of approximately $4.8 million. In addition, the placement agent received warrants covering 965,563 shares of common stock (or 9% of total shares sold to investors) with a per share exercise price of $0.50 and a five-year term and included a cashless exercise provision.

On April 5, 2019 and April 15, 2019, the Company entered into subscription agreements with certain investors for the sale of 10,931,000 shares of common stock at a purchase price of $0.50 per share in a registered direct offering, pursuant to a registration statement on Form S-3. The investors in this offering also received warrants to purchase 5,465,500 shares of common stock with an exercise price of $0.50 per share and a five-year term. The Company received net proceeds from the offering of approximately $5.0 million. In addition, the placement agent received warrants covering 938,790 shares of common stock (or 9% of the total shares sold to investors) with a per share exercise price of $0.50 and a five-year term and included a cashless exercise provision.

During June 1, 2019 to November 30, 2019, the Company entered into subscription agreements with certain investors for the sale of 19,100,333 shares of common stock at purchase prices ranging between $0.30 and $0.40 per share in registered direct offerings, pursuant to a registration statement on Form S-3. The investors in these offerings also received warrants to purchase 11,987,250 shares of common stock with an exercise price of $0.45 per share and a five-year term. The Company received net proceeds from the offerings of approximately $6.3 million. In addition, the placement agent received warrants covering 655,305 shares of common stock (or 1.3% of total shares sold to investors) with per share exercise prices ranging between $0.40 and $0.444, a five-year term and a cashless exercise provision.

On December 9, 2019, the Company entered into subscription agreements with certain investors for the sale of 2,568,330 shares of common stock at a purchase price of $0.30 per share in a registered direct offering, pursuant to a registration statement on Form S-3. The investors in this offering also received warrants to purchase 1,926,248 shares of common stock with an exercise price of $0.45 per share and a five-year term. The Company received net proceeds from the offering of approximately $0.75 million.

On December 13, 2019, the Company entered into subscription agreements with certain investors for the sale of 2,433,333 shares of common stock at a purchase price of $0.30 per share in a registered direct offering, pursuant to a registration statement on Form S-3. The investors in this offering also received warrants to purchase 1,825,000 shares of common stock with an exercise price of $0.45 per share and a five-year term. The Company received net proceeds from the offering of approximately $0.73 million.

On December 23, 2019, the Company entered into subscription agreements for the sale of 14,754,098 shares of common stock and warrants to purchase up to an aggregate of 7,377,049 shares of common stock for a combined purchase price of $0.305 per share, pursuant to a registration statement on Form S-3. The Company received net proceeds from this Offering of approximately $4.5 million. Each share of common stock was sold together with one-half of one warrant to purchase one share of common stock for a combined purchase price of $0.305 per share. As partial consideration for execution of the License Agreement and the Supply Agreement, Vyera's parent company, Phoenixus AG ("Phoenixus"), made a $4.0 million equity investment in the Company. The December 23, 2019 offering also included $0.5 million of shares of common stock and related warrants sold to an entity associated with David F. Welch, a member of the Company's board of directors, on terms identical to those applicable to Phoenixus.

Note 14 – Stock Grants to Employees

On December 24, 2019, the Company issued a total of 379,880 shares of registered common stock to two executives in connection with the stock portion of their incentive compensation earned for the fiscal year ended May 31, 2018. The two executives simultaneously tendered back to the Company a total of 126,997 shares of the registered common stock to cover the income tax withholding requirements.

On January 28, 2020, the Company awarded 11,650,000 performance shares to certain of its directors and executive officers outside of the 2012 Plan "January 2020 Performance Shares"). The awards will vest and be settled in shares of common stock of the Company if the Company achieves FDA Breakthrough Therapy designation for cancer within 6 months of the award date and if certain other requirements have been met. The awards lapsed on July 28, 2020.

Note 15 – Employee Benefit Plan

The Company has an employee savings plan (the "Plan") pursuant to Section 401(k) of the Internal Revenue Code (the "Code"), covering all of its employees. The Company makes a qualified non-elective contribution of 3%, which consequently vests immediately. In addition, participants in the Plan may contribute a percentage of their compensation, but not in excess of the maximum allowed under the Code. During the year ended May 31, 2020, May 31, 2019 and May 31, 2018, the Company incurred an expense of approximately $97,000, $111,000 and $61,000, respectively, for qualified non-elective contributions.

Note 16 – Income Taxes

Deferred taxes are recorded for all existing temporary differences in the Company's assets and liabilities for income tax and financial reporting purposes. Other than approximately a $2.8 million benefit from a basis difference in the acquired assets of ProstaGene, due to the valuation allowance for deferred tax assets, as noted below, there was no other net deferred tax benefit or expense for the periods ended May 31, 2020, May 31, 2019 and May 31, 2018.

Reconciliation of the federal statutory income tax rate of 21% for the year ended May 31, 2020, the federal statutory blended rate of 21% for the year ended May 31, 2019 and the federal statutory rate of 28.6% for the year ended May 31, 2018, to the effective income tax rate is as follows for all periods presented:

	2020	2019	2018
Income tax provision at statutory rate:	21.0%	21.0%	28.6%
State income taxes net	—	—	—
Rate change	—	—	(34.8)
Loss on debt extinguishment	—	(0.5)	—
Derivative gain (loss)	(1.6)	0.6	1.0
Valuation allowance release from asset acquisition	—	4.8	—
Non-deductible debt issuance costs	(0.1)	—	(0.2)
Non-deductible interest on convertible notes	(1.2)	(0.3)	(0.1)
Inducement interest expense	(1.3)	(0.1)	(2.0)
Other	(0.3)	—	(1.1)
Miscellaneous	—	—	(0.1)
Current year credits generated	—	—	4.4
Credit carry forward generated (released)	(0.1)	(3.8)	4.1
Non-deductible debt discount amortization	(0.3)	—	—
IRC 162(m) limitation	(2.4)	—	—
Stock compensation in excess of ASC 718	3.2	—	—
Non-deductible legal settlement expense	(3.8)	—	—
Valuation allowance	(13.1)	(16.9)	0.3
Effective income tax rate	0.0%	4.8%	0.0%

Net deferred tax assets and liabilities are comprised of the following as of May 31, 2020 and 2019:

	2020	2019
Deferred tax asset (liability) non-current:		
Net operating loss	$ 55,624,018	$ 39,996,561
Credits	2,062,692	2,062,692
ASC 718 expense on NQO's	4,069,035	3,628,085
Charitable contribution—carry forward	—	—
Accrued vacation & payroll	111,514	—
ASC 842 lease accounting	(429)	—
Accrued expenses	349,384	251,293
Fixed assets	(454)	(340)
Amortization	372,877	329,360
Debt discount	—	(308,621)
Basis difference in acquired assets	(2,483,097)	(2,826,919)
Valuation allowance	(60,105,540)	(43,132,111)
Deferred tax asset (liability) non-current	$ —	$ —
Noncurrent asset (liabilities)	60,105,540	43,132,111
Valuation allowance	(60,105,540)	(43,132,111)
Deferred tax asset (liability) non-current	$ —	$ —

The income tax benefit for the period presented is offset by a valuation allowance established against deferred tax assets arising from operating losses and other temporary differences, the realization of which could not be considered more likely than not. In future periods, tax benefits and related tax deferred assets will be recognized when management considers realization of such amounts to be more likely than not.

At May 31, 2020, May 31, 2019 and May 31, 2018 the Company had available net operating loss carry forwards of approximately $264.9 million, $190.5 million and $139.2 million, respectively, which expire beginning in 2023.

The Company's income tax returns remain subject to examination by all tax jurisdictions for tax years ended May 31, 2016 through 2019.

Note 17 – Related Party Transactions

The Audit Committee of the Board of Directors (the "Board") reviews and approves all related party transactions. The above terms and amounts are not necessarily indicative of the terms and amounts that would have been incurred had comparable transactions been entered into with independent parties.

On July 12, 2018, the Company announced certain leadership changes in connection with the strategic expansion and entry into certain cancer and immunologic indications. In connection with such leadership changes and effective July 11, 2018, Denis R. Burger, Ph.D. and A. Bruce Montgomery, M.D., resigned as members the Board. Dr. Burger also resigned as Chief Science Officer of the Company, which was not an executive officer position. On July 10, 2018, in connection with the resignations of Dr. Burger and Dr. Montgomery, the Board determined to accelerate the vesting of all outstanding and unvested stock options held by Dr. Burger and Dr. Montgomery. Upon the effectiveness of their resignations, stock options covering 500,000 shares and 100,000 shares, held by Dr. Burger and Dr. Montgomery, respectively, became fully vested. The stock options retained their exercise period through their respective expiration dates and the terms of the stock options remained otherwise unchanged.

On November 16, 2018, the Company closed its acquisition of ProstaGene assets, as described in Note 8. In connection with the closing of the acquisition, the Company hired Richard Pestell, M.D., as its Chief Medical Officer. As previously disclosed by the Company, prior to the acquisition Dr. Pestell was the holder of approximately 77.2% of the outstanding equity interests in ProstaGene and consequently held an indirect interest in approximately (i) 8,611,427 of 13,258,000 shares of the Company's common stock and (ii) 4,171,013 of 5,400,000 shares of common stock, held in escrow for the benefit of ProstaGene and its members, which were subject to forfeiture to satisfy certain indemnity obligations of ProstaGene and subject to being released ratably every six months over the eighteen-month period following the closing date. In addition, as specified in a Stock Restriction Agreement with the Company entered into on the closing date, 8,342,000 additional shares of common stock previously distributed to Dr. Pestell in the ProstaGene acquisition are currently subject to transfer restrictions and forfeiture obligations.

As specified in a Confidential Information, Inventions and Noncompetition Agreement between the Company and Dr. Pestell, which was entered into on the closing date of the ProstaGene acquisition, the Company obtained the right to participate in the development and license of certain intellectual property created by Dr. Pestell, in connection with Dr. Pestell's then ongoing research obligations to outside academic institutions. The Company also obtained the right to work with Dr. Pestell to manage any potential conflict between the Company's clinical development activities and such ongoing research obligations.

On December 10, 2018, Anthony D. Caracciolo resigned as the Chairman of the Board of Directors, but remained a director and Scott A. Kelly, M.D., was named Chairman of the Board. On December 19, 2018, the Compensation Committee of the Board approved an amendment to certain compensation arrangements for Anthony D. Caracciolo, pursuant to which his employment with the Company would be extended through April 16, 2019, at a salary reduced from $16,667 to $5,000 per month, with continuing benefits. In addition, the Compensation Committee approved an extension to 10 years of the expiration terms of certain previously awarded stock options covering an aggregate of 150,000 shares of the Company's common stock, provided that such stock options were out-of-the-money upon the date of such extension. These arrangements were conditioned upon Mr. Caracciolo's agreement to resign from the Board upon identification by the Company of an appropriately qualified candidate to fill the vacancy. Mr. Caracciolo had agreed to the foregoing terms and his resignation was effective January 10, 2019. These arrangements were not the result of any disagreement with the Company on any matter relating to the Company's operations, policies or practices.

On January 8, 2019, Argonne Trading LLC ("Argonne"), participated in the private placement of convertible promissory notes, as fully described in Note 5. Michael A. Klump, the manager of Argonne, was a director of the Company at the time of investment. Argonne purchased a convertible promissory note, bearing interest of 10% for $500,000 in aggregate principal and received a warrant covering 500,000 shares of common stock at an exercise price of $0.30 per share. The terms and conditions of the Argonne investment were identical to those offered to all other investors in the offering and his investment was approved by the Audit Committee of the Board.

On May 8, 2019, Dr. David F. Welch entered into Exercise Agreements for warrants beneficially owned by him, covering an aggregate of 1,651,281 shares of common stock and 825,640 additional shares. Additionally, Michael A. Klump entered into Exercise Agreements for warrants beneficially owned by him, covering an aggregate of 3,625,000 shares of common stock and 1,812,499 additional shares. Dr. Welch and Mr. Klump were members of the Company's board of directors at the time of exercise and participated on terms identical to those applicable to other investors.

On July 15, 2019, the Company entered into consulting agreements with two of its directors, one with Scott A. Kelly, M.D. in the capacity of non-executive Chief Science Officer, the other with David F. Welch, Ph.D. in the capacityof non-executive interim Strategy Advisor. Dr. Kelly's agreement terminated on April 9, 2020 when he became the Company's Chief Medical Officer in a full-time employee capacity. On September 12, 2019, the

Company and Dr. Welch agreed to amend his consulting agreement to eliminate any cash compensation (including previously earned entitlements) thereunder and in October 2019, the consulting agreement between Dr. Welch and the Company was terminated. The Company has issued stock options covering an aggregate of 1,375,000 shares of common stock to Dr. Kelly and Dr. Welch as compensation pursuant to such agreements, including options to Dr. Kelly for 750,000 shares at an exercise price of $0.385, on September 12, 2019, and 187,500 shares at an exercise price of $0.39, on October 7, 2019; and options to Dr. Welch for 250,000 shares at an exercise price of $0.385, on September 12, 2019, and 187,500 shares at an exercise price of $0.39, on October 7, 2019. The options granted on September 12, 2019 vested immediately upon issuance and have a 10-year expiration term. The options issued on October 7, 2019 vest in four equal quarterly installments beginning on the grant date and have a 10-year expiration term.

On June 12, 2019, the Company concluded a warrant tender offer (the "June 2019 Warrant Tender Offer") for certain outstanding series of eligible warrants, offering the holders of such warrants the opportunity to amend and exercise their warrants at a reduced exercise price equal to the lower of (i) their respective existing exercise price or (ii) $0.40 per share of common stock. As an inducement to holders to participate in the June 2019 Warrant Tender Offer, the Company offered to issue to participating holders shares of common stock equal to an additional 50% of the number of shares issuable upon exercise of the eligible warrants (collectively, the "Additional Shares"). Dr. Kelly validly tendered warrants beneficially owned by him, covering an aggregate of 50,000 shares of common stock, and received 25,000 Additional Shares. Dr. Kelly participated on terms identical to those applicable to other holders in the June 2019 Warrant Tender Offer.

On July 31, 2019, the Company concluded an additional warrant tender offer on terms identical to the June 2019 Warrant Tender Offer (the "July 2019 Warrant Tender Offer"). Dr. Welch tendered warrants beneficially owned by him, covering an aggregate of 1,000,000 shares of common stock, and received 500,000 Additional Shares. Dr. Welch participated on terms identical to those applicable to other holders in the July 2019 Warrant Tender Offer.

On September 30, 2019, an entity controlled by Dr. Welch exchanged a 2019 Short-term Convertible Note in the principal amount of $1 million and accrued but unpaid interest of $75,343, for an Exchange Note in the principal amount of $1,075,343 and a warrant to purchase 1,000,000 shares of common stock. The entity controlled by Dr. Welch participated on similar terms to the other holders in the exchange.

On October 8, 2019, an entity controlled by then director, Mr. Michael Klump, exchanged a 2019 Short-term Convertible Note in the principal amount of $0.5 million and accrued but unpaid interest of $37,397, for an Exchange Note in the principal amount of $537,397 and a warrant to purchase 500,000 shares of common stock. The entity controlled by Mr. Klump participated on similar terms to the other holders in the exchange.

On December 13, 2019, Mr. Jordan Naydenov, a director of the Company, participated in a registered direct equity offering. Mr. Naydenov purchased 833,333 shares of common stock and received warrants covering 625,000 shares. The terms and conditions of Mr. Naydenov's $250,000 investment were identical to those offered to other investors in this offering.

On December 23, 2019, an entity controlled by Dr. Welch participated in a registered direct equity offering. The entity controlled by Dr. Welch purchased 1,639,344 shares of common stock and received warrants covering 819,672 shares. The terms and conditions of the $500,000 investment made by the entity controlled by Dr. Welch were identical to those offered to other investors in this offering.

On January 31, 2020, an entity controlled by Dr. Welch participated in the January 31, 2020 offering. The entity controlled by Dr. Welch purchased 1,000 shares of Series D convertible preferred shares and received warrants covering 500,000 shares of common stock. The terms and conditions of the $1,000,000 investment made by the entity controlled by Dr. Welch were identical to those offered to other investors in this offering.

On February 26, 2020, an entity controlled by Dr. Welch entered into a private warrant exchange in which the entity purchased common stock at $0.18 per share as compared to the stated exercise price on the warrants of $0.30 per share of common stock. The entity controlled by Dr. Welch purchased 1,819,672 shares of common stock, as well as 181,967 additional shares as an inducement to exercise their warrants, for a total of 2,001,639 shares of common stock. The terms and conditions of the approximate $330,000 investment made by the entity controlled by Dr. Welch were identical to those offered to other investors in this offering.

Note 18 – Subsequent Events

In March 2020, the World Health Organization declared COVID-19 a pandemic. We could be negatively affected by the widespread outbreak of an illness or any other communicable disease, or any other public health crisis that results in economic and trade disruptions, including the disruption of global supply chains. The COVID-19 pandemic has negatively impacted the global economy, disrupted global supply chains and created significant volatility and disruption of financial markets. The extent of the impact of the COVID-19 pandemic on our operational and financial performance, including our ability to execute our business strategies and initiatives in the expected time frame, will depend on future developments, including the duration and spread of the pandemic and related restrictions on travel and transports, all of which are uncertain and cannot be predicted. An extended period of global supply chain and economic disruption could materially affect our business, results of operations, access to sources of liquidity and financial condition.

On June 10, 2020 and July 27, 2020, the Company entered into Amendment #1 and Amendment #2, respectively, to the Samsung Agreement to increase the purchase order quantity of total drug substance batches to be produced during calendar year 2020 by seven batches for a total of 13 batches. Two batches have already been manufactured as of May 31, 2020. The incremental seven batches to be manufactured during calendar year 2020 will be reduced against the number of forecasted batches the Company planned to have manufactured during calendar year 2021. As part of this arrangement Samsung has allowed for the deferral of payments of certain costs to calendar years 2020, 2021 and 2022. These amendments increase the approximate contract commitment to approximately $103 million from approximately $60 million.

During June 2020, the Company entered into a private warrant exchange in which certain accredited investors purchased common stock at a range of $0.21 to $0.95 per share as compared to the stated exercise price ranging from 0.35 to $1.35 per share of common stock. The Company sold 16,543,539 shares of common stock which resulted in aggregate gross proceeds of approximately $7.8 million.

From June 1, 2020 to July 24, 2020, the Company issued 24,130,630 shares of common stock in connection with the exercise of 24,853,675 warrant and stock option exercises. Accredited investors purchased common stock at the stated exercise price range of $0.30 to $1.35 per share which resulted in aggregate gross proceeds of approximately $10.8 million.

On June 16, 2020, the Company granted 105,000 warrants to consultants to purchase 105,000 shares of common stock with an exercise price of $0.45 per share and a five-year term.

On June 22, 2020, the Company amended its lease agreement for its principal office in Vancouver, WA increasing the rentable square footage to 4,969 through January 31, 2021 and to 6,433 effective February 1, 2021. The amended lease calls for a five-year term effective through April 30, 2026. Monthly rent payments through January 31, 2020 of $9,901, monthly rent payments of $13,012 from February 1, 2021 through April 30, 2021, monthly rent payments of $13,670 effective May 1, 2021, and thereafter monthly rent payment increases of three percent effective annually on May 1 of each year beginning in 2022.

During June 2020 and July 2020, the Company granted stock option awards to employees and directors of the Company totaling 640,000 shares of common stock, with exercise prices ranging from $3.12 to $6.15. The awards vest annually over three years and have a ten-year contractual term.

From June 26, 2020 to July 27, 2020, the note holder of the March 31, 2020 Convertible Promissory Note converted in aggregate $9,537,500 of combined principal and accrued interest into 2,119,444 shares of common stock at the $4.50 per share conversion price.

On July 2, 2020, the Company signed an exclusive Distribution and Supply Agreement with American Regent, Inc. with respect to the distribution of the Company's leronlimab (PRO140) drug for the treatment of COVID-19 in the United States. Under the terms of the agreement, CytoDyn will supply leronlimab for the treatment of COVID-19 for distribution by American Regent and receive quarterly payments based on a profit-sharing arrangement. The Company has completed a Phase 2 randomized clinical trial for mild-to-moderate COVID-19 population and is currently running a Phase 2b/3 clinical trial for severe and critically ill COVID-19 patients. If results from these trials indicate positive clinical outcomes forthe COVID-19 patients to sufficiently meet the primary endpoints for the trials, the Company will seek approval from the FDA. This agreement is contingent upon receiving this FDA approval.

In July 2020, the Company received a Refusal to File letter from the FDA regarding its BLA submission in April and May of 2020 for leronlimab as a combination therapy with HAART for highly treatment experienced HIV patients. The FDA informed the Company its BLA did not contain certain information needed to complete a substantive review and therefore, the FDA would not file the BLA. The FDA's request does not require any additional clinical trials to be conducted, rather that the Company conduct specifically requested additional analysis of the completed trials data. The Company has scheduled a Type A meeting to discuss the FDA's request for additional information. The Company expects to resubmit the BLA with the additionally required data by the end of calendar year 2020.

On July 22, 2020, the Company held a special meeting of stockholders at which stockholders approved to amend the Company's Certificate of Incorporation to increase the total number of authorized shares of common stock of the Company from 700,000,000 to 800,000,000. On July 23, 2020, the Company filed with the Secretary of State of the State of Delaware a Certificate of Amendment to its Certificate of Incorporation, increasing the total number of authorized shares of common stock, par value $0.001 per share, from 700,000,000 to 800,000,000.

On July 28, 2020, the January 2020 Performance Shares awards were forfeited as the Company did not achieve FDA Breakthrough Therapy designation for cancer within 6 months of the January 28, 2020 award date.

On July 29, 2020, the Company entered into a Securities Purchase Agreement pursuant to which the Company issued a secured convertible promissory note with a two-year maturity to an institutional accredited investor in the initial principal amount of $28.5 million. The Note is secured by all of the assets of the Company, excluding the Company's intellectual property. The Investor gave consideration of $25.0 million, reflecting original issue discount of $3.4 million and $0.1 million of debt offering costs. The Company anticipates using the proceeds for general working capital purposes.

On July 30, 2020, the Board declared a dividend and elected to pay such dividend in the form of cash in the aggregate amount of approximately $243,000 to all Series B Convertibles Preferred stockholders. The dividend was payable on July 30, 2020, to Series B Convertible Preferred stockholders as of July 30, 2020.

On July 31, 2020, the Company issued 323,157 shares of common stock to Nader Pourhassan, of which 156,570 were tendered back to the Company to cover the income tax withholding requirements.

Item 9. Changes In and Disagreements with Accountants on Accounting and Financial Disclosure.

None.

Item 9A. Controls and Procedures.

Evaluation of Disclosure Controls and Procedures

We maintain disclosure controls and procedures that are designed to ensure that information required to be disclosed in the reports that we file or submit under the Exchange Act, is (1) recorded, processed, summarized and reported within the time periods specified in the SEC's rules and forms, and (2) accumulated and communicated to our management, including our principal executive officer and principal financial officer, as appropriate to allow timely decisions regarding required disclosure.

Our management, with the participation of our Chief Executive Officer and Chief Financial Officer, evaluated the effectiveness of our disclosure controls and procedures as of May 31, 2020 (as defined in Rules 13a-15(e) and 15d-15(e) under the Exchange Act). Our management recognizes that any controls and procedures, no matter how well designed and operated, can provide only reasonable assurance of achieving their objectives, and management necessarily applies its judgment in evaluating the cost-benefit relationship of possible controls and procedures. Our principal executive officer and principal financial officer have concluded, based upon the evaluation described above that, as of May 31, 2020, our disclosure controls and procedures were effective at the reasonable-assurance level.

Management's Annual Report on Internal Control Over Financial Reporting

Our management is responsible for establishing and maintaining adequate internal control over our financial reporting. Internal control over financial reporting is defined in Rules 13a-15(f) and 15d-15(f) under the Exchange Act as the process designed by, or under the supervision of, our Chief Executive Officer and our Chief Financial Officer, and effected by our board of directors, management, and other personnel, to provide reasonable assurance regarding the reliability of our financial reporting and the preparation of our financial statements for external purposes in accordance with generally accepted accounting principles ("GAAP"), and includes those policies and procedures that:

(i) pertain to the maintenance of records that, in reasonable detail, accurately and fairly reflect the transactions and dispositions of assets;

(ii) provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with GAAP, and that our receipts and expenditures of the Company's assets are being made only in accordance with authorizations of management and directors; and

(iii) provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use or disposition of assets that could have a material effect on the financial statements.

Under the supervision and with the participation of our management, including our Chief Executive Officer and Chief Financial Officer, we conducted an evaluation of the effectiveness of our internal control over financial reporting based on the framework provided in Internal Control – Integrated Framework (2013) issued by the Committee of Sponsoring Organizations of the Treadway Commission ("COSO"). Based on this evaluation, our management concluded that our internal control over financial reporting was effective as of May 31, 2020.

Changes in Internal Control Over Financial Reporting

During the quarter ended May 31, 2020, there have been no changes in our internal control over financial reporting, as such term is defined in Rules 13a-15(f) and 15(d)-15(f) promulgated under the Exchange Act, that have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

Item 9B. Other Information

None

Part III

Item 10. Directors, Executive Officers and Corporate Governance.

The information required by Item 10 will be contained in, and is incorporated herein by reference to, our definitive proxy statement for our 2020 Annual Meeting of Stockholders under the captions "Proposal 1: Election of Directors," "Information about our Executive Officers," "Delinquent Section 16(a) Reports" and "Corporate Governance," to be filed with the SEC within 120 days of the end of the Company's fiscal year May 31, 2020 (the "2020 Proxy Statement").

We have adopted a code of ethics and business conduct that applies to all of our directors, officers and employees, including our principal executive officer (who is our Chief Executive Officer), principal financial officer and principal accounting officer (who is our Chief Financial Officer), and senior financial officers, or persons performing similar functions. We make our code of ethics and business conduct available free of charge on our website at www.cytodyn.com.

Item 11. Executive Compensation.

The information required by Item 11 relating to executive compensation will be contained in, and is incorporated herein by reference to our 2020 Proxy Statement under the captions "Executive Compensation" and "Director Compensation".

Item 12. Security Ownership of Certain Beneficial Owners and Management and Related Stockholder Matters.

The information required by Item 12 relating to security ownership of certain beneficial owners and management and related stockholders matters will be contained in, and is incorporated herein by reference to our 2020 Proxy Statement under the captions "Stock Ownership by Principal Stockholders, Directors and Executive Officers" and "Equity Compensation Plan Information."

Item 13. Certain Relationships and Related Transactions and Director Independence.

The information required by Item 13 relating to certain relationships and related transactions and director independence will be contained in, and is incorporated herein by reference to our 2020 Proxy Statement under the captions "Related Person Transactions," and "Meetings and Committees of the Board of Directors—Director Independence."

Item 14. Principal Accountant Fees and Services.

The information required by Item 14 relating to principal accountant fees and services will be contained in, and is incorporated herein by reference to our 2020 Proxy Statement under the caption "Matters Relating to the Company's Independent Registered Public Accounting Firm."

PART IV

Item 15. Exhibits and Financial Statement Schedules.

The following are filed as part of this Annual Report on Form 10-K:

Consolidated Financial Statements

The Consolidated Financial Statements for the years ended May 31, 2020 and 2019 are included under Item 8 of this report.

Exhibits

Exhibit Number	Description
	Plan of Acquisition
2.1	Asset Purchase Agreement, dated as of July 25, 2012, between CytoDyn Inc. and Progenics Pharmaceuticals, Inc. (incorporated by reference to Exhibit 10.1 to the Registrant's Current Report on Form 8-K filed July 30, 2012).
2.2	Transaction Agreement by and among CytoDyn Inc., Point NewCo, Inc., Point Merger Sub, Inc., ProstaGene, LLC, and Dr. Richard Pestell, dated August 27, 2018 (incorporated by reference to Exhibit 2.1 to the Registrant's Current Report on Form 8-K, as amended, filed August 28, 2018).
	Articles of Incorporation and Bylaws
3.1*	Certificate of Incorporation of CytoDyn Inc., as amended.
3.2	Amended and Restated Bylaws of CytoDyn Inc. (incorporated by reference to Exhibit 3.2 to the Registrant's Current Report on Form 8-K12G3 filed November 19, 2018).
	Instruments Defining Rights of Security Holders
4.1*	Description of the Registrant's Capital Stock.
4.2	Form of Common Stock Certificate (incorporated by reference to Exhibit 4.1 to the Registrant's Current Report on Form 8-K12G3 filed September 1, 2015).
4.3	Form of Inducement Warrant (incorporated by reference to Exhibit 10.2 to the Registrant's Current Report on Form 8-K filed June 25, 2015).
4.4	Form of Consultant Warrant (incorporated by reference to Exhibit 4.4 to the Registrant's Registration Statement on Form S-1 filed February 3, 2016).
4.5	Form of Consultant Warrant (incorporated by reference to Exhibit 4.4 to the Registrant's Current Report on Form 8-K filed June 22, 2017).
4.6	Form of Convertible Promissory Note (incorporated by reference to Exhibit 4.1 to the Registrant's Current Report on Form 8-K filed June 22, 2017).
4.7	Form of Warrant (Convertible Promissory Note Offering) (incorporated by reference to Exhibit 4.2 to the Registrant's Current Report on Form 8-K filed June 22, 2017).
4.8	Form of Placement Agent Warrant (incorporated by reference to Exhibit 4.3 to the Registrant's Current Report on Form 8-K filed June 22, 2017).

4.9	Form of Convertible Promissory Note (incorporated by reference to Exhibit 4.1 to the Registrant's Current Report on Form 8-K filed June 27, 2018).
4.10	Form of Placement Agent Warrant (Private Offerings, as Amended) (incorporated by reference to Exhibit 4.11 to the Registrant's Annual Report, as amended, on Form 10-K filed July 27, 2018).
4.11	Form of Placement Agent Warrant (Registered Offerings, as Amended) (incorporated by reference to Exhibit 4.12 to the Registrant's Annual Report, as amended, on Form 10-K filed July 27, 2018).
4.12	Form of Warrant Agreement (Private Offerings) (incorporated by reference to Exhibit 4.1 to the Registrant's Current Report on Form 8-K filed September 4, 2018).
4.13	Amended and Restated Convertible Promissory Note (incorporated by reference to Exhibit 4.1 to the Registrant's Current Report on Form 8-K filed November 19, 2018).
4.14	Form of Convertible Promissory Note (December 2018 Convertible Note Offering) (incorporated by reference to Exhibit 4.1 to the Registrant's Current Report on Form 8-K filed January 3, 2019).
4.15	Form of Warrant to Purchase Common Stock (December 2018 Convertible Note Offering) (incorporated by reference to Exhibit 4.2 to the Registrant's Current Report on Form 8-K filed January 3, 2019).
4.16	Secured Convertible Promissory Note by and between CytoDyn Inc. and Iliad Research and Trading, L.P. (incorporated by reference to Exhibit 4.1 to the Registrant's Current Report on Form 8-K filed January 30, 2019).
4.17	Form of Warrant to Purchase Common Stock (incorporated by reference to Exhibit 4.1 to the Registrant's Current Report on Form 8-K filed January 31, 2019).
4.18	Warrant to Purchase Common Stock by and between CytoDyn Inc. and Iliad Research and Trading, L.P. (incorporated by reference to Exhibit 4.2 to the Registrant's Current Report on Form 8-K filed January 31, 2019).
4.19	Form of Warrant Agreement (Registered Offerings) (incorporated by reference to Exhibit 4.1 to the Form 8-K filed on April 5, 2019).
4.20	Form of Warrant Agreement (Series C Convertible Preferred Stock Offering) (incorporated by reference to Exhibit 4.1 to the Registrant's Current Report on Form 8-K filed March 20, 2019).
4.21	Form of Common Stock Purchase Warrant (incorporated by reference to Exhibit 4.1 to the Registrant's Current Report on Form 8-K filed August 29, 2019).
4.22	Form of Warrant Agreement (Series C Convertible Preferred Stock Offering) (incorporated by reference to Exhibit 4.1 to the Current Report on Form 8-K filed on October 22, 2019).
4.23	Form of Common Stock Purchase Warrant (incorporated by reference to Exhibit 4.1 to the Registrant's Current Report on Form 8-K filed December 27, 2019).
4.24	Form of Warrant Agreement (Series D Convertible Preferred Stock Offering) (incorporated by reference to Exhibit 4.1 to the Registrant's Current Report on Form 8-K filed February 3, 2020).
4.25	Secured Convertible Promissory Note, as amended, by and between CytoDyn Inc. and Iliad Research and Trading, L.P. (incorporated by reference to Exhibit 4.1 to the Registrant's Current Report on Form 8-K filed on April 6, 2020).

Material Contracts

10.1	Patent License Agreement between Allen D. Allen and CytoDyn of New Mexico Inc. (incorporated by reference to Exhibit 10.2 to the Registrant's Annual Report on Form 10-KSB filed September 14, 2004).
10.2	Amendment to Patent License Agreement (incorporated by reference to Exhibit 10.6.1 to the Registrant'sForm SB-2/A filed March 21, 2005).
10.3	Development and License Agreement between Protein Design Labs, Inc. (to which AbbVie Biotherapeutics Inc. is successor in interest) and Progenics Pharmaceuticals, Inc. (to which CytoDyn Inc. is successor in interest) effective as of April 30, 1999, as amended by letter agreement dated November 24, 2003 (incorporated by reference to Exhibit 10.21 to the Registrant's Annual Report on Form 10-K filed August 29, 2013).
10.4	License Agreement between CytoDyn Inc. and Lonza Sales AG dated July 29, 2015 (incorporated by reference to Exhibit 10.1 to the Registrant's Current Report on Form 8-K filed August 4, 2015, as amended on August 19, 2015).
10.5	Development and Manufacturing Services Agreement, dated as of November 9, 2016, by and between CytoDyn Inc. and CMC ICOS Biologics, Inc. (incorporated by reference to Exhibit 10.4 to the Registrant's Quarterly Report on Form 10-Q filed April 13, 2017).
10.6	Work Statement No. 01, dated as of November 9, 2016, by and between CytoDyn Inc. and CMC ICOS Biologics, Inc. (incorporated by reference to Exhibit 10.5 to the Registrant's Quarterly Report on Form 10-Q filed April 13, 2017).
10.7	Form of Indemnification Agreement (incorporated by reference to Exhibit 10.2 to the Registrant's Quarterly Report on Form10-Q filed on October 9, 2018).
10.8	Escrow Agreement, dated as of November 16, 2018, by and among ProstaGene, LLC, CytoDyn Inc., and Computershare Trust Company, N.A. (incorporated by reference to Exhibit 10.2 to the Registrant's Current Report on Form 8-K12G3 filed November 19, 2018).
10.9	Stock Restriction Agreement, dated as of November 16, 2018, by and among CytoDyn Inc., ProstaGene, LLC and Dr. Richard G. Pestell (incorporated by reference to Exhibit 10.3 to the Registrant's Current Report on Form 8-K12G3 filed November 19, 2018).
10.10	Confidential Information, Inventions and Noncompetition Agreement, dated as of November 16, 2018, by and among CytoDyn Inc., CytoDyn Operations Inc. and Dr. Richard G. Pestell (incorporated by reference to Exhibit 10.4 to the Registrant's Current Report on Form 8-K12G3 filed November 19, 2018).
10.11#	Master Services Agreement between CytoDyn Inc. and Samsung BioLogics Co., Ltd, dated April 1, 2019 (incorporated by reference to Exhibit 10.11 to the Registrant's Annual Report on Form 10-K filed August 14, 2019).
10.12#	Product Specific Agreement between CytoDyn Inc. and Samsung BioLogics Co., Ltd, dated April 1, 2019 (incorporated by reference to Exhibit 10.12 to the Registrant's Annual Report on Form 10-K filed August 14, 2019)..
10.13	Placement Agent Agreement (August 2019 Offering) (incorporated by reference to Exhibit 10.3 to the Registrant's Current Report on Form 8-K filed August 29, 2019).
10.14#	Commercialization and License Agreement between CytoDyn Inc. and Vyera Pharmaceuticals, LLC, dated December 17, 2019 (incorporated by reference to Exhibit 10.5 to the Registrant's Quarterly Report on Form 10-Q filed January 9, 2020).
10.15#	Supply Agreement between CytoDyn Inc. and Vyera Pharmaceuticals, LLC, dated December 17, 2019 (incorporated by reference to Exhibit 10.6 to the Registrant's Quarterly Report on Form 10-Q filed January 9, 2020).
10.16*#	Distribution and Supply Agreement between CytoDyn Inc. and American Regent, Inc.

Offering Documents

10.17	Form of Registration Rights Agreement (incorporated by reference to Exhibit 10.40 to the Registrant's Registration Statement on FormS-1 filed February 3, 2016).
10.18	Form of Securities Purchase Agreement (December 2016 Offering) (incorporated by reference to Exhibit 10.1 to the Registrant's Current Report on Form 8-K filed December 12, 2016.
10.19	Form of Securities Purchase Agreement (September 2017 Offering) (incorporated by reference to Exhibit 10.2 to the Registrant's Current Report on Form 8-K filed September 8, 2017).
10.20	Form of Waiver and Subscription Agreement (Make-Whole Offering) (incorporated by reference to Exhibit 10.2 to the Registrant's Current Report on Form 8-K filed December 6, 2017).
10.21	Securities Purchase Agreement, dated June 26, 2018, by and between CytoDyn Inc. and Iliad Research and Trading. L.P. (incorporated by reference to Exhibit 10.1 to Registrant's Current Report on Form 8-K filed on June 27, 2018).
10.22	Securities Purchase Agreement, dated January 30, 2019, by and between CytoDyn Inc. and Iliad Research and Trading. L.P. (incorporated by reference to Exhibit 10.1 to Registrant's Current Report on Form 8-K filed on January 30, 2019).
10.23	Security Agreement dated January 30, 2019 , by and between CytoDyn Inc. and Iliad Research and Trading. L.P. (incorporated by reference to Exhibit 10.2 to Registrant's Current Report on Form 8-K filed on January 30, 2019).
10.24	Form of Subscription Agreement (Registered Direct Offering) (incorporated by reference to Exhibit 10.1 to the Registrant's Current Report on Form 8-K filed January 31, 2019)
10.25	Form of Subscription Agreement (Series C Convertible Preferred Stock Offering) (incorporated by reference to Exhibit 10.1 to the Registrant's Current Report on Form 8-K filed March 20, 2019).
10.26	Form of Exercise Agreement (incorporated by reference to Exhibit 10.1 to the Registrant's Current Report on Form8-K filed May 9, 2019).
10.27	Form of Subscription Agreement (August 2019 Offering) (incorporated by reference to Exhibit 10.1 to the Registrant's Current Report on Form 8-K filed August 29, 2019).
10.28	Form of Subscription Agreement (August 2019 Series C Convertible Preferred Stock Offering) (incorporated by reference to Exhibit 10.2 to the Registrant's Current Report on Form 8-K filed August 29, 2019).
10.29	Form of Subscription Agreement (September 2019 Registered Direct Offering) (incorporated by reference to Exhibit 10.1 to the Registrant's Current Report on Form 8-K filed September 19, 2019).
10.30	Form of Subscription Agreement (October 2019 Registered Direct Offering) (incorporated by reference to Exhibit 10.1 to the Registrant's Current Report on Form 8-K filed October 3, 2019).
10.31	Form of Series C Subscription Agreement (incorporated by reference to Exhibit 10.1 to the Registrant's Current Report on Form8-K filed on October 22, 2019).
10.32	Form of Subscription Agreement (November 2019 Registered Direct Offering) (incorporated by reference to Exhibit 10.1 to the Registrant's Current Report on Form 8-K filed November 7, 2019).
10.33	Form of Subscription Agreement (December 2019 Registered Direct Offering) (incorporated by reference to Exhibit 10.1 to the Registrant's Current Report on Form 8-K filed December 27, 2019).
10.34	Form of Warrant Exercise Agreement (incorporated by reference to Exhibit 10.2 to the Registrant's Current Report onForm 8-K filed December 27, 2019).
10.35	Form of Subscription Agreement (January 2020 Series D Convertible Preferred Stock Offering) (incorporated by reference to Exhibit 10.1 to the Registrant's Current Report on Form 8-K filed February 3, 2020).

10.36	Securities Purchase Agreement by and between CytoDyn Inc. and Iliad Research and Trading, L.P. (incorporated by reference to Exhibit 10.1 to the Registrant's Current Report on Form 8-K filed on April 6, 2020).
10.37	Security Agreement by and between CytoDyn Inc. and Iliad Research and Trading, L.P. (incorporated by reference to Exhibit 10.2 to the Registrant's Current Report on Form 8-K filed on April 6, 2020).

Management Contracts and Compensatory Plans and Arrangements

10.38	CytoDyn Inc. 401(k) Profit Sharing Plan (incorporated by reference to Exhibit 10.11 to the Registrant's Amendment No. 1 to Annual Report on Form 10-K filed August 5, 2011).
10.39	CytoDyn Inc. 2004 Stock Incentive Plan (the "2004 Plan") (incorporated by reference to Exhibit 10.10 to the Registrant's Amendment No. 1 to Annual Report on Form 10-K filed August 5, 2011).
10.40	Form of Stock Option Award for Employees under the 2004 Plan (incorporated by reference to Exhibit 10.5 to the Registrant's Annual Report on Form 10-K filed August 29, 2013).
10.41	Form of Stock Option Award for Non-Employee Directors under the 2004 Plan (incorporated by reference to Exhibit 10.6 to the Registrant's Annual Report on Form 10-K filed August 29, 2013).
10.42*	CytoDyn Inc. Amended and Restated 2012 Equity Incentive Plan (the "2012 Plan").
10.43*	Form of Stock Option Award Agreement for Executive Employees under the 2012 Plan.
10.44	Form of Stock Option Award Agreement for Employees under the 2012 Plan (incorporated by reference to Exhibit 10.3 to the Registrant's Current Report on Form 8-K filed June 19, 2020).
10.45	Form of Stock Option Award Agreement for Non-Employee Directors under the 2012 Plan (incorporated by reference to Exhibit 10.9 to the Registrant's Annual Report on Form 10-K filed August 29, 2013).
10.46	Form of Stock Option Award Agreement for Employees granted under an arrangement not approved by the Registrant's shareholders (incorporated by reference to Exhibit 10.10 to the Registrant's Annual Report on Form 10-K filed August 29, 2013).
10.47	Form of Performance Share Award Agreement (incorporated by reference to Exhibit 10.9 to the Registrant's Quarterly Report on Form 10-Q filed April 9, 2020).
10.48	Form of Restricted Stock Unit Agreement under the 2012 Plan (incorporated by reference to Exhibit 10.1 to the Registrant's Current Report on Form 8-K filed June 19, 2020).
10.49	Form of Performance-Based Restricted Stock Unit Agreement under the 2012 Plan (incorporated by reference to Exhibit 10.2 to the Registrant's Current Report on Form 8-K filed June 19, 2020).
10.50	Form of Stock Option Award Agreement for Non-Employee Directors granted under an arrangement not approved by the Registrant's shareholders (incorporated by reference to Exhibit 10.11 to the Registrant's Annual Report on Form 10-K filed August 29, 2013).
10.51	Consulting Agreement between CytoDyn Inc. and Denis R. Burger dated February 21, 2014. (incorporated by reference to Exhibit 10.25 to the Registrant's Annual Report on Form 10-K filed July 10, 2014).
10.52	Second Amended and Restated Employment Agreement by and between CytoDyn Inc. and Nader Pourhassan dated June 15, 2020 (incorporated by reference to Exhibit 10.5 to the Registrant's Current Report on Form 8-K filed June 29, 2020).
10.53	Amended and Restated Employment Agreement by and between CytoDyn Inc. and Michael D. Mulholland dated June 15, 2020 (incorporated by reference to Exhibit 10.6 to the Registrant's Current Report on Form 8-K filed June 19, 2020).

10.54	Amendment to Consulting Agreement between CytoDyn Inc. and Denis R. Burger dated November 3, 2014 (incorporated by reference to Exhibit 10.25 to the Registrant's Annual Report on Form 10-K filed July 10, 2015).
10.55	Amendment to Consulting Agreement between CytoDyn Inc. and Denis R. Burger dated January 19, 2016 (incorporated by reference to Exhibit 10.1 to the Registrant's Current Report on Form 8-K filed January 22, 2016).
10.56	Consulting Agreement between CytoDyn Inc. and Richard G. Pestell, M.D., Ph.D. dated as of August 27, 2018 (incorporated by reference to Exhibit 10.3 to the Registrant's Quarterly Report on Form 10-Q filed October 9, 2018).
10.57	Employment Agreement, dated as of November 16, 2018, by and among CytoDyn, Inc., CytoDyn Operations Inc. and Dr. Richard G. Pestell (incorporated by reference to Exhibit 10.5 to the Registrant's Current Report on Form 8-K12G3 filed November 19, 2018).
10.58*	Amended and Restated Employment Agreement by and between CytoDyn Inc. and Nitya G. Ray, Ph.D., dated June 15, 2020.
10.59	Consulting Agreement, dated July 15, 2019, between CytoDyn Inc. and Scott A. Kelly, M.D. (incorporated by reference to Exhibit 10.1 to the Registrant's Current Report on Form 8-K filed July 19, 2019).
10.60	Consulting Agreement, dated July 15, 2019, between CytoDyn Inc. and David F. Welch, Ph.D. (incorporated by reference to Exhibit 10.2 to the Registrant's Current Report on Form 8-K filed July 19, 2019).
10.61	Employment Agreement by and between CytoDyn Inc. and Craig S. Eastwood, dated December 6, 2019 (incorporated by reference to Exhibit 10.7 to the Registrant's Quarterly Report on Form 10-Q filed January 9, 2020).
10.62*	General Release and Separation Agreement between CytoDyn Inc. and Craig S. Eastwood, dated April 24, 2020.
10.63*	Employment Agreement by and between CytoDyn Inc. and Arian Colachis, dated March 16, 2020.
10.64*	Employment Agreement by and between CytoDyn Inc. and Scott A. Kelly, M.D., dated April 10, 2020.
	Other
21*	Subsidiaries of the Registrant.
23*	Consent of Warren Averett, LLC.
24*	Power of Attorney of executive officers and directors
	Certifications
31.1*	Certification of Chief Executive Officer under Rule 13a-14(a).
31.2*	Certification of Chief Financial Officer under Rule 13a-14(a).
32*	Certification of Chief Executive Officer and Chief Financial Officer pursuant to 18 U.S.C. Section 1350.
	XBRL
101.INS	XBRL Instance Document.
101.SCH	XBRL Taxonomy Extension Schema Document.

101.CAL	XBRL Taxonomy Extension Calculation Linkbase Document.
101.DEF	XBRL Taxonomy Extension Definition Linkbase Document.
101.LAB	XBRL Taxonomy Extension Label Linkbase Document.
101.PRE	XBRL Taxonomy Extension Presentation Linkbase Document.

* Filed herewith.

\# Certain confidential portions of this Exhibit were omitted by means of marking such portions with asterisks because the identified confidential portions (i) are not material and (ii) would be competitively harmful if publicly disclosed.

Note: All exhibits incorporated by reference to filings other than registration statements are incorporated by reference to filings that have SEC File No. 000-49908.

Item 16. Form 10-K Summary.

None.

SIGNATURES

Pursuant to the requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized.

Date: August 14, 2020

CYTODYN INC.
(Registrant)

By: /s/ Nader Z. Pourhassan
Nader Z. Pourhassan, Ph. D.
President and Chief Executive Officer

Pursuant to the requirements of the Securities Exchange Act of 1934, this report has been signed below by the following persons on behalf of the registrant and in the capacities indicated on August 14, 2020.

Principal Executive Officer and Director:

/s/ Nader Z. Pourhassan
Nader Z. Pourhassan, Ph. D.
President and Chief Executive Officer, Director

Principal Financial and Accounting Officer:

/s/ Michael D. Mulholland
Michael D. Mulholland
Chief Financial Officer

Remaining Directors:

*
Scott A. Kelly, M.D., Chairman

*
Jordan G. Naydenov

*
Samir R. Patel, M.D.

*
Alan P. Timmins

*
David F. Welch, Ph.D

*By: /s/ Michael D. Mulholland Date: August 14, 2020
Michael D. Mulholland
Attorney-In-Fact

EXHIBIT 3.1

State of Delaware
Secretary of State
Division of Corporations
Delivered 10:57 AM 11/16/2018
FILED 10:58 AM 11/16/2018
SR 20187682058 - File Number 7032132

AMENDED AND RESTATED

CERTIFICATE OF INCORPORATION OF

POINT NEWCO INC.

The undersigned, Nader Z. Pourhassan, Ph.D., hereby certifies that:

(1) He is the President and Chief Executive Officer of the corporation referred to herein.

(2) The present name of such corporation is Point NewCo Inc. (the "Corporation").

(3) The original certificate of incorporation of the Corporation was filed with the Secretary of State of the State of Delaware on August 27, 2018 (the "Certificate of Incorporation").

(4) The Corporation is party to a transaction agreement providing for, among other things, a holding company reorganization (the "Reorganization") pursuant to the General Corporation Law of the State of Delaware (the "DGCL"), in accordance with which, the Corporation will become the public parent company of CytoDyn Inc. a Delaware corporation incorporated on January 12, 2015 ("Old CytoDyn").

(5) The board of directors and the sole stockholder of the Corporation, by resolutions duly adopted, have declared it advisable to amend the Certificate of Incorporation so that it is the same as the Certificate of Incorporation of Old CytoDyn in effect immediately prior to such merger transaction.

(6) This Amended and Restated Certificate of lncorporation of the Corporation was duly adopted in the manner and by the vote prescribed by the Certificate of Incorporation, the by-laws of the Corporation and Section 242 of the Law, and otherwise in the manner prescribed by Section 245 of the Law, and has been adopted and is being filed in connection with the Reorganization.

(7) The Certificate of Incorporation is hereby amended and restated so as to read in its entirety as set forth on Exhibit A.

(8) This Amended and Restated Certificate of Incorporation shall be effective upon filing.

IN WITNESS WHEREOF, the undersigned, a duly authorized officer of the Corporation, has executed this Amended and Restated Certificate of lncorporation of the Corporation on this 16th day of November, 2018.

By: /s/ Nader Z. Pourhassan
Name: Nader Z. Pourhassan, Ph.D.
Title: President and Chief Executive Officer

EXHIBIT A

AMENDED AND RESTATED

CERTIFICATE OF INCORPORATION

OF

CYTODYN INC.

ARTICLE I

The name of the Company is CytoDyn Inc.

ARTICLE II

The address of the registered office in the State of Delaware is 1209 Orange Street, in the City of Wilmington, County of New Castle, 19801. The name of its registered agent at that address is The Corporation Trust Company.

ARTICLE III

The purpose of the Company is to engage in any lawful act or activity for which corporations may be organized under the DGCL.

ARTICLE IV

CAPITAL STOCK

The total number of shares of capital stock which the Corporation shall have authority to issue is Six Hundred and five Million (605,000,000), of which (i) Six Hundred Million (600,000,000) shares shall be a class designated as common stock, par value $0.001 per share (the "Common Stock"), and (ii) Five Million (5,000,000) shares shall be a class designated as preferred stock, par value $0.001 per share (the **"Preferred Stock"**).

The number of authorized shares of Common Stock or Preferred Stock may from time to time be increased or decreased (but not below the number of shares then outstanding) by the affirmative vote of the holders of a majority in voting power of the outstanding shares of stock of the Company entitled to vote thereon irrespective of the provisions of Section 242(b)(2) of the DGCL (or any successor provision thereto), and no vote of the holders of any of the Common Stock or the Preferred Stock voting separately as a class shall be required therefor, unless a vote of any such holder is required pursuant to this Certificate (including pursuant to any certificate of designation of any series of Preferred Stock).

The powers, preferences and rights of, and the qualifications, limitations and restrictions upon, each class or series of stock shall be determined in accordance with, or as set forth below in, this Article IV.

A. COMMON STOCK

I. Voting. Each holder of record of Common Stock, as such, shall have one vote for each share of Common Stock which is outstanding in his, her or its name on the books of the Company on all matters on which stockholders are entitled to vote generally. Except as otherwise required by law, holders of Common Stock shall not be entitled to

vote on any amendment to this Certificate (including any certificate of designation relating to any series of Preferred Stock) that relates solely to the terms of one or more outstanding series of Preferred Stock if the holders of such affected series are entitled, either separately or together with the holders of one or more other such series, to vote thereon pursuant to this Certificate (including any certificate of designation relating to any series of Preferred Stock) or pursuant to the DGCL. Except as otherwise required by law, holders of any series of Preferred Stock shall be entitled to only such voting rights, if any, as shall expressly be granted thereto by this Certificate (including any certificate of designation relating to such series of Preferred Stock).

2. Dividends. Subject to applicable law and the rights, if any, of the holders of any outstanding series of Preferred Stock or any class or series of stock having a preference over or the right to participate with the Common Stock with respect to the payment of dividends, dividends may be declared and paid or set apart for payment upon the Common Stock out of any assets or funds of the Company legally available for the payment of dividends, but only when and as declared by the Board of Directors or any authorized committee thereof.

3. Liquidation. Upon the dissolution, liquidation or winding up of the Company, after payment or provision for payment of the debts and other liabilities of the Company and subject to the rights, if any, of the holders of any outstanding series of Preferred Stock or any class or series of stock having a preference over or the right to participate with the Common Stock with respect to the distribution of assets of the Company upon such dissolution, liquidation or winding up of the Company, the holders of Common Stock shall be entitled to receive the remaining assets of the Company available for distribution to its stockholders ratably in proportion to the number of shares held by them.

B. PREFERRED STOCK

The Board of Directors is hereby expressly authorized, by resolution or resolutions, to provide, out of the unissued shares of Preferred Stock, for one or more series of Preferred Stock and, with respect to each such series, to fix the number of shares constituting such series and the designation of such series, and the powers (including voting powers, if any), preferences and relative, participating, optional and other special rights, if any, and any qualifications, limitations or restrictions thereof, of the shares of such series of Preferred Stock. The powers, preferences and relative, participating, optional and other special rights of, and the qualifications, limitations or restrictions thereof, of each series of Preferred Stock, if any, may differ from those of any and all other series at any time outstanding.

The following is a statement of the designations, preferences, qualifications, limitations, privileges and restrictions and the special or relative rights granted to or imposed upon the shares of each class of Preferred Stock of the Corporation which has been designated as of the date hereof:

Series B Convertible Preferred Stock

The number of shares of this series of Preferred Stock shall be 400,000 shares. The powers, designations, preferences and relative, participating, optional or other special rights of the shares of this series of Preferred Stock and the qualifications, limitations and restrictions of such preferences and rights shall be as follows:

1. Dividend Provisions.

(a) The holders of record of the outstanding shares of Series B Convertible Preferred Stock shall be entitled to receive, out of any assets at the time legally available therefore and when and as declared by the Board of Directors, dividends at the rate of $.25 per share per annum from the date of issuance of the Series B Convertible Preferred Stock. Dividends on the Series B Convertible Preferred Stock shall be cumulative, shall accrue, whether or not declared and whether or not there are any profits, surplus or other funds or assets of the Corporation legally available therefore, and, at the Corporation's option, at the time the shares of Series B Convertible Preferred Stock are converted into shares of the Corporation's common stock shall either (i) be paid in cash, or (ii) be paid with restricted shares of the Corporation's common stock. In the event the Corporation shall declare a distribution (other than any distribution described above) payable in securities of other persons, evidences of indebtedness issued by

the Corporation or other persons, assets (excluding cash dividends) or options or rights to purchase any such securities or evidences of indebtedness, then, in each such case the holders of the Series B Convertible Preferred Stock shall be entitled to a proportionate share of any such distribution as though the holders of the Series B Convertible Preferred Stock were the holders of the number of shares of Common Stock of the Corporation into which their respective shares of Series B Convertible Preferred Stock are convertible as of the record date fixed for the determination of the holders of Common Stock of the Corporation entitled to receive such distribution.

(b) In the event that the Corporation elects to pay any dividends with shares of the Corporation's common stock, the shares being issued for the interest will be valued at $.50 per share.

2. Liquidation Preference.

(a) In the event of any voluntary or involuntary liquidation, dissolution or winding up of the affairs of the Corporation, the holder of each share of Series B Convertible Preferred Stock shall be entitled to receive, out of the assets of the Corporation available for distribution to its stockholders, before any payment or distribution shall be made on the Common Stock, an amount per share equal to $5.00 plus any accrued and unpaid dividends. If the assets and funds to be distributed among the holders of the Series B Convertible Preferred Stock shall be insufficient to permit the payment of the full aforesaid preferential amount to such holders, then the entire assets and funds of the Corporation legally available for the distribution shall be distributed among the holders of the Series B Convertible Preferred Stock in proportion to the aggregate preferential amount of all shares of Series B Convertible Preferred Stock held by them.

3. Conversion. The Series B Convertible Preferred Stock may be converted into shares of the Corporation's Common Stock on the following terms and conditions (the "Conversion Rights"):

(a) Option to Convert. Commencing as soon as the Corporation has sufficient authorized and unissued shares of its Common Stock available for all outstanding shares of Series B Convertible Preferred Stock to be converted, holders of the Series B Convertible Preferred Stock shall have the right to convert all or a portion of their shares into shares of Common Stock at any time or from time to time upon notice to the Corporation on the terms and conditions set forth herein.

(b) Mechanics of Conversion. Upon the election of a holder of the Series B Convertible Preferred Stock to convert shares of such Preferred Stock, the holder of the shares of Series B Convertible Preferred Stock which are converted shall surrender the certificate or certificates therefor, duly endorsed, at the office of the Corporation or any authorized transfer agent for such stock together with a written statement that he elects to convert his preferred stock to common stock. The Corporation or the transfer agent shall promptly issue and deliver at such office to such holder of Series B Convertible Preferred Stock a certificate or certificates for the number of shares of Common Stock to which such holder is thereby entitled. The effective date of such conversion shall be a date not later than 30 days after the date upon which the holder provides written notice of his election to convert to the Corporation or transfer agent.

(c) Conversion Ratio. Each share of Series B Convertible Preferred Stock may be converted into ten (10) fully paid restricted shares of Common Stock (except as adjusted pursuant to paragraph 3(d) below). In the event that upon conversion of shares of Series B Convertible Preferred Stock a holder shall be entitled to a fraction of a share of Common Stock, no fractional share shall be issued and in lieu thereof the Corporation shall pay to the holder cash equal to the fair value of such fraction of a share.

(d) Adjustment of Conversion Rate. If the Corporation shall at any time, or from time to time, after the effective date hereof effect a reverse stock split of the outstanding Common Stock, or if the Corporation at any time or from time to time after the effective date hereof shall make or issue, or fix a record date for the determination of holders of Common Stock entitled to receive, a dividend or other distribution payable in additional shares of Common Stock, then and in each such event the number of shares of Common Stock issuable upon conversion of the Series B Convertible Preferred Stock shall be proportionately adjusted as of the time of such issuance or, in the event such a record date shall have been fixed, as of the close of business on such record date.

(e) Adjustment for Merger or Reorganization. If at any time after the issuance date there shall occur any reorganization, recapitalization, consolidation, merger or other reorganization event involving the Corporation, then following any such reorganization each share of Series B Convertible preferred Stock shall thereafter be convertible, in lieu of the shares of common stock into which it was convertible prior to such event, into the kind and amount of securities, cash or other property which a holder of the number of shares of common stock of the Corporation issuable upon conversion of one share of Series B Convertible Preferred Stock immediately prior to such reorganization would have been entitled to receive pursuant to such transaction.

(f) No Impairment. The Corporation will not, by amendment of its Articles of lncorporation or through any reorganization, transfer of assets, consolidation, merger, dissolution, issue or sale of securities or any other voluntary action, avoid or seek to avoid the observance or performance of any of the terms to be observed or performed hereunder by the Corporation, but will at all times in good faith assist in the carrying out of all of the provisions of this Section 3 and in the taking of all such action as may be necessary or appropriate in order to protect the Conversion Rights of the holders of the Series B Convertible Preferred Stock against impairment.

(g) Reservation of Stock Issuable Upon Conversion. The Corporation shall at all times use its best efforts to reserve and keep available out of its authorized but unissued shares of Common Stock, solely for the purpose of effecting the conversion of the shares of Series B Convertible Preferred Stock, such number of its shares of Common Stock as shall from time to time be sufficient to effect the conversion of all outstanding shares of Series B Convertible Preferred Stock; and if at any time the number of authorized but unissued shares of Common Stock shall not be sufficient to effect the conversion of all outstanding shares of Series B Convertible Preferred Stock, the Corporation will take such corporate action as is necessary to increase its authorized but unissued shares of Common Stock to such number of shares as shall be sufficient for such purpose.

4. Status of Converted or Reacquired Stock. In case any shares of Series B Convertible Preferred Stock shall be converted pursuant to Section 3 hereof, the shares so converted shall cease to be a part of the authorized capital stock of the Corporation.

5. Voting Rights. The Series B Convertible Preferred Stock does not have any voting rights.

6. Notices. Any notice required to be given to holders of shares of Series B Convertible Preferred Stock shall be deemed given upon deposit in the United States mail, postage prepaid, addressed to such holder of record at his address appearing on the books of the Corporation, or upon personal delivery of the aforementioned address."

ARTICLE V

STOCKHOLDER ACTION

1. Action without Meeting. Except as otherwise provided herein, any action required or permitted to be taken by the stockholders of the Company at any annual or special meeting of stockholders of the Company must be effected at a duly called annual or special meeting of stockholders at which a quorum is present and acting throughout and may not be taken or effected by a written consent of stockholders in lieu thereof, *provided, however,* that any action required or permitted to be taken by the holders of Preferred Stock, voting separately as a series or separately as a class with one or more other such series, may be taken without a meeting, without prior notice and without a vote, to the extent expressly so provided by the applicable certificate of designation relating to such series of Preferred Stock.

2. Special Meetings. Except as otherwise required by statute and subject to the rights, if any, of the holders of any series of Preferred Stock, special meetings of the stockholders of the Company may be called only by the Board of Directors acting pursuant to a resolution approved by the affirmative vote of a majority of the Whole Board. For purposes of this Certificate, the term "Whole Board" shall mean the total number of authorized Directors whether or not there exist any vacancies in previously authorized directorships. Only those matters set forth in the notice of the special meeting may be considered or acted upon at a special meeting of stockholders of the Company.

ARTICLE VI

DIRECTORS

1. General. The business and affairs of the Company shall be managed by or under the direction of the Board of Directors except as otherwise provided herein or required by law.

2. Election of Directors. Election of Directors need not be by written ballot unless the Bylaws of the Company (the "Bylaws") shall so provide.

3. Number of Directors; Term of Office. Except as otherwise provided for or fixed pursuant to the provisions of Article IV (including any certificate of designation of any series of Preferred Stock) and this Article VI relating to the rights of the holders of any series of Preferred Stock to elect additional directors, the number of Directors of the Company shall be fixed solely and exclusively by resolution duly adopted from time to time by the Board of Directors.. At each annual meeting of stockholders, Directors elected to succeed those Directors whose terms expire shall be elected for a term of office to expire at the next annual meeting of stockholders after their election.

Notwithstanding the foregoing, whenever, pursuant to the provisions of Article IV of this Certificate, the holders of any one or more series of Preferred Stock shall have the right, voting separately as a series or together with holders of other such series, to elect Directors at an annual or special meeting of stockholders, the election, term of office, filling of vacancies and other features of such directorships shall be governed by the terms of this Certificate and any certificate of designations applicable thereto.

During any period when the holders of any series of Preferred Stock have the right to elect additional Directors, then upon commencement and for the duration of the period during which such right continues: (i) the then otherwise total authorized number of Directors shall automatically be increased by such specified number of Directors, and the holders of such Preferred Stock shall be entitled to elect the additional Directors so provided for or fixed pursuant to said provisions, and (ii) each such additional Director shall serve until such Director's successor shall have been duly elected and qualified, or until such Director's right to hold such office terminates pursuant to said provisions, whichever occurs earlier, subject to his or her earlier death, resignation, retirement, disqualification or removal. Except as otherwise provided by the Board of Directors in the resolution or resolutions establishing such series, whenever the holders of any series of Preferred Stock having such right to elect additional Directors are divested of such right pursuant to the provisions of such stock, the terms of office of all such additional Directors elected by the holders of such stock, or elected to fill any vacancies resulting from the death, resignation, disqualification or removal of such additional Directors, shall forthwith terminate and the total authorized number of directors of the Company shall be reduced accordingly.

4. Vacancies. Subject to the rights, if any, of the holders of any series of Preferred Stock to elect Directors and to fill vacancies in the Board of Directors relating thereto, any and all vacancies in the Board of Directors, however occurring, including, without limitation, by reason of an increase in size of the Board of Directors, or the death, resignation, disqualification or removal of a Director, shall be filled solely and exclusively by the affirmative vote of a majority of the remaining Directors then in office, even if less than a quorum of the Board of Directors, and not by the stockholders. Any Director appointed in accordance with the preceding sentence shall hold office for the remainder of the full term and until such Director's successor shall have been duly elected and qualified or until his or her earlier resignation, death or removal.

5. Removal. Subject to the rights, if any, of any series of Preferred Stock to elect Directors and to remove any Director whom the holders of any such stock have the right to elect, any Director (including persons elected by Directors to fill vacancies in the Board of Directors) may be removed from office (i) only with cause and (ii) only by the affirmative vote of the holders of at least a majority in voting power of the shares then entitled to vote at an election of Directors.

ARTICLE VII

LIMITATION OF LIABILITY

A Director of the Company shall not be personally liable to the Company or its stockholders for monetary damages for breach of fiduciary duty as a Director, except for liability (a) for any breach of the Director's duty of loyalty to the Company or its stockholders, (b) for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law, (c) under Section 174 of the DOCL or (d) for any transaction from which the Director derived an improper personal benefit. If the DGCL is amended after the effective date of this Certificate to authorize corporate action further eliminating or limiting the personal liability of Directors, then the liability of a Director of the Company shall be eliminated or limited to the fullest extent permitted by the DGCL, as so amended.

Any repeal or modification of this Article VII, shall not adversely affect any right or protection existing at the time of such repeal or modification with respect to any acts or omissions occurring before such repeal or modification of a person serving as a Director at the time of such repeal or modification.

ARTICLE VIII

AMENDMENT OF BY-LAWS

1. Amendment by Directors. Except as otherwise provided by law, the Bylaws of the Company may be amended or repealed by the Board of Directors by the affirmative vote of a majority of the Board.

2. Amendment by Stockholders. The Bylaws of the Company may be amended or repealed by the stockholders at any annual meeting of stockholders, or special meeting of stockholders called for such purpose as provided in the Bylaws, by the affirmative vote of the holders of at least a majority in voting power of the outstanding shares entitled to vote on such amendment or repeal, voting together as a single class.

ARTICLE IX

AMENDMENT OF CERTIFICATE OF INCORPORATION

The Company reserves the right to amend or repeal this Certificate in the manner now or hereafter prescribed by statute and this Certificate, and all rights conferred upon stockholders herein are granted subject to this reservation. In addition to any other vote required by law or this Certificate, the affirmative vote of the holders of at least a majority in voting power of the outstanding shares entitled to vote on such amendment or repeal, shall be required to amend or repeal any provision of Article V, Article VI, Article VII, Article VIII or Article IX of this Certificate.

ARTICLE X

EXCLUSIVE JURISDICTION

Unless the Company consents in writing to the selection of an alternative forum, the Court of Chancery of the State of Delaware shall, to the fullest extent permitted by law, be the sole and exclusive forum for (i) any derivative action or proceeding brought on behalf of the Company; (ii) any action asserting a claim of breach of a fiduciary duty owed by any director, officer or other employee of the Company to the Company or the Company's stockholders, creditors or other constituents; (iii) any action asserting a claim against the Company or any Director or officer of the Company arising pursuant to, or a claim against the Company or any Director or officer of the Company with respect to the interpretation or application of any provision of, the DGCL, this Certificate or the Bylaws of the Company; or (iv) any action asserting a claim governed by the internal affairs doctrine in each such case subject to said court having personal jurisdiction over the indispensable parties named as defendants therein; provided, that, if and only if the Court of Chancery of the State of Delaware dismisses any such action for lack of subject matter jurisdiction, such action may be brought in another state court sitting in the State of Delaware. To the fullest extent permitted by law, any person or entity purchasing or otherwise acquiring any interest in shares of capital stock of the Company shall be deemed to have notice of and consented to the provisions of this Article X.

State of Delaware
Secretary of State
Division of Corporations
Delivered 11:35 AM 03/20/2019
FILED 11:35 AM 03/20/2019
SR 20192127945 -File Number 7032132

CYTODYN INC.

CERTIFICATE OF DESIGNATION OF PREFERENCES,
RIGHTS AND LIMITATIONS
OF
SERIES C CONVERTIBLE PREFERRED STOCK

PURSUANT TO SECTION 151 OF THE
DELAWARE GENERAL CORPORATION LAW

The undersigned, Nader Z. Pourhassan, Ph.D. does hereby certify that:

1. He is the President and Chief Executive Officer of CytoDyn Inc., a Delaware corporation (the "Corporation").

2. The Corporation is authorized to issue 5,000,000 shares of preferred stock, of which 400,000 shares have been designated as Series B Convertible Preferred Stock, par value $0.001 per share (the "Series B Preferred Stock");

3. The following resolutions were duly adopted by the board of directors of the Corporation (the "Board of Directors"):

WHEREAS, the certificate of incorporation of the Corporation provides for a class of its authorized stock known as preferred stock, consisting of 5,000,000 shares, $0.00 l par value per share, issuable from time to time in one or more series;

WHEREAS, 400,000 of such preferred shares have already been designated as Series B Preferred Stock;

WHEREAS, the Board of Directors is authorized to fix the dividend rights, dividend rate, voting rights, conversion rights, rights and terms of redemption and liquidation preferences of any wholly unissued series of preferred stock and the number of shares constituting any series and the designation thereof, of any of them; and

WHEREAS, it is the desire of the Board of Directors, pursuant to its authority as aforesaid, to fix the rights, preferences, restrictions and other matters relating to a series of the preferred stock, which shall consist of 5,000 shares of the preferred stock which the Corporation has the authority to issue, as follows:

NOW, THEREFORE, BE IT RESOLVED, that the Board of Directors does hereby provide for the issuance of a series of preferred stock for cash or exchange of other securities, rights or property and does hereby fix and determine the rights, preferences, restrictions and other matters relating to such series of preferred stock as follows:

TERMS OF SERIES C CONVERTIBLE PREFERRED STOCK

Section 1. Designation, Amount and Par Value. The series of preferred stock shall be designated as its Series C Convertible Preferred Stock (the "Series C Preferred Stock") and the number of shares so designated shall be up to 5,000 (which shall not be subject to increase without the written consent of holders of a majority in interest of the Series C Preferred Stock then outstanding (each, a "Holder" and collectively, the "Holders")). Each share of Series C Preferred Stock shall have a par value of $0.001 per share and a stated value equal to $1,000.00 (the "Stated Value").

Section 2. Definitions. For the purposes hereof, the following terms shall have the following meanings:

"Affiliate" means any Person that, directly or indirectly through one or more intermediaries, controls or is controlled by or is under common control with a Person, as such terms are used in and construed under Rule 405 of the Securities Act.

"Alternate Consideration" shall have the meaning set forth in Section 7(d).

"Business Day" means any day except any Saturday, any Sunday, any day which is a federal legal holiday in the United States or any day on which banking institutions in the State of New York are authorized or required by law or other governmental action to close.

"Chancery Courts" shall have the meaning set forth in Section 9(d).

"Certificate of Designation" means this Certificate of Designation of Preferences, Rights and Limitations of Series C Convertible Preferred Stock dated as of the date hereof.

"Commission" means the United States Securities and Exchange Commission.

"Common Stock" means the Corporation's common stock, par value $0.001 per share, and stock of any other class of securities into which such securities may hereafter be reclassified or changed.

"Common Stock Equivalents" means any securities of the Corporation or the Subsidiaries which would entitle the holder thereof to acquire at any time Common Stock, including, without limitation, any debt, preferred stock, rights, options, warrants or other instrument that is at any time convertible into or exercisable or exchangeable for, or otherwise entitles the holder thereof to receive, Common Stock.

"Conversion Date" shall have the meaning set forth in Section 6(a).

"Conversion Price" shall have the meaning set forth in Section 6(b).

"Conversion Shares" means, collectively, the shares of Common Stock issuable upon conversion of the shares of Series C Preferred Stock in accordance with the terms hereof.

"Distribution" shall have the meaning set forth in Section 7(c).

"Dividend Payment Date" shall have the meaning set forth in Section 3.

"Exchange Act" means the Securities Exchange Act of 1934, as amended, and the rules and regulations promulgated thereunder.

"Fundamental Transaction" shall have the meaning set forth in Section 7(d)

"Holder" shall have the meaning given such term in Section 1.

"Liquidation" shall have the meaning set forth in Section 5.

"Notice of Conversion" shall have the meaning set forth in Section 6(a).

"Person" means an individual or corporation, partnership, trust, incorporated or unincorporated association, joint venture, limited liability company, joint stock company, government (or an agency or subdivision thereof) or other entity of any kind.

"Purchase Rights" shall have the meaning set forth in Section 7(b).

"Securities Act" means the Securities Act of 1933, as amended, and the rules and regulations promulgated thereunder.

"Series C Preferred Dividends" shall have the meaning set forth in Section 3.

"Series C Preferred Stock" shall have the meaning set forth in Section 1.

"Share Delivery Date" shall have the meaning set forth in Section 6(c).

"Standard Settlement Period" shall have the meaning set forth in Section 6(c).

"Stated Value" shall have the meaning set forth in Section 1.

"Subsidiary" means any subsidiary of the Corporation as set forth on Exhibit 21 to the Corporation's Annual Report on Form 10-K most recently filed with the Commission.

"Successor Entity" shall have the meaning set forth in Section 7(d).

"Trading Day" means a day on which the primary Trading Market is open for business.

"Trading Market" means any of the following markets or exchanges on which the Common Stock is listed or quoted for trading on the date in question: the NYSE American, the Nasdaq Capital Market, the Nasdaq Global Market, the Nasdaq Global Select Market, the New York Stock Exchange, the OTCQB, OTCQX or Pink markets of the OTC Markets marketplace, or the OTC Bulletin Board (or any successors to any of the foregoing).

"Transfer Agent" means Computershare, the current transfer agent of the Corporation, with a mailing address of 211 Quality Circle, Suite 210, College Station, TX 77845, and a telephone number is 1-800-962-4284, and any successor transfer agent of the Corporation.

Section 3. Dividends. The holders of record of the outstanding shares of Series C Preferred Stock shall be entitled to receive, out of any assets at the time legally available therefore and when and as declared by the Board of Directors, dividends at the rate of ten percent (10%) per share per annum of the Stated Value from the date of issuance of the Series C Preferred Stock (the "Series C Preferred Dividends"). Dividends on the Series C Preferred Stock shall be cumulative, shall accrue, whether or not declared and whether or not there are any profits, surplus or other funds or assets of the Corporation legally available therefore, and shall be computed on the basis of a 360-day year, compounded annually. At the Holder's option, the Series C Preferred Dividends shall either (i) be paid in cash, or (ii) be paid with restricted shares of the Corporation's Common Stock, computed on the basis of the Conversion Price in effect upon the Dividend Payment Date (as defined below). The Series C Preferred Dividends shall be paid annually in arrears on the last day of December in each year (the "Dividend Payment Date"), commencing on December 31, 2019. The Corporation shall mail written notice to each Holder, not less than fifteen (15) Business Days prior to each Dividend Payment Date, specifying the amount of the Series C Preferred Dividend per share of Series C Preferred Stock and requesting a written election of the Holder regarding the form of payment. For any Holder that has not made such a written election by the close of business five (5) Business Days prior to the Dividend Payment Date, the Corporation (and not the Holder) shall have the option to elect whether to pay the Series C Preferred Dividend in cash or with restricted shares of Common Stock. Unless otherwise agreed in writing with respect to any Holder, any payment obligation of the Corporation with respect to the Series C Preferred Dividends hereunder shall be satisfied by mailing a check or stock certificate, as the case may be, to the name and address of such Holder as recorded in the stock register for the Series C Preferred Stock.

Section 4. Voting Rights. Except as otherwise required by applicable law or this Certificate of Designation, the Holders shall have no voting rights with respect to their shares of Series C Preferred Stock. Whenever, under this Certificate of Designation or otherwise, the Holders of the Series C Preferred Stock are required to take any action, such Holders may take action without a meeting, without prior notice and without a vote, if a consent or consents in writing, setting forth the action so taken, shall be signed by the Holders of more than a majority of the then outstanding shares of Series C Preferred Stock, or such greater percentage as may be required by applicable law or this Certificate of Designation.

Section 5. Liquidation. Upon any liquidation, dissolution or winding-up of the Corporation, whether voluntary or involuntary (a "Liquidation"), the Holders shall be entitled, before any distributions shall be made to the holders of the Series B Preferred Stock or the Common Stock, to be paid an amount per share equal to the Stated Value plus any accrued and unpaid dividends. If upon such liquidation, dissolution or winding up of the Corporation, whether voluntary or involuntary, the assets to be distributed among the Holders shall be insufficient to

permit payment to the Holders of their respective liquidation amount, then the entire assets of the Corporation to be distributed shall be distributed pro rata to the Holders. In the event of any such liquidation, dissolution or winding up of the Corporation, after the payment of all preferential amounts required to be paid to the Holders, the remaining assets of the Corporation available for distribution to its stockholders shall be distributed among the holders of the Series B Preferred Stock and the Common Stock, and any other class or series of capital stock of the Corporation, in accordance with the Certificate of Incorporation of the Corporation as then in effect. The Corporation shall mail written notice of any such Liquidation, not less than 45 days prior to the payment date stated therein, to each Holder.

Section 6. Conversion.

a) Conversion at Option of Holder. Each share of Series C Preferred Stock shall be convertible, at any time and from time to time from and after the Initial Conversion Date at the option of the Holder thereof, into that number of shares of Common Stock determined by dividing the Stated Value of such share of Series C Preferred Stock by the Conversion Price. Holders shall effect conversion by providing the Corporation with the form of conversion notice attached hereto as Annex A (a "Notice of Conversion"). Each Notice of Conversion shall specify the number of shares of Series C Preferred Stock to be converted, the number of shares of Series C Preferred Stock owned prior to the conversion at issue and the date on which such conversion is to be effected, which date may not be prior to the date the applicable Holder delivers by facsimile such Notice of Conversion to the Corporation (such date, the "Conversion Date"). If no Conversion Date is specified in a Notice of Conversion, the Conversion Date shall be the date that such Notice of Conversion to the Corporation is deemed delivered hereunder. No ink original Notice of Conversion shall be required, nor shall any medallion guarantee (or other type of guarantee or notarization) of any Notice of Conversion form be required. The calculations and entries set forth in the Notice of Conversion shall control in the absence of manifest or mathematical error. To effect conversions of the shares of Series C Preferred Stock, a Holder shall not be required to surrender the certificate(s) representing the shares of Series C Preferred Stock to the Corporation unless all of the shares of Series C Preferred Stock represented thereby are so converted, in which case such Holder shall deliver the certificate representing such shares of Series C Preferred Stock promptly following the Conversion Date at issue. Shares of Series C Preferred Stock converted into Common Stock in accordance with the terms hereof shall be canceled and shall not be reissued.

b) Conversion Price. The conversion price for the Series C Preferred Stock shall equal $0.50, subject to adjustment as provided herein (the "Conversion Price").

c) Mechanics of Conversion.

i) Delivery of Conversion Shares Upon Conversion. Not later than the earlier of (i) two (2) Trading Days and (ii) the number of Trading Days comprising the Standard Settlement Period (as defined below) after each Conversion Date (the "Share Delivery Date"), the Corporation shall deliver, or cause to be delivered, to the converting Holder (A) the number of Conversion Shares being acquired upon the conversion of the Series C Preferred Stock and (B) a bank check or shares of Common Stock, at the Holder's option, calculated in accordance with Section 3 hereof, in the amount of accrued and unpaid dividends. As used herein, "Standard Settlement Period" means the standard settlement period, expressed in a number of Trading Days, on the Corporation's primary Trading Market with respect to the Common Stock as in effect on the date of delivery of the Notice of Conversion Date.

ii) Fractional Shares. No fractional shares or scrip representing fractional shares shall be issued upon the conversion of the Series C Preferred Stock. As to any fraction of a share which the Holder would otherwise be entitled to purchase upon such conversion, the Corporation shall at its election, either pay a cash adjustment in respect of such final fraction in an amount equal to such fraction multiplied by the Conversion Price or round up to the next whole share.

iii) Transfer Taxes and Expenses. The issuance of Conversion Shares on conversion of this Series C Preferred Stock shall be made without charge to any Holder for any documentary stamp or similar taxes that may be payable in respect of the issue or delivery of such Conversion Shares, provided that the Corporation shall not be required to pay any tax that may be payable in respect of any transfer involved in the issuance and delivery of any such Conversion Shares upon conversion in a name other than that of the Holders of such shares of Series C Preferred Stock and the Corporation shall not be required to issue or

deliver such Conversion Shares unless or until the Person or Persons requesting the issuance thereof shall have paid to the Corporation the amount of such tax or shall have established to the satisfaction of the Corporation that such tax has been paid.

Section 7. Certain Adjustments.

a) Stock Dividends and Stock Splits. If the Corporation, at any time while this Series C Preferred Stock is outstanding: (i) pays a stock dividend or otherwise makes a distribution or distributions payable in shares of Common Stock on shares of Common Stock or any other Common Stock Equivalents (which, for avoidance of doubt, shall not include any shares of Common Stock issued by the Corporation upon conversion of, or payment of a dividend on, this Series C Preferred Stock), (ii) subdivides outstanding shares of Common Stock into a larger number of shares, (iii) combines (including by way of a reverse stock split) outstanding shares of Common Stock into a smaller number of shares, or (iv) issues, in the event of a reclassification of shares of the Common Stock, any shares of capital stock of the Corporation, then the Conversion Price shall be multiplied by a fraction of which the numerator shall be the number of shares of Common Stock (excluding any treasury shares of the Corporation) outstanding immediately before such event, and of which the denominator shall be the number of shares of Common Stock outstanding immediately after such event. Any adjustment made pursuant to this Section 7(a) shall become effective immediately after the record date for the determination of stockholders entitled to receive such dividend or distribution and shall become effective immediately after the effective date in the case of a subdivision, combination or re-classification.

b) Subsequent Rights Offerings. In addition to any adjustments pursuant to Section 7(a) above, if at any time the Corporation grants, issues or sells any Common Stock Equivalents or rights to purchase stock, warrants, securities or other property pro rata to the record holders of any class of shares of Common Stock (the "Purchase Rights"), then the Holder of will be entitled to acquire, upon the terms applicable to such Purchase Rights, the aggregate Purchase Rights which the Holder could have acquired if the Holder had held the number of shares of Common Stock acquirable upon complete conversion of such Holder's Series C Preferred Stock immediately before the date on which a record is taken for the grant, issuance or sale of such Purchase Rights, or, if no such record is taken, the date as of which the record holders of shares of Common Stock are to be determined for the grant, issue or sale of such Purchase Rights.

c) Pro Rata Distributions. During such time as this Series C Preferred Stock is outstanding, if the Corporation declares or makes any dividend or other distribution of its assets (or rights to acquire its assets) to holders of shares of Common Stock, by way of return of capital or otherwise (including, without limitation, any distribution of cash, stock or other securities, property or options by way of a dividend, spin off, reclassification, corporate rearrangement, scheme of arrangement or other similar transaction) (a "Distribution"), at any time after the issuance of this Series C Preferred Stock, then, in each such case, the Holder shall be entitled to participate in such Distribution to the same extent that the Holder would have participated therein if the Holder had held the number of shares of Common Stock acquirable upon complete conversion of this Series C Preferred Stock immediately before the date of which a record is taken for such Distribution, or, if no such record is taken, the date as of which the record holders of shares of Common Stock are to be determined for the participation in such Distribution.

d) Fundamental Transaction. If, at any time while this Series C Preferred Stock is outstanding, (i) the Corporation, directly or indirectly, in one or more related transactions effects any merger or consolidation of the Corporation with or into another Person for which approval of the stockholders of the Corporation is required, (ii) the Corporation, directly or indirectly, effects any sale, lease, license, assignment, transfer, conveyance or other disposition of all or substantially all of its assets in one or a series of related transactions, (iii) any, direct or indirect, purchase offer, tender offer or exchange offer (whether by the Corporation or another Person) is completed pursuant to which holders of Common Stock are permitted to sell, tender or exchange their shares for other securities, cash or property and has been accepted by the holders of 50% or more of the outstanding Common Stock, (iv) the Corporation, directly or indirectly, in one or more related transactions effects any reclassification, reorganization or recapitalization of the Common Stock or any compulsory share exchange pursuant to which the Common Stock is effectively converted into or exchanged for other securities, cash or property, or (v) the Corporation, directly or indirectly, in one or more related transactions consummates a stock or share purchase agreement or other business combination (including, without limitation, a reorganization, recapitalization, spin-off or scheme of arrangement)

with another Person whereby such other Person acquires more than 50% of the outstanding shares of Common Stock (not including any shares of Common Stock held by the other Person or other Persons making or party to, or associated or affiliated with the other Persons making or party to, such stock or share purchase agreement or other business combination) (each a "Fundamental Transaction"), then, upon any subsequent conversion of this Series C Preferred Stock, the Holder shall have the right to receive, for each Conversion Share that would have been issuable upon such conversion immediately prior to the occurrence of such Fundamental Transaction, the number of shares of Common Stock of the successor or acquiring corporation or of the Corporation, if it is the surviving corporation, and any additional consideration (the "Alternate Consideration") receivable as a result of such Fundamental Transaction by a holder of the number of shares of Common Stock for which this Series C Preferred Stock is convertible immediately prior to such Fundamental Transaction. For purposes of any such conversion, the determination of the Conversion Price shall be appropriately adjusted to apply to such Alternate Consideration based on the amount of Alternate Consideration issuable in respect of one share of Common Stock in such Fundamental Transaction, and the Corporation shall apportion the Conversion Price among the Alternate Consideration in a reasonable manner reflecting the relative value of any different components of the Alternate Consideration. If holders of Common Stock are given any choice as to the securities, cash or property to be received in a Fundamental Transaction, then the Holder shall be given the same choice as to the Alternate Consideration it receives upon any conversion of this Series C Preferred Stock following such Fundamental Transaction; provided, however, that if the Fundamental Transaction is not within the Corporation's control, including not approved by the Corporation's Board of Directors, the Holder shall only be entitled to receive from the Corporation or any successor or acquiring entity, as of the date of consummation of such Fundamental Transaction, the same type or form of consideration (and in the same proportion) that is being offered and paid to holders of Common Stock in the aggregate in connection with the Fundamental Transaction, whether that consideration be in the form of cash, shares or any combination thereof, or whether the holders of Common Stock are given a choice to receive from among alternative forms of consideration in connection with the Fundamental Transaction. To the extent necessary to effectuate the foregoing provisions, any successor to the Corporation or surviving entity in such Fundamental Transaction shall file a new Certificate of Designation with the same terms and conditions and issue to the Holders new preferred stock consistent with the foregoing provisions and evidencing the Holders' right to convert such preferred stock into Alternate Consideration. The Corporation shall cause any successor entity in a Fundamental Transaction in which the Corporation is not the survivor (the "Successor Entity") to assume in writing all of the obligations of the Corporation under this Certificate of Designation in accordance with the provisions of this Section 7(d) pursuant to written agreements in form and substance reasonably satisfactory to the Holder and approved by the Holder (without unreasonable delay) prior to such Fundamental Transaction and shall, at the option of the holder of this Series C Preferred Stock, deliver to the Holder in exchange for this Series C Preferred Stock a security of the Successor Entity evidenced by a written instrument substantially similar in form and substance to this Series C Preferred Stock which is convertible for a corresponding number of shares of capital stock of such Successor Entity (or its parent entity) equivalent to the shares of Common Stock acquirable and receivable upon conversion of this Series C Preferred Stock prior to such Fundamental Transaction, and with a conversion price which applies the conversion price hereunder to such shares of capital stock (but taking into account the relative value of the shares of Common Stock pursuant to such Fundamental Transaction and the value of such shares of capital stock, such number of shares of capital stock and such conversion price being for the purpose of protecting the economic value of this Series C Preferred Stock immediately prior to the consummation of such Fundamental Transaction). Upon the occurrence of any such Fundamental Transaction, the Successor Entity shall succeed to, and be substituted for (so that from and after the date of such Fundamental Transaction, the provisions of this Certificate of Designation referring to the "Corporation" shall refer instead to the Successor Entity), and may exercise every right and power of the Corporation and shall assume all of the obligations of the Corporation under this Certificate of Designation with the same effect as if such Successor Entity had been named as the Corporation herein.

e) Calculations. All calculations under this Section 7 shall be made to the nearest cent or the nearest 1/100th of a share, as the case may be. For purposes of this Section 7, the number of shares of Common Stock deemed to be issued and outstanding as of a given date shall be the sum of the number of shares of Common Stock (excluding any treasury shares of the Corporation) issued and outstanding.

f) Notice to the Holders. Whenever the Conversion Price is adjusted pursuant to any provision of this Section 7, the Corporation shall promptly deliver to each Holder by facsimile or email a notice setting forth the Conversion Price after such adjustment and setting forth a brief statement of the facts requiring such adjustment.

Section 8. Registration and Transfer.

a) The Corporation shall maintain at its principal offices (or at the offices of its transfer agent or such other office or agency as it may designate by notice to the Holders) a stock register for the Series C Preferred Stock in which the Corporation shall record the names and addresses of the Holders.

b) Prior to due presentment for registration of any permitted transferee of any Series C Preferred Stock, the Corporation may deem and treat the person in whose name any Series C Preferred Stock is registered as the absolute owner of such Series C Preferred Stock and the Corporation shall not be affected by notice to the contrary.

c) Anything contained herein to the contrary notwithstanding, the Corporation shall not register as a holder of any shares of Series C Preferred Stock any proposed transferee thereof, and such proposed transferee shall not be deemed a Holder for any purposes hereunder, unless: (i) such proposed transferee (A) represents to the Corporation in writing that such proposed transferee is an accredited investor, as such term is defined in Rule 501 of Regulation D promulgated under the Securities Act and (B) provides written certification to the Corporation of the basis of such transferee's status as an accredited investor, which certification shall be satisfactory to the Corporation in its sole discretion, exercised in good faith; (C) agrees, in writing, to abide by the terms of, and to assume the obligations of the initial Holder under any written agreement between the Corporation and such initial Holder; and (D) is provided a copy of this Certificate of Designation (as the same may be amended from time to time); and (ii) the proposed transfer is made pursuant to an effective registration statement under the Securities Act and applicable state securities laws, or an exemption from such registration is available.

d) Each certificate representing any shares of Series C Preferred Stock shall contain the following legends placed prominently on the front or back of the certificate:

> THESE SECURITIES HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, OR ANY STATE SECURITIES LAWS AND MAY NOT BE SOLD OR OFFERED FOR SALE IN THE ABSENCE OF AN EFFECTIVE REGISTRATION STATEMENT AS TO THE SECURITIES UNDER SAID ACT AND ANY APPLICABLE STATE SECURITIES LAW OR THE AVAILABILITY OF AN EXEMPTION FROM REGISTRATION UNDER SAID ACT.
>
> CYTODYN INC. WILL FURNISH, WITHOUT CHARGE, TO EACH HOLDER OF ITS SERIES C PREFERRED STOCK WHO SO REQUESTS A COPY OF THE CERTIFICATE OF DESIGNATION SETTING FORTH THE POWERS, DESIGNATIONS, PREFERENCES AND RELATIVE, PARTICIPATING, OPTIONAL OR OTHER SPECIAL RIGHTS OF SUCH STOCK AND ANY OTHER CLASS OR SERIES THEREOF AND THE QUALIFICATIONS, LIMITATIONS OR RESTRICTIONS OF SUCH PREFERENCES AND/OR RIGHTS.

e) No service charge shall be made to any Holder for any registration, transfer or exchange.

Section 9. Miscellaneous.

a) Notices. Any and all notices or other communications or deliveries to be provided by the Holders hereunder including, without limitation, any Notice of Conversion, shall be in writing and delivered personally, by facsimile or email, or sent by a nationally recognized overnight courier service, addressed to the Corporation, at the address set forth above Attention: Corporate Secretary, facsimile number (360) 980-8549, e-mail address: mmulholland@cytodyn.com, or such other facsimile number, e-mail address or address as the Corporation may specify for such purposes by notice to the Holders delivered in accordance with this Section 9. Any and all notices or other communications or deliveries to be provided by the Corporation hereunder shall be in writing and delivered personally, by facsimile or email, or sent by a nationally recognized overnight courier service addressed to each Holder at the facsimile number, email address or address of such Holder appearing on the books of the Corporation. Any notice or other communication or deliveries hereunder shall be deemed given and effective on the earliest of

(i) the date of transmission, if such notice or communication is delivered via facsimile at the facsimile number or via email at the email address set forth in this Section prior to 5:30 p.m. (New York City time) on any date, (ii) the next Trading Day after the date of transmission, if such notice or communication is delivered via facsimile at the facsimile number or via email at the email address set forth in this Section on a day that is not a Trading Day or later than 5:30 p.m. (New York City time) on any Trading Day, (iii) the second Trading Day following the date of mailing, if sent by U.S. nationally recognized overnight courier service, or (iv) upon actual receipt by the party to whom such notice is required to be given.

b) Absolute Obligation. Except as expressly provided herein, no provision of this Certificate of Designation shall alter or impair the obligation of the Corporation, which is absolute and unconditional, to pay accrued dividends on the shares of Series C Preferred Stock at the time, place, and rate, and in the coin or currency, herein prescribed.

c) Lost or Mutilated Series C Preferred Stock Certificate. If a Holder's Series C Preferred Stock certificate shall be mutilated, lost, stolen or destroyed, the Corporation shall execute and deliver, in exchange and substitution for and upon cancellation of a mutilated certificate, or in lieu of or in substitution for a lost, stolen or destroyed certificate, a new certificate for the shares of Series C Preferred Stock so mutilated, lost, stolen or destroyed, but only upon receipt of evidence of such loss, theft or destruction of such certificate, and of the ownership hereof reasonably satisfactory to the Corporation.

d) Governing Law. All questions concerning the construction, validity, enforcement and interpretation of this Certificate of Designation shall be governed by and construed and enforced in accordance with the internal laws of the State of Delaware, without regard to the principles of conflict of laws thereof. Each party agrees that all legal proceedings concerning the interpretation, enforcement and defense of the transactions contemplated hereby (whether brought against a party hereto or its respective Affiliates, directors, officers, shareholders, employees or agents) shall be commenced in the Court of Chancery of the State of Delaware (the "Chancery Courts"). The Corporation and each Holder hereby irrevocably submits to the exclusive jurisdiction of the Chancery Courts for the adjudication of any dispute hereunder or in connection herewith or with any transaction contemplated hereby or discussed herein, and hereby irrevocably waives, and agrees not to assert in any suit, action or proceeding, any claim that it is not personally subject to the jurisdiction of such Chancery Courts, or such Chancery Courts are improper or inconvenient venue for such proceeding. The Corporation and each Holder hereby irrevocably waives personal service of process and consents to process being served in any such suit, action or proceeding by mailing a copy thereof via registered or certified mail or overnight delivery (with evidence of delivery) to such party at the address in effect for notices to it under this Certificate of Designation and agrees that such service shall constitute good and sufficient service of process and notice thereof. Nothing contained herein shall be deemed to limit in any way any right to serve process in any other manner permitted by applicable law. The Corporation and each Holder hereby irrevocably waives, to the fullest extent permitted by applicable law, any and all right to trial by jury in any legal proceeding arising out of or relating to this Certificate of Designation or the transactions contemplated hereby. If any party shall commence an action or proceeding to enforce any provisions of this Certificate of Designation, then the prevailing party in such action or proceeding shall be reimbursed by the other party for its attorneys' fees and other costs and expenses incurred in the investigation, preparation and prosecution of such action or proceeding.

e) Waiver. Any waiver by the Corporation or a Holder of a breach of any provision of this Certificate of Designation shall not operate as or be construed to be a waiver of any other breach of such provision or of any breach of any other provision of this Certificate of Designation or a waiver by any other Holders. The failure of the Corporation or a Holder to insist upon strict adherence to any term of this Certificate of Designation on one or more occasions shall not be considered a waiver or deprive that party (or any other Holder) of the right thereafter to insist upon strict adherence to that term or any other term of this Certificate of Designation on any other occasion. Any waiver by the Corporation or a Holder must be in writing.

f) Severability. If any provision of this Certificate of Designation is invalid, illegal or unenforceable, the balance of this Certificate of Designation shall remain in effect, and if any provision is inapplicable to any Person or circumstance, it shall nevertheless remain applicable to all other Persons and circumstances. If it shall be found that any interest or other amount deemed interest due hereunder violates the applicable law governing usury, the applicable rate of interest due hereunder shall automatically be lowered to equal the maximum rate of interest permitted under applicable law.

g) Next Business Day. Whenever any payment or other obligation hereunder shall be due on a day other than a Business Day, such payment shall be made on the next succeeding Business Day.

h) Headings. The headings contained herein are for convenience only, do not constitute a part of this Certificate of Designation and shall not be deemed to limit or affect any of the provisions hereof.

i) Status of Converted or Redeemed Series C Preferred Stock. If any shares of Series C Preferred Stock shall be converted, redeemed or reacquired by the Corporation, such shares shall resume the status of authorized but unissued shares of preferred stock and shall no longer be designated as Series C Convertible Preferred Stock.

****

RESOLVED, FURTHER, that the Chairman, the president or any vice-president, and the secretary or any assistant secretary, of the Corporation be and they hereby are authorized and directed to prepare and file this Certificate of Designation of Preferences, Rights and Limitations in accordance with the foregoing resolution and the provisions of Delaware law.

IN WITNESS WHEREOF, the undersigned have executed this Certificate this 20th day of March, 2019.

/s/ Nader Z. Pourhassan, Ph.D.
Name: Nader Z. Pourhassan, Ph.D.
Title: President and Chief Executive Officer

ANNEX A

NOTICE OF CONVERSION

(TO BE EXECUTED BY THE REGISTERED HOLDER IN ORDER TO CONVERT SHARES OF PREFERRED STOCK)

The undersigned hereby elects to convert the number of shares of Series C Convertible Preferred Stock indicated below into shares of common stock, par value $0.001 per share (the "Common Stock"), of CytoDyn Inc., a Delaware corporation (the "Corporation"), according to the conditions hereof, as of the date written below. If shares of Common Stock are to be issued in the name of a Person other than the undersigned, the undersigned will pay all transfer taxes payable with respect thereto. No fee will be charged to the Holders for any conversion, except for any such transfer taxes.

The undersigned is an "accredited investor" as defined in Regulation D under the Securities Act of 1933, as amended.

Conversion calculations:

Date to Effect Conversion:

Number of shares of Preferred Stock owned prior to Conversion:

Number of shares of Preferred Stock to be Converted:

Stated Value of shares of Preferred Stock to be Converted:

Number of shares of Common Stock to be Issued:

Applicable Conversion Price:

Number of shares of Preferred Stock subsequent to Conversion:

Address for Delivery:

or

DWAC Instructions (if available):
Broker no:
Account no:

[HOLDER]

By:
Name:
Title:

CERTIFICATE OF AMENDMENT
OF
CERTIFICATE OF INCORPORATION
OF
CYTODYN INC.

Pursuant to Section 242 of the General Corporation Law of the State of Delaware, CytoDyn Inc., a corporation organized and existing under the laws of the State of Delaware (the "Corporation"), does hereby certify as follows:

1. The present name of the Corporation is CytoDyn Inc. The Corporation was originally incorporated under the name Point NewCo Inc. by the filing of its original Certificate of Incorporation with the Secretary of State of the State of Delaware on August 27, 2018 (as amended, the "Certificate of Incorporation").

2. The Certificate of Incorporation of the Corporation is hereby amended by deleting the first paragraph under Article IV and replacing such paragraph with the following paragraph:

"The total number of shares of capital stock which the Corporation shall have authority to issue is Seven Hundred and Five Million (705,000,000), of which (i) Seven Hundred Million (700,000,000) shares shall be a class designated as common stock, par value $0.001 per share (the "Common Stock"), and (ii) Five Million (5,000,000) shares shall be a class designated as preferred stock, par value $0.001 per share (the "Preferred Stock")."

3. The Board of Directors of the Corporation has duly adopted a resolution pursuant to Section 242 of the General Corporation Law of the State of Delaware setting forth a proposed amendment to the Certificate of Incorporation of the Corporation and declaring said amendment to be advisable. The requisite stockholders of the Corporation have duly approved said proposed amendment in accordance with Section 242 of the General Corporation Law of the State of Delaware.

4. This Certificate of Amendment and the amendment to the Certificate of Incorporation effected hereby has been duly adopted in accordance with Section 242 of the General Corporation Law of the State of Delaware.

5. This Certificate of Amendment, and the amendment effected hereby, shall become effective upon filing.

[Signature Page Follows]

State of Delaware
Secretary of State
Division of Corporations
Delivered 03:18 PM 05/22/2019
FILED 03:18 PM 05/22/2019
SR 20194359045 - File Number 7032132

IN WITNESS WHEREOF, the Corporation has caused this Certificate of Amendment to be signed by its President and Chief Executive Officer on this 22nd day of May, 2019.

CYTODYN INC.

By: /s/ Nader Z. Pourhassan, Ph.D.
Name: Nader Z. Pourhassan

State of Delaware
Secretary of State
Division of Corporations
Delivered 11:46 AM 10/18/2019
FILED 11:46 AM 10/18/2019
SR 20197617216 - File Number 7032132

CERTIFICATE OF AMENDMENT
OF
CERTIFICATE OF DESIGNATION
OF
SERIES C CONVERTIBLE PREFERRED STOCK
OF
CYTODYN INC.

Pursuant to Section 242 of the General Corporation Law of the State of Delaware, CytoDyn Inc., a corporation organized and existing under the laws of the State of Delaware (the "Corporation"), does hereby certify as follows:

1. The Corporation's Certificate of Designation of Preferences, Rights and Limitations of Series C Convertible Preferred Stock was filed with the Secretary of State of the State of Delaware on March 20, 2019 (the "Certificate of Designation").

2. This Certificate of Amendment to the Certificate of Designation amends the Certificate of Designation as set forth below, was duly adopted by the Board of Directors in accordance with the provisions of Section 141 and 242 of the General Corporation Law of the State of Delaware, and has been adopted and approved by the written consent of a majority in interest of the Series C Convertible Preferred Stock, $0.001 par value per share, outstanding.

3. The Certificate of Designation is hereby amended by deleting Section 1 and replacing such section with the following:

Section 1. Designation, Amount and Par Value. The series of preferred stock shall be designated as its Series C Convertible Preferred Stock (the 'Series C Preferred Stock") and the number of shares so designated shall be up to 20,000 (which shall not be subject to increase without the written consent of holders of a majority in interest of the Series C Preferred Stock then outstanding (each, a "Holder" and collectively, the "Holders")). Each share of Series C Preferred Stock shall have a par value of $0.001 per share and a stated value equal to $1,000.00 (the "Stated Value").

4. This Certificate of Amendment, and the amendment effected hereby, shall become effective upon filing.

[Signature Page Follows]

IN WITNESS WHEREOF, the Corporation has caused this Certificate of Amendment to be signed by its President and Chief Executive Officer on this 18th day of October, 2019.

CYTODYN INC.

By: /s/ Nader Z. Pourhassan
Name: Nader Z. Pourhassan

State of Delaware
Secretary of State
Division of Corporations
Delivered 04:47 PM 01/28/2020
FILED 04:47 PM 01/28/2020
SR 20200619312 - File Number 7032132

CERTIFICATE OF AMENDMENT
OF
CERTIFICATE OF DESIGNATION
OF
SERIES C CONVERTIBLE PREFERRED STOCK
OF
CYTODYN INC.

Pursuant to Section 242 of the General Corporation Law of the State of Delaware, CytoDyn Inc., a corporation organized and existing under the laws of the State of Delaware (the "Corporation"), does hereby certify as follows:

1. The Corporation's Certificate of Designation of Preferences, Rights and Limitations of Series C Convertible Preferred Stock was filed with the Secretary of State of the State of Delaware on March 20, 2019, and amended on October 18, 2019 (as amended, the "Certificate of Designation").

2. This Certificate of Amendment to the Certificate of Designation further amends the Certificate of Designation as set forth below, was duly adopted by the Board of Directors in accordance with the provisions of Section 141 and 242 of the General Corporation Law of the State of Delaware, and has been adopted and approved by the written consent of a majority in interest of the Series C Convertible Preferred Stock, $0.001 par value per share, outstanding.

3. The Certificate of Designation is hereby amended by deleting Section 1 and replacing such section with the following:

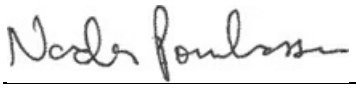
Section 1. Designation, Amount and Par Value. The series of preferred stock shall be designated as its Series C Convertible Preferred Stock (the "Series C Preferred Stock") and the number of shares so designated shall be up to 8,203 (which shall not be subject to increase without the written consent of holders of a majority in interest of the Series C Preferred Stock then outstanding (each, a "Holder" and collectively, the "Holders")). Each share of Series C Preferred Stock shall have a par value of $0.001 per share and a stated value equal to $1,000.00 (the "Stated Value").

4. This Certificate of Amendment, and the amendment effected hereby, shall become effective upon filing.

[Signature Page Follows]

IN WITNESS WHEREOF, the Corporation has caused this Certificate of Amendment to be signed by its President and Chief Executive Officer on this 28th day of January, 2020.

CYTODYN INC.

By: 

Name: Nader Z. Pourhassan

State of Delaware
Secretary of State
Division of Corporations
Delivered 04:52 PM 01/28/2020
FILED 04:52 PM 01/28/2020
SR 20200619588 - File Number 7032132

CYTODYN INC.

CERTIFICATE OF DESIGNATION OF PREFERENCES,
RIGHTS AND LIMITATIONS
OF
SERIES D CONVERTIBLE PREFERRED STOCK

PURSUANT TO SECTION 151 OF THE
DELAWARE GENERAL CORPORATION LAW

The undersigned, Nader Z. Pourhassan, Ph.D. does hereby certify that:

1. He is the President and Chief Executive Officer of CytoDyn Inc., a Delaware corporation (the "Corporation").

2. The Corporation is authorized to issue 5,000,000 shares of preferred stock, of which 400,000 shares have been designated as Series B Convertible Preferred Stock, par value $0.001 per share (the "**Series B Preferred Stock**"), and 8,203 shares have been designated as Series C Convertible Preferred Stock, par value $0.001 per share (the "**Series C Preferred Stock**");

3. The following resolutions were duly adopted by the board of directors of the Corporation (the "Board of Directors"):

WHEREAS, the certificate of incorporation of the Corporation provides for a class of its authorized stock known as preferred stock, consisting of 5,000,000 shares, $0.001 par value per share, issuable from time to time in one or more series;

WHEREAS, 400,000 of such preferred shares have already been designated as Series B Preferred Stock and 8,203 of such preferred shares have already been designated as Series C Preferred Stock;

WHEREAS, the Board of Directors is authorized to fix the dividend rights, dividend rate, voting rights, conversion rights, rights and terms of redemption and liquidation preferences of any wholly unissued series of preferred stock and the number of shares constituting any series and the designation thereof, of any of them; and

WHEREAS, it is the desire of the Board of Directors, pursuant to its authority as aforesaid, to fix the rights, preferences, restrictions and other matters relating to a series of the preferred stock, which shall consist of 11,737 shares of the preferred stock which the Corporation has the authority to issue, as follows:

NOW, THEREFORE, BE IT RESOLVED, that the Board of Directors does hereby provide for the issuance of a series of preferred stock for cash or exchange of other securities, rights or property and does hereby fix and determine the rights, preferences, restrictions and other matters relating to such series of preferred stock as follows:

TERMS OF SERIES D CONVERTIBLE PREFERRED STOCK

Section 1. Designation, Amount and Par Value. The series of preferred stock shall be designated as its Series D Convertible Preferred Stock (the "Series D Preferred Stock") and the number of shares so designated shall be up to 11,737 (which shall not be subject to increase without the written consent of holders of a majority in interest of the Series D Preferred Stock then outstanding (each, a "Holder" and collectively, the "Holders")). Each share of Series D Preferred Stock shall have a par value of $0.001 per share and a stated value equal to $1,000.00 (the "Stated Value").

Section 2. Definitions. For the purposes hereof, the following terms shall have the following meanings:

"Affiliate" means any Person that, directly or indirectly through one or more intermediaries, controls or is controlled by or is under common control with a Person, as such terms are used in and construed under Rule 405 of the Securities Act.

"Alternate Consideration" shall have the meaning set forth in Section 7(d).

"Business Day" means any day except any Saturday, any Sunday, any day which is a federal legal holiday in the United States or any day on which banking institutions in the State of New York are authorized or required by law or other governmental action to close.

"Chancery Courts" shall have the meaning set forth in Section 9(d).

"Certificate of Designation" means this Certificate of Designation of Preferences, Rights and Limitations of Series D Convertible Preferred Stock dated as of the date hereof.

"Commission" means the United States Securities and Exchange Commission.

"Common Stock" means the Corporation's common stock, par value $0.001 per share, and stock of any other class of securities into which such securities may hereafter be reclassified or changed.

"Common Stock Equivalents" means any securities of the Corporation or the Subsidiaries which would entitle the holder thereof to acquire at any time Common Stock, including, without limitation, any debt, preferred stock, rights, options, warrants or other instrument that is at any time convertible into or exercisable or exchangeable for, or otherwise entitles the holder thereof to receive, Common Stock.

"Conversion Date" shall have the meaning set forth in Section 6(a)

"Conversion Price" shall have the meaning set forth in Section 6(b).

"Conversion Shares" means, collectively, the shares of Common Stock issuable upon conversion of the shares of Series D Preferred Stock in accordance with the terms hereof.

"Distribution" shall have the meaning set forth in Section 7(c).

"Dividend Payment Date" shall have the meaning set forth in Section 3.

"Exchange Act" means the Securities Exchange Act of 1934, as amended, and the rules and regulations promulgated thereunder.

"Fundamental Transaction" shall have the meaning set forth in Section 7(d)

"Holder" shall have the meaning given such term in Section 1.

"Liquidation" shall have the meaning set forth in Section 5.

"Notice of Conversion" shall have the meaning set forth in Section 6(a).

"Person" means an individual or corporation, partnership, trust, incorporated or unincorporated association, joint venture, limited liability company, joint stock company, government (or an agency or subdivision thereof) or other entity of any kind.

"Purchase Rights" shall have the meaning set forth in Section 7(b).

"Securities Act" means the Securities Act of 1933, as amended, and the rules and regulations promulgated thereunder.

"Series D Preferred Dividends" shall have the meaning set forth in Section 3.

"Series D Preferred Stock" shall have the meaning set forth in Section 1.

"Share Delivery Date" shall have the meaning set forth in Section 6(c).

"Standard Settlement Period" shall have the meaning set forth in Section 6(c).

"Stated Value" shall have the meaning set forth in Section 1.

"Subsidiary" means any subsidiary of the Corporation as set forth on Exhibit 21 to the Corporation's Annual Report on Form 10-K most recently filed with the Commission.

"Successor Entity" shall have the meaning set forth in Section 7(d).

"Trading Day" means a day on which the primary Trading Market is open for business.

"Trading Market" means any of the following markets or exchanges on which the Common Stock is listed or quoted for trading on the date in question: the NYSE American, the Nasdaq Capital Market, the Nasdaq Global Market, the Nasdaq Global Select Market, the New York Stock Exchange, the OTCQB, OTCQX or Pink markets of the OTC Markets marketplace, or the OTC Bulletin Board (or any successors to any of the foregoing).

"Transfer Agent" means Computershare, the current transfer agent of the Corporation, with a mailing address of 211 Quality Circle, Suite 210, College Station, TX 77845, and a telephone number is 1-800-962-4284, and any successor transfer agent of the Corporation.

Section 3. Dividends. The holders of record of the outstanding shares of Series D Preferred Stock shall be entitled to receive, out of any assets at the time legally available therefore and when and as declared by the Board of Directors, dividends at the rate of ten percent (10%) per share per annum of the Stated Value from the date of issuance of the Series D Preferred Stock (the "Series D Preferred Dividends"). Dividends on the Series D Preferred Stock shall be cumulative, shall accrue, whether or not declared and whether or not there are any profits, surplus or other funds or assets of the Corporation legally available therefore, and shall be computed on the basis of a 360-day year, compounded annually. At the Holder's option, the Series D Preferred Dividends shall either (i) be paid in cash, or (ii) be paid with restricted shares of the Corporation's Common Stock, at the rate of $0.50 per value. The Series D Preferred Dividends shall be paid annually in arrears on the last day of December in each year (the "Dividend Payment Date"), commencing on December 31, 2019. The Corporation shall mail written notice to each Holder, not less than fifteen (15) Business Days prior to each Dividend Payment Date, specifying the amount of the Series D Preferred Dividend per share of Series D Preferred Stock and requesting a written election of the Holder regarding the form of payment. For any Holder that has not made such a written election by the close of business five (5) Business Days prior to the Dividend Payment Date, the Corporation (and not the Holder) shall have the option to elect whether to pay the Series D Preferred Dividend in cash or with restricted shares of Common Stock. Unless otherwise agreed in writing with respect to any Holder, any payment obligation of the Corporation with respect to the Series D Preferred Dividends hereunder shall be satisfied by mailing a check or stock certificate, as the case may be, to the name and address of such Holder as recorded in the stock register for the Series D Preferred Stock.

Section 4. Voting Rights. Except as otherwise required by applicable law or this Certificate of Designation, the Holders shall have no voting rights with respect to their shares of Series D Preferred Stock. Whenever, under this Certificate of Designation or otherwise, the Holders of the Series D Preferred Stock are required to take any action, such Holders may take action without a meeting, without prior notice and without a vote, if a consent or consents in writing, setting forth the action so taken, shall be signed by the Holders of more than a majority of the then outstanding shares of Series D Preferred Stock, or such greater percentage as may be required by applicable law or this Certificate of Designation.

Section 5. Liquidation. Upon any liquidation, dissolution or winding-up of the Corporation, whether voluntary or involuntary (a "Liquidation"), the Holders shall be entitled, on a pari passu basis with the holders of the Series C Preferred Stock (the "Series C Holders") but before any distributions shall be made to the holders of the Series B Preferred Stock or the Common Stock, to be paid an amount per share equal to the Stated Value plus any accrued and unpaid dividends. If upon such liquidation, dissolution or winding up of the Corporation, whether voluntary or involuntary, the assets to be distributed among the Holders and the Series C Holders shall be insufficient to permit

payment to the Holders and the Series C Holders of their respective liquidation amount, then the entire assets of the Corporation to be distributed shall be distributed pro rata to the Holders and the Series C Holders. In the event of any such liquidation, dissolution or winding up of the Corporation, after the payment of all preferential amounts required to be paid to the Holders and the Series C Holders, the remaining assets of the Corporation available for distribution to its stockholders shall be distributed among the holders of the Series B Preferred Stock and the Common Stock, and any other class or series of capital stock of the Corporation, in accordance with the Certificate of Incorporation of the Corporation as then in effect. The Corporation shall mail written notice of any such Liquidation, not less than 45 days prior to the payment date stated therein, to each Holder.

Section 6. Conversion.

a) Conversion at Option of Holder. Each share of Series D Preferred Stock shall be convertible, at any time and from time to time from and after the Initial Conversion Date at the option of the Holder thereof, into that number of shares of Common Stock determined by dividing the Stated Value of such share of Series D Preferred Stock by the Conversion Price. Holders shall effect conversion by providing the Corporation with the form of conversion notice attached hereto as Annex A (a "Notice of Conversion"). Each Notice of Conversion shall specify the number of shares of Series D Preferred Stock to be converted, the number of shares of Series D Preferred Stock owned prior to the conversion at issue and the date on which such conversion is to be effected, which date may not be prior to the date the applicable Holder delivers by facsimile such Notice of Conversion to the Corporation (such date, the "Conversion Date"). If no Conversion Date is specified in a Notice of Conversion, the Conversion Date shall be the date that such Notice of Conversion to the Corporation is deemed delivered hereunder. No ink original Notice of Conversion shall be required, nor shall any medallion guarantee (or other type of guarantee or notarization) of any Notice of Conversion form be required. The calculations and entries set forth in the Notice of Conversion shall control in the absence of manifest or mathematical error. To effect conversions of the shares of Series D Preferred Stock, a Holder shall not be required to surrender the certificate(s) representing the shares of Series D Preferred Stock to the Corporation unless all of the shares of Series D Preferred Stock represented thereby are so converted, in which case such Holder shall deliver the certificate representing such shares of Series D Preferred Stock promptly following the Conversion Date at issue. Shares of Series D Preferred Stock converted into Common Stock in accordance with the terms hereof shall be canceled and shall not be reissued.

b) Conversion Price. The conversion price for the Series D Preferred Stock shall equal $0.50, subject to adjustment as provided herein (the "Conversion Price").

c) Mechanics of Conversion.

i) Delivery of Conversion Shares Upon Conversion. Not later than the earlier of (i) two (2) Trading Days and (ii) the number of Trading Days comprising the Standard Settlement Period (as defined below) after each Conversion Date (the "Share Delivery Date"), the Corporation shall deliver, or cause to be delivered, to the converting Holder (A) the number of Conversion Shares being acquired upon the conversion of the Series D Preferred Stock and (B) a bank check or shares of Common Stock, at the Holder's option, calculated in accordance with Section 3 hereof, in the amount of accrued and unpaid dividends. As used herein, "Standard Settlement Period" means the standard settlement period, expressed in a number of Trading Days, on the Corporation's primary Trading Market with respect to the Common Stock as in effect on the date of delivery of the Notice of Conversion Date.

ii) Fractional Shares. No fractional shares or scrip representing fractional shares shall be issued upon the conversion of the Series D Preferred Stock. As to any fraction of a share which the Holder would otherwise be entitled to purchase upon such conversion, the Corporation shall at its election, either pay a cash adjustment in respect of such final fraction in an amount equal to such fraction multiplied by the Conversion Price or round up to the next whole share.

iii) Transfer Taxes and Expenses. The issuance of Conversion Shares on conversion of this Series D Preferred Stock shall be made without charge to any Holder for any documentary stamp or similar taxes that may be payable in respect of the issue or delivery of such Conversion Shares, provided that the Corporation shall not be required to pay any tax that may be payable in respect of any transfer involved in the issuance and delivery of any such Conversion Shares upon conversion in a name other than that of the

Holders of such shares of Series D Preferred Stock and the Corporation shall not be required to issue or deliver such Conversion Shares unless or until the Person or Persons requesting the issuance thereof shall have paid to the Corporation the amount of such tax or shall have established to the satisfaction of the Corporation that such tax has been paid.

Section 7. Certain Adjustments.

a) Stock Dividends and Stock Splits. If the Corporation, at any time while this Series D Preferred Stock is outstanding: (i) pays a stock dividend or otherwise makes a distribution or distributions payable in shares of Common Stock on shares of Common Stock or any other Common Stock Equivalents (which, for avoidance of doubt, shall not include any shares of Common Stock issued by the Corporation upon conversion of, or payment of a dividend on, this Series D Preferred Stock), (ii) subdivides outstanding shares of Common Stock into a larger number of shares, (iii) combines (including by way of a reverse stock split) outstanding shares of Common Stock into a smaller number of shares, or (iv) issues, in the event of a reclassification of shares of the Common Stock, any shares of capital stock of the Corporation, then the Conversion Price shall be multiplied by a fraction of which the numerator shall be the number of shares of Common Stock (excluding any treasury shares of the Corporation) outstanding immediately before such event, and of which the denominator shall be the number of shares of Common Stock outstanding immediately after such event. Any adjustment made pursuant to this Section 7(a) shall become effective immediately after the record date for the determination of stockholders entitled to receive such dividend or distribution and shall become effective immediately after the effective date in the case of a subdivision, combination or re-classification.

b) Subsequent Rights Offerings. In addition to any adjustments pursuant to Section 7(a) above, if at any time the Corporation grants, issues or sells any Common Stock Equivalents or rights to purchase stock, warrants, securities or other property pro rata to the record holders of any class of shares of Common Stock (the "Purchase Rights"), then the Holder of will be entitled to acquire, upon the terms applicable to such Purchase Rights, the aggregate Purchase Rights which the Holder could have acquired if the Holder had held the number of shares of Common Stock acquirable upon complete conversion of such Holder's Series D Preferred Stock immediately before the date on which a record is taken for the grant, issuance or sale of such Purchase Rights, or, if no such record is taken, the date as of which the record holders of shares of Common Stock are to be determined for the grant, issue or sale of such Purchase Rights.

c) Pro Rata Distributions. During such time as this Series D Preferred Stock is outstanding, if the Corporation declares or makes any dividend or other distribution of its assets (or rights to acquire its assets) to holders of shares of Common Stock, by way of return of capital or otherwise (including, without limitation, any distribution of cash, stock or other securities, property or options by way of a dividend, spin off, reclassification, corporate rearrangement, scheme of arrangement or other similar transaction) (a "Distribution"), at any time after the issuance of this Series D Preferred Stock, then, in each such case, the Holder shall be entitled to participate in such Distribution to the same extent that the Holder would have participated therein if the Holder had held the number of shares of Common Stock acquirable upon complete conversion of this Series D Preferred Stock immediately before the date of which a record is taken for such Distribution, or, if no such record is taken, the date as of which the record holders of shares of Common Stock are to be determined for the participation in such Distribution.

d) Fundamental Transaction. If, at any time while this Series D Preferred Stock is outstanding, (i) the Corporation, directly or indirectly, in one or more related transactions effects any merger or consolidation of the Corporation with or into another Person for which approval of the stockholders of the Corporation is required, (ii) the Corporation, directly or indirectly, effects any sale, lease, license, assignment, transfer, conveyance or other disposition of all or substantially all of its assets in one or a series of related transactions, (iii) any, direct or indirect, purchase offer, tender offer or exchange offer (whether by the Corporation or another Person) is completed pursuant to which holders of Common Stock are permitted to sell, tender or exchange their shares for other securities, cash or property and has been accepted by the holders of 50% or more of the outstanding Common Stock, (iv) the Corporation, directly or indirectly, in one or more related transactions effects any reclassification, reorganization or recapitalization of the Common Stock or any compulsory share exchange pursuant to which the Common Stock is effectively converted into or exchanged for other securities, cash or property, or (v) the Corporation, directly or indirectly, in one or more related transactions consummates a stock or share purchase agreement or other business combination (including, without limitation, a reorganization, recapitalization, spin-off or scheme of arrangement) with another Person whereby such other Person acquires more than 50% of the outstanding shares of Common Stock (not including

any shares of Common Stock held by the other Person or other Persons making or party to, or associated or affiliated with the other Persons making or party to, such stock or share purchase agreement or other business combination) (each a "Fundamental Transaction"), then, upon any subsequent conversion of this Series D Preferred Stock, the Holder shall have the right to receive, for each Conversion Share that would have been issuable upon such conversion immediately prior to the occurrence of such Fundamental Transaction, the number of shares of Common Stock of the successor or acquiring corporation or of the Corporation, if it is the surviving corporation, and any additional consideration (the "Alternate Consideration") receivable as a result of such Fundamental Transaction by a holder of the number of shares of Common Stock for which this Series D Preferred Stock is convertible immediately prior to such Fundamental Transaction. For purposes of any such conversion, the determination of the Conversion Price shall be appropriately adjusted to apply to such Alternate Consideration based on the amount of Alternate Consideration issuable in respect of one share of Common Stock in such Fundamental Transaction, and the Corporation shall apportion the Conversion Price among the Alternate Consideration in a reasonable manner reflecting the relative value of any different components of the Alternate Consideration. If holders of Common Stock are given any choice as to the securities, cash or property to be received in a Fundamental Transaction, then the Holder shall be given the same choice as to the Alternate Consideration it receives upon any conversion of this Series D Preferred Stock following such Fundamental Transaction; provided, however, that if the Fundamental Transaction is not within the Corporation's control, including not approved by the Corporation's Board of Directors, the Holder shall only be entitled to receive from the Corporation or any successor or acquiring entity, as of the date of consummation of such Fundamental Transaction, the same type or form of consideration (and in the same proportion) that is being offered and paid to holders of Common Stock in the aggregate in connection with the Fundamental Transaction, whether that consideration be in the form of cash, shares or any combination thereof, or whether the holders of Common Stock are given a choice to receive from among alternative forms of consideration in connection with the Fundamental Transaction. To the extent necessary to effectuate the foregoing provisions, any successor to the Corporation or surviving entity in such Fundamental Transaction shall file a new Certificate of Designation with the same terms and conditions and issue to the Holders new preferred stock consistent with the foregoing provisions and evidencing the Holders' right to convert such preferred stock into Alternate Consideration. The Corporation shall cause any successor entity in a Fundamental Transaction in which the Corporation is not the survivor (the "Successor Entity") to assume in writing all of the obligations of the Corporation under this Certificate of Designation in accordance with the provisions of this Section 7(d) pursuant to written agreements in form and substance reasonably satisfactory to the Holder and approved by the Holder (without unreasonable delay) prior to such Fundamental Transaction and shall, at the option of the holder of this Series D Preferred Stock, deliver to the Holder in exchange for this Series D Preferred Stock a security of the Successor Entity evidenced by a written instrument substantially similar in form and substance to this Series D Preferred Stock which is convertible for a corresponding number of shares of capital stock of such Successor Entity (or its parent entity) equivalent to the shares of Common Stock acquirable and receivable upon conversion of this Series D Preferred Stock prior to such Fundamental Transaction, and with a conversion price which applies the conversion price hereunder to such shares of capital stock (but taking into account the relative value of the shares of Common Stock pursuant to such Fundamental Transaction and the value of such shares of capital stock, such number of shares of capital stock and such conversion price being for the purpose of protecting the economic value of this Series D Preferred Stock immediately prior to the consummation of such Fundamental Transaction). Upon the occurrence of any such Fundamental Transaction, the Successor Entity shall succeed to, and be substituted for (so that from and after the date of such Fundamental Transaction, the provisions of this Certificate of Designation referring to the "Corporation" shall refer instead to the Successor Entity), and may exercise every right and power of the Corporation and shall assume all of the obligations of the Corporation under this Certificate of Designation with the same effect as if such Successor Entity had been named as the Corporation herein.

e) Calculations. All calculations under this Section 7 shall be made to the nearest cent or the nearest 1/100th of a share, as the case may be. For purposes of this Section 7, the number of shares of Common Stock deemed to be issued and outstanding as of a given date shall be the sum of the number of shares of Common Stock (excluding any treasury shares of the Corporation) issued and outstanding.

f) Notice to the Holders. Whenever the Conversion Price is adjusted pursuant to any provision of this Section 7, the Corporation shall promptly deliver to each Holder by facsimile or email a notice setting forth the Conversion Price after such adjustment and setting forth a brief statement of the facts requiring such adjustment.

Section 8. Registration and Transfer.

a) The Corporation shall maintain at its principal offices (or at the offices of its transfer agent or such other office or agency as it may designate by notice to the Holders) a stock register for the Series D Preferred Stock in which the Corporation shall record the names and addresses of the Holders.

b) Prior to due presentment for registration of any permitted transferee of any Series D Preferred Stock, the Corporation may deem and treat the person in whose name any Series D Preferred Stock is registered as the absolute owner of such Series D Preferred Stock and the Corporation shall not be affected by notice to the contrary.

c) Anything contained herein to the contrary notwithstanding, the Corporation shall not register as a holder of any shares of Series D Preferred Stock any proposed transferee thereof, and such proposed transferee shall not be deemed a Holder for any purposes hereunder, unless: (i) such proposed transferee (A) represents to the Corporation in writing that such proposed transferee is an accredited investor, as such term is defined in Rule 501 of Regulation D promulgated under the Securities Act and (B) provides written certification to the Corporation of the basis of such transferee's status as an accredited investor, which certification shall be satisfactory to the Corporation in its sole discretion, exercised in good faith; (C) agrees, in writing, to abide by the terms of, and to assume the obligations of the initial Holder under any written agreement between the Corporation and such initial Holder; and (D) is provided a copy of this Certificate of Designation (as the same may be amended from time to time); and (ii) the proposed transfer is made pursuant to an effective registration statement under the Securities Act and applicable state securities laws, or an exemption from such registration is available.

d) Each certificate representing any shares of Series D Preferred Stock shall contain the following legends placed prominently on the front or back of the certificate:

> THESE SECURITIES HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, OR ANY STATE SECURITIES LAWS AND MAY NOT BE SOLD OR OFFERED FOR SALE IN THE ABSENCE OF AN EFFECTIVE REGISTRATION STATEMENT AS TO THE SECURITIES UNDER SAID ACT AND ANY APPLICABLE STATE SECURITIES LAW OR THE AVAILABILITY OF AN EXEMPTION FROM REGISTRATION UNDER SAID ACT.
>
> CYTODYN INC. WILL FURNISH, WITHOUT CHARGE, TO EACH HOLDER OF ITS SERIES D PREFERRED STOCK WHO SO REQUESTS A COPY OF THE CERTIFICATE OF DESIGNATION SETTING FORTH THE POWERS, DESIGNATIONS, PREFERENCES AND RELATIVE, PARTICIPATING, OPTIONAL OR OTHER SPECIAL RIGHTS OF SUCH STOCK AND ANY OTHER CLASS OR SERIES THEREOF AND THE QUALIFICATIONS, LIMITATIONS OR RESTRICTIONS OF SUCH PREFERENCES AND/OR RIGHTS.

e) No service charge shall be made to any Holder for any registration, transfer or exchange.

Section 9. Miscellaneous.

a) Notices. Any and all notices or other communications or deliveries to be provided by the Holders hereunder including, without limitation, any Notice of Conversion, shall be in writing and delivered personally, by facsimile or email, or sent by a nationally recognized overnight courier service, addressed to the Corporation, at the address set forth above Attention: Corporate Secretary, facsimile number (360) 980-8549, e-mail address: maura.fleming@cytodyn.com, or such other facsimile number, e-mail address or address as the Corporation may specify for such purposes by notice to the Holders delivered in accordance with this Section 9. Any and all notices or other communications or deliveries to be provided by the Corporation hereunder shall be in writing and delivered personally, by facsimile or email, or sent by a nationally recognized overnight courier service addressed to each Holder at the facsimile number, email address or address of such Holder appearing on the books of the Corporation. Any notice or other communication or deliveries hereunder shall be deemed given and effective on the earliest of (i) the date of transmission, if such notice or communication is delivered via facsimile at the facsimile number or via email at the email address set forth in this Section prior to 5:30p.m. (New York City time) on any date, (ii) the next Trading

Day after the date of transmission, if such notice or communication is delivered via facsimile at the facsimile number or via email at the email address set forth in this Section on a day that is not a Trading Day or later than 5:30 p.m. (New York City time) on any Trading Day, (iii) the second Trading Day following the date of mailing, if sent by U.S. nationally recognized overnight courier service, or (iv) upon actual receipt by the party to whom such notice is required to be given.

b) Absolute Obligation. Except as expressly provided herein, no provision of this Certificate of Designation shall alter or impair the obligation of the Corporation, which is absolute and unconditional, to pay accrued dividends on the shares of Series D Preferred Stock at the time, place, and rate, and in the coin or currency, herein prescribed.

c) Lost or Mutilated Series D Preferred Stock Certificate. If a Holder's Series D Preferred Stock certificate shall be mutilated, lost, stolen or destroyed, the Corporation shall execute and deliver, in exchange and substitution for and upon cancellation of a mutilated certificate, or in lieu of or in substitution for a lost, stolen or destroyed certificate, a new certificate for the shares of Series D Preferred Stock so mutilated, lost, stolen or destroyed, but only upon receipt of evidence of such loss, theft or destruction of such certificate, and of the ownership hereof reasonably satisfactory to the Corporation.

d) Governing Law. All questions concerning the construction, validity, enforcement and interpretation of this Certificate of Designation shall be governed by and construed and enforced in accordance with the internal laws of the State of Delaware, without regard to the principles of conflict of laws thereof. Each party agrees that all legal proceedings concerning the interpretation, enforcement and defense of the transactions contemplated hereby (whether brought against a party hereto or its respective Affiliates, directors, officers, shareholders, employees or agents) shall be commenced in the Court of Chancery of the State of Delaware (the "Chancery Courts"). The Corporation and each Holder hereby irrevocably submits to the exclusive jurisdiction of the Chancery Courts for the adjudication of any dispute hereunder or in connection herewith or with any transaction contemplated hereby or discussed herein, and hereby irrevocably waives, and agrees not to assert in any suit, action or proceeding, any claim that it is not personally subject to the jurisdiction of such Chancery Courts, or such Chancery Courts are improper or inconvenient venue for such proceeding. The Corporation and each Holder hereby irrevocably waives personal service of process and consents to process being served in any such suit, action or proceeding by mailing a copy thereof via registered or certified mail or overnight delivery (with evidence of delivery) to such party at the address in effect for notices to it under this Certificate of Designation and agrees that such service shall constitute good and sufficient service of process and notice thereof. Nothing contained herein shall be deemed to limit in any way any right to serve process in any other manner permitted by applicable law. The Corporation and each Holder hereby irrevocably waives, to the fullest extent permitted by applicable law, any and all right to trial by jury in any legal proceeding arising out of or relating to this Certificate of Designation or the transactions contemplated hereby. If any party shall commence an action or proceeding to enforce any provisions of this Certificate of Designation, then the prevailing party in such action or proceeding shall be reimbursed by the other party for its attorneys' fees and other costs and expenses incurred in the investigation, preparation and prosecution of such action or proceeding.

e) Waiver. Any waiver by the Corporation or a Holder of a breach of any provision of this Certificate of Designation shall not operate as or be construed to be a waiver of any other breach of such provision or of any breach of any other provision of this Certificate of Designation or a waiver by any other Holders. The failure of the Corporation or a Holder to insist upon strict adherence to any term of this Certificate of Designation on one or more occasions shall not be considered a waiver or deprive that party (or any other Holder) of the right thereafter to insist upon strict adherence to that term or any other term of this Certificate of Designation on any other occasion. Any waiver by the Corporation or a Holder must be in writing.

f) Severability. If any provision of this Certificate of Designation is invalid, illegal or unenforceable, the balance of this Certificate of Designation shall remain in effect, and if any provision is inapplicable to any Person or circumstance, it shall nevertheless remain applicable to all other Persons and circumstances. If it shall be found that any interest or other amount deemed interest due hereunder violates the applicable law governing usury, the applicable rate of interest due hereunder shall automatically be lowered to equal the maximum rate of interest permitted under applicable law.

g) Next Business Day. Whenever any payment or other obligation hereunder shall be due on a day other than a Business Day, such payment shall be made on the next succeeding Business Day.

h) Headings. The headings contained herein are for convenience only, do not constitute a part of this Certificate of Designation and shall not be deemed to limit or affect any of the provisions hereof.

i) Status of Converted or Redeemed Series D Preferred Stock. If any shares of Series D Preferred Stock shall be converted, redeemed or reacquired by the Corporation, such shares shall resume the status of authorized but unissued shares of preferred stock and shall no longer be designated as Series D Convertible Preferred Stock.

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ANNEX A

NOTICE OF CONVERSION

(TO BE EXECUTED BY THE REGISTERED HOLDER IN ORDER TO CONVERT SHARES OF PREFERRED STOCK)

The undersigned hereby elects to convert the number of shares of Series D Convertible Preferred Stock indicated below into shares of common stock, par value $0.001 per share (the "Common Stock"), of CytoDyn Inc., a Delaware corporation (the "Corporation"), according to the conditions hereof, as of the date written below. If shares of Common Stock are to be issued in the name of a Person other than the undersigned, the undersigned will pay all transfer taxes payable with respect thereto. No fee will be charged to the Holders for any conversion, except for any such transfer taxes.

The undersigned is an "accredited investor" as defined in Regulation D under the Securities Act of 1933, as amended.

Conversion calculations:

Date to Effect Conversion:

Number of shares of Preferred Stock owned prior to Conversion:

Number of shares of Preferred Stock to be Converted:

Stated Value of shares of Preferred Stock to be Converted:

Number of shares of Common Stock to be Issued:

Applicable Conversion Price:

Number of shares of Preferred Stock subsequent to Conversion:

Address for Delivery:

or

DWAC Instructions (if available):
Broker no:
Account no:

[HOLDER]

By:
Name:
Title:

RESOLVED, FURTHER, that the Chairman, the president or any vice-president, and the secretary or any assistant secretary, of the Corporation be and they hereby are authorized and directed to prepare and file this Certificate of Designation of Preferences, Rights and Limitations in accordance with the foregoing resolution and the provisions of Delaware law.

IN WITNESS WHEREOF, the undersigned have executed this Certificate this 28th day of January, 2020.

Name: Nader Z. Pourhassan, Ph.D.
Title: President and Chief Executive Officer

State of Delaware
Secretary of State
Division of Corporations
Delivered 04:15 PM 07/23/2020
FILED 04:15 PM 07/23/2020
SR 20206382285 - File Number 7032132

CERTIFICATE OF AMENDMENT
OF
CERTIFICATE OF INCORPORATION
OF
CYTODYN INC.

Pursuant to Section 242 of the General Corporation Law of the State of Delaware, CytoDyn Inc., a corporation organized and existing under the laws of the State of Delaware (the "Corporation"), does hereby certify as follows:

1. The present name of the Corporation is CytoDyn Inc. The Corporation was originally incorporated under the name Point NewCo Inc. by the filing of its original Certificate of Incorporation with the Secretary of State of the State of Delaware on August 27, 2018 (as amended, the "Certificate of Incorporation").

2. The Certificate of Incorporation of the Corporation is hereby amended by deleting the first paragraph under Article IV and replacing such paragraph with the following paragraph:

   "The total number of shares of capital stock which the Corporation shall have authority to issue is Eight Hundred and Five Million (805,000,000), of which (i) Eight Hundred Million (800,000,000) shares shall be a class designated as common stock, par value $0.001 per share (the "Common Stock"), and (ii) Five Million (5,000,000) shares shall be a class designated as preferred stock, par value $0.001 per share (the "Preferred Stock")."

3. The Board of Directors of the Corporation has duly adopted a resolution pursuant to Section 242 of the General Corporation Law of the State of Delaware setting forth a proposed amendment to the Certificate of Incorporation of the Corporation and declaring said amendment to be advisable. The requisite stockholders of the Corporation have duly approved said proposed amendment in accordance with Section 242 of the General Corporation Law of the State of Delaware.

4. This Certificate of Amendment and the amendment to the Certificate of Incorporation effected hereby has been duly adopted in accordance with Section 242 of the General Corporation Law of the State of Delaware.

5. This Certificate of Amendment, and the amendment effected hereby, shall become effective upon filing.

IN WITNESS WHEREOF, the Corporation has caused this Certificate of Amendment to be signed by its President and Chief Executive Officer on this 23rd day of July, 2020.

CYTODYN INC.

By: /s/ Nader Z. Pourhassan, Ph.D.
Name: Nader Z. Pourhassan
Title: CEO

Exhibit 4.1

DESCRIPTION OF CAPITAL STOCK

General

We are authorized to issue up to 805,000,000 shares of capital stock, including 800,000,000 shares of common stock, par value $0.001 per share, and 5,000,000 shares of preferred stock, par value $0.001 per share. As of May 31, 2020, we had 518,975,572 shares of common stock, 92,100 shares of Series B Preferred Stock (as defined below) 8,203 shares of Series C Preferred Stock (as defined below) and 8,452 shares of Series D Preferred Stock issued and outstanding.

The additional shares of our authorized stock available for issuance may be issued at times and under circumstances so as to have a dilutive effect on earnings per share and on the equity ownership of the holders of our common stock. The ability of our board of directors to issue additional shares of stock could enhance the board's ability to negotiate on behalf of the stockholders in a takeover situation but could also be used by the board to make a change-in-control more difficult, thereby denying stockholders the potential to sell their shares at a premium and entrenching current management. The following description is a summary of the material provisions of our capital stock, and is qualified by reference to our certificate of incorporation, as amended, and bylaws, both of which are on file with the SEC as exhibits to previous SEC filings, for additional information. The summary below is qualified by provisions of applicable law.

Common Stock

Each outstanding share of common stock entitles the holder to one vote, either in person or by proxy, on all matters submitted to a vote of stockholders, including the election of directors. There is no cumulative voting in the election of directors. All actions required or permitted to be taken by stockholders at an annual or special meeting of the stockholders must be effected at a duly called meeting, with a quorum present of a majority in voting power of the shares entitled to vote thereon. Special meetings of the stockholders may only be called by our Board of Directors acting pursuant to a resolution approved by the affirmative majority of the entire Board of Directors. Stockholders may not take action by written consent. As more fully described in our Certificate of Incorporation, holders of our common stock are not entitled to vote on certain Amendments to the Certificate of Incorporation related solely to our preferred stock.

Subject to preferences which may be applicable to any outstanding shares of preferred stock from time to time, holders of our common stock have equal ratable rights to such dividends as may be declared from time to time by our Board of Directors out of funds legally available therefor. In the event of any liquidation, dissolution or winding-up of our affairs, holders of common stock will be entitled to share ratably in our remaining assets after provision for payment of amounts owed to creditors and preferences applicable to any outstanding shares of preferred stock. All outstanding shares of common stock are fully paid and nonassessable. Holders of common stock do not have preemptive rights.

The rights, preferences and privileges of holders of common stock are subject to the rights of the holders of any outstanding shares of preferred stock.

Our common stock is presently quoted on the OTCQB of the OTC Markets marketplace under the trading symbol CYDY. Our transfer agent and registrar is Computershare- Shareholder Services.

Preferred Stock

Our Board of Directors is authorized to issue up to 5,000,000 shares of preferred stock, par value $0.001 per share, in one or more series, 4,583,263 of which shares are undesignated.

Our Board of Directors has the authority, within the limitations and restrictions prescribed by law and without stockholder approval, to provide by resolution for the issuance of shares of preferred stock, and to fix the rights, preferences, privileges and restrictions thereof, including dividend rights, conversion rights, voting rights, terms of redemption, liquidation preference and the number of shares constituting any series of the designation of such series, by delivering an appropriate certificate of amendment to our certificate of incorporation to the Delaware Secretary of State pursuant to the Delaware General Corporation Law (the "DGCL"). The issuance of preferred stock could have the effect of decreasing the market price of the common stock, impeding or delaying a possible takeover and adversely affecting the voting and other rights of the holders of our common stock.
If we offer a specific series of preferred stock under this prospectus, we will describe the terms of the preferred stock in the prospectus supplement for such offering and will file a copy of the certificate establishing the terms of the preferred stock with the SEC. To the extent required, this description will include:

- the title and stated value;
- the number of shares offered, the liquidation preference per share and the purchase price;
- the dividend rate(s), period(s) and/or payment date(s), or method(s) of calculation for such dividends;
- whether dividends will be cumulative or non-cumulative and, if cumulative, the date from which dividends will accumulate;
- the procedures for any auction and remarketing, if any;
- the provisions for a sinking fund, if any;
- the provisions for redemption, if applicable;
- any listing of the preferred stock on any securities exchange or market;
- whether the preferred stock will be convertible into our common stock, and, if applicable, the conversion price (or how it will be calculated) and conversion period;
- whether the preferred stock will be exchangeable into debt securities, and, if applicable, the exchange price (or how it will be calculated) and exchange period;
- voting rights, if any, of the preferred stock;
- a discussion of any material and/or special U.S. federal income tax considerations applicable to the preferred stock;
- the relative ranking and preferences of the preferred stock as to dividend rights and rights upon liquidation, dissolution or winding up of the affairs of CytoDyn; and
- any material limitations on issuance of any class or series of preferred stock ranking senior to or on a parity with the series of preferred stock as to dividend rights and rights upon liquidation, dissolution or winding up of CytoDyn.

Series B Convertible Preferred Stock

Our Board of Directors previously established a series of preferred stock designated as Series B Convertible Preferred Stock ("Series B Preferred Stock"), comprising 400,000 shares of Preferred Stock, of which 92,100 shares remain outstanding as of May 31, 2020. Subject to superior rights of any other outstanding preferred stock from time to time, each outstanding share of Series B Preferred Stock is entitled to receive, in preference to the common stock, annual cumulative dividends equal to $0.25 per share per annum from the date of issuance, which shall accrue, whether or not declared. At the time shares of Series B Preferred Stock are converted into common stock, accrued and unpaid dividends will be paid in cash or with shares of common stock out of assets at the time legally available therefor. In the event we elect to pay dividends with shares of common stock, the shares issued will be valued at $0.50 per share. Series B Preferred Stock does not have any voting rights. In the event of liquidation, each share of Series B Preferred Stock is entitled to receive, in preference to the common stock, a liquidation payment equal to $5.00 per share plus any accrued and unpaid dividends. If there are insufficient funds to permit full payment, the assets legally available for distribution will be distributed pro rata among the holders of the Series B Preferred Stock.

Each share of Series B Preferred Stock may be converted into ten fully paid shares of common stock at the option of a holder as long as we have sufficient authorized and unissued shares of common stock available. The conversion rate may be adjusted in the event of a reverse stock split, merger or reorganization.

Series C Convertible Preferred Stock

Our Board of Directors previously established a series of preferred stock designated as Series C Convertible Preferred Stock ("Series C Preferred Stock"), comprising 5,000 shares of Preferred Stock, of which 8,203 shares remain outstanding as of May 31, 2020. The Series C Preferred Stock Certificate of Designation provides, among other things, that holders of Series C Preferred Stock shall be entitled to receive, at the option of the holder, cumulative dividends at the rate of ten percent (10%) per share per annum of the stated value of the Series C Preferred Stock, to be paid per share of Series C Preferred Stock. The Series C Dividends are to be paid annually in arrears on the last day of December each year. Any dividends paid by us will first be paid to the holders of Series C Preferred Stock prior and in preference to any payment or distribution to holders of Common Stock out of any assets at the time legally available therefor. Dividends on the Series C Preferred Stock are mandatory and cumulative and there are no sinking fund provisions applicable to the Series C Preferred Stock. The Series C Preferred Stock does not have redemption rights. The stated value per share for the Series C Preferred Stock is $1,000 (the "Series C Stated Value").

In the event of any liquidation, dissolution or winding up of the Company, the Series C Preferred Stock will be paid, prior and in preference to any payment or distribution on any shares of Common Stock or Series B Preferred Stock, but on a pari passu basis with the holders of the Series D Preferred Stock, an amount per share equal to the Series C Stated Value and the amount of any accrued and unpaid dividends. If there are insufficient funds to permit full payment, the assets legally available for distribution will be distributed pro rata among the holders of the Series C and Series D Preferred Stock.

If, at any time while the Series C Preferred Stock is outstanding, we effect any reorganization, merger or sale of the Company or substantially all of its assets (each a "Fundamental Transaction"), a holder of the Series C Preferred Stock will have the right to receive any shares of the acquiring corporation or other consideration it would have been entitled to receive if it had been a holder of the number of shares of Common Stock then issuable upon conversion in full of the Series C Preferred Stock immediately prior to the Fundamental Transaction.

Each share of Series C Preferred Stock is convertible at any time at the holder's option into that number of fully paid and nonassessable shares of Common Stock determined by dividing the Series C Stated Value by the Conversion Price (subject to adjustment as set forth in the Certificate of Designation). No fractional shares will be issued upon the conversion of the Series C Preferred Stock.

Series D Convertible Preferred Stock

Our Board of Directors previously established a series of preferred stock designated as Series D Convertible Preferred Stock ("Series D Preferred Stock"), comprising 11,737 shares of Preferred Stock, of which 8,452 shares remain outstanding as of May 31, 2020. The Series D Preferred Stock Certificate of Designation provides, among other things, that holders of Series D Preferred Stock shall be entitled to receive, at the option of the holder, cumulative dividends at the rate of ten percent (10%) per share per annum of the stated value of the Series D Preferred Stock, to be paid per share of Series D Preferred Stock, in cash or in shares of common stock at the rate of $0.50 per share. The Series D Dividends are to be paid annually in arrears on the last day of December each year Any dividends paid by us will first be paid to the holders of Series D Preferred Stock prior and in preference to any payment or distribution to holders of Common Stock out of any assets at the time legally available therefor. Dividends on the Series D Preferred Stock are mandatory and cumulative and there are no sinking fund provisions applicable to the Series D Preferred Stock. The Series D Preferred Stock does not have redemption rights. The stated value per share for the Series D Preferred Stock is $1,000 (the "Series D Stated Value").

In the event of any liquidation, dissolution or winding up of the Company, the Series D Preferred Stock will be paid, prior and in preference to any payment or distribution on any shares of Common Stock or Series B Preferred Stock, but on a pari passu basis with the holders of the Series C Preferred Stock, an amount per share equal to the Series D Stated Value and the amount of any accrued and unpaid dividends. If there are insufficient funds to permit full payment, the assets legally available for distribution will be distributed pro rata among the holders of the Series C and Series D Preferred Stock.

If, at any time while the Series D Preferred Stock is outstanding, we effect any Fundamental Transaction, a holder of the Series D Preferred Stock will have the right to receive any shares of the acquiring corporation or other consideration it would have been entitled to receive if it had been a holder of the number of shares of Common Stock then issuable upon conversion in full of the Series D Preferred Stock immediately prior to the Fundamental Transaction.

Each share of Series D Preferred Stock is convertible at any time at the holder's option into that number of fully paid and nonassessable shares of Common Stock determined by dividing the Series D Stated Value by the Conversion Price (subject to adjustment as set forth in the Certificate of Designation). No fractional shares will be issued upon the conversion of the Series D Preferred Stock.

Anti-takeover Effects of Delaware Law and our Certificate of Incorporation, as amended

As described above, our Board of Directors is authorized to designate and issue shares of preferred stock in series and define all rights, preferences and privileges applicable to such series. This authority may be used to make it more difficult or less economically beneficial to acquire or seek to acquire us.

Special meetings of the stockholders may only be called by our Board of Directors acting pursuant to a resolution approved by the affirmative majority of the entire Board of Directors. Stockholders may not take action by written consent.

The stockholders may, at a special stockholders meeting called for the purpose of removing directors, remove the entire Board of Directors or any lesser number, but only with cause, by a majority vote of the shares entitled to vote at an election of directors.

Additional Warrants

As of May 31, 2020, we had issued and outstanding warrants to purchase up to 116,376,868 shares of common stock, exercisable at prices ranging from $0.30 per share to $3.73 per share.

Stock Options

As of May 31, 2020, we had issued and outstanding options to purchase up to 14,983,661 shares of common stock, exercisable at prices ranging from $0.30 per share to $2.90 per share.

EXHIBIT 10.16

DISTRIBUTION AND SUPPLY AGREEMENT

This Distribution and Supply Agreement (this **"Agreement"**) is entered into as of July 2, 2020, (the **"Effective Date"**) by and between American Regent, Inc., a New York corporation having an address at 5 Ramsey Road, Shirley, New York, 11967 (**"American Regent"**), and CytoDyn, Inc., a Delaware corporation having an address at 1111 Main Street, Suite 660, Vancouver, Washington 98660 (**"CytoDyn"**). American Regent and CytoDyn are each referred to herein individually as a **"Party"** and together as the **"Parties"**.

RECITALS

WHEREAS, CytoDyn owns the rights to certain know-how and intellectual property to manufacture and supply the Product (defined below) in the Territory (defined below);

WHEREAS, American Regent has experience in the distribution, marketing and sale of pharmaceutical products in the Territory; and

WHEREAS, CytoDyn desires to grant American Regent, and American Regent desires to accept, the exclusive license to distribute and sell the Product in the Field (defined below) subject to the terms and conditions of this Agreement.

NOW, THEREFORE, in consideration of the foregoing and the covenants and promises contained in this Agreement, the Parties agree as follows:

1. DEFINITIONS

Unless specifically set forth herein, the following terms, whether used in the singular or the plural, shall have the respective meanings set forth below.

1.1 "Adverse Event" means any untoward medical occurrence in a patient or clinical investigation subject who is administered a Product that has at least a reasonably possible causal relationship with the treatment for which a Product is used. An untoward medical occurrence can include any unfavorable and unintended sign (including an abnormal laboratory finding), symptom or disease temporally associated with the use of a Product and may include a pre-existing condition that worsened in severity after administration of a Product.

1.2 "Affiliate" means, with respect to any Party, any other Person directly or indirectly controlling or controlled by, or under direct or indirect common control with, such Party. For purposes of this definition, a Person shall be deemed to "control" any other Person if it owns or controls a sufficient interest in the voting equity (or other comparable ownership if the other Person is not a corporation) such that it can direct, order or control the actions of such other Person. For the purposes of this Agreement, any company in the Daiichi Sankyo family of companies shall not be considered an Affiliate of American Regent hereunder.

1.3 "Agreement" has the meaning set forth in the Preamble of this Agreement.

1.4 "American Regent" has the meaning set forth in the Preamble of this Agreement.

1.5 "American Regent Indemnitees" means American Regent and each of its respective Affiliates, subsidiaries, equity holders, directors, managers, officers, employees, trustees, representatives, consultants, sublicensees, agents, successors and permitted assigns.

1.6 "**Applicable Laws**" means all applicable statutes, ordinances, regulations, codes, rules, or orders of any kind whatsoever of any governmental authority in the Territory, including without limitation the Federal Food, Drug, and Cosmetic Act (21 U.S.C. ch. 9 § 301 et seq. ("**the Act**")), the Generic Drug Enforcement Act of 1992 (21 U.S.C. § 335a et seq.), the Prescription Drug Marketing Act, the Anti-Kickback Statute (42 U.S.C. § 1320a-7b et seq.), the Health Insurance Portability and Accountability Act of 1996, the Federal False Claims Act (31 U.S.C. §3729-3733), the Department of Health and Human Services Office of Inspector General Compliance Program Guidance for Pharmaceutical Manufacturers, released April 2003, the Antifraud and Abuse Amendment to the Social Security Act, the AMA guidelines on gifts to physicians, the Securities Act of 1933 and the Securities Exchange Act of 1944 (together with all rules promulgated thereunder (including rules of Official Bodies)) as well as any state laws impacting the promotion of pharmaceutical products, including any state anti-kickback/fraud and abuse related laws, all as amended from time to time.

1.7 "Business Day" means any day other than a Saturday, a Sunday, or a day on which banks in the State of New York are required or authorized to close.

1.8 "**Change of Control**" means with respect to a Party, the occurrence of any of the following: (a) the sale of all or substantially all of such Party's (or such Party's controlling Affiliate's) assets or business relating to this Agreement; (b) a merger, reorganization or consolidation involving such Party (or such Party's controlling Affiliate) in which the voting securities of such Party (or such Party's controlling Affiliate, as applicable) outstanding immediately preceding thereto cease to represent at least fifty percent (50%) of the combined voting power of the surviving entity immediately after such merger, reorganization or consolidation; or (c) a Person, or group of Persons, acting in concert acquire, directly or indirectly, more than fifty percent (50%) of the voting equity securities or management control of such Party (or such Party's controlling Affiliate, as applicable), in one or a series of related transactions.

1.9 "Commercially Reasonable Efforts" means exercising such reasonable efforts and diligence in accordance with a Party's reasonable business, legal, medical and scientific judgment and accordance with the efforts and resources such Party would use for a pharmaceutical product which is of similar market potential, at a similar stage of its product life, taking into account the competitiveness of the marketplace, the proprietary position of the product and the profitability of the product.

1.10 "Competing Product" means any biopharmaceutical drug product labeled for treating Coronavirus Disease 2019 (COVID-19) that targets against the CCR5 receptor as an active moiety, alone or in combination with other ingredients and is therapeutically interchangeable with the Product.

1.11 "Confidential Information" means with respect to a Party all confidential Intellectual Property and confidential or proprietary information relating to the business and affairs of a Party or any of its Affiliates that are disclosed by or on behalf of a Party to the other Party and all information derived therefrom, including financial information, business opportunities, information relating to pharmaceutical products of any nature in any form; provided, however, that **"Confidential Information"** shall not include any information that (a) was already in the public domain at the time of disclosure; (b) becomes part of the public domain through no action or omission of the receiving Party after disclosure to the receiving Party; (c) was already known to the receiving Party, other than under an obligation of confidentiality to the disclosing party, at the time of the disclosure by the other Party; (d) was independently discovered or developed by the receiving Party without the use of Confidential Information belonging to the disclosing Party as shown by pre-existing proof, or (e) was disclosed to the receiving Party, other than under an obligation of confidentiality to which a Third Party was subject, by a Third Party who had no obligation to the disclosing Party not to disclose such information to others, as shown by independent proof.

1.12 "**Cost of Goods Sold**" means [***]. CytoDyn's 2020 estimates of Cost of Goods Sold for the Product are set forth in Exhibit A, attached hereto.

1.13 "CytoDyn" has the meaning set forth in the Preamble of this Agreement.

1.14 "CytoDyn Indemnitees" means any of CytoDyn and its Affiliates, subsidiaries, equity holders, directors, managers, officers, employees, trustees, representatives, consultants, sublicensees, agents, successors and permitted assigns.

1.15 "CytoDyn Product" means a subcutaneous injectable biopharmaceutical drug product that contains CytoDyn's Leronlimab (a humanized monoclonal antibody (also known as PRO 140) targeting against the CCR5 receptor) as the only active pharmaceutical ingredient but not labeled for treating COVID-19 sold by the CytoDyn Product Distributor.

1.16 "CytoDyn Product Distributor" any party, including CytoDyn or a licensed and/or authorized Third Party, commercializing the CytoDyn Product in the Territory.

1.17 "Effective Date" has the meaning set forth in the Preamble of this Agreement.

1.18 "FDA" means the United States Food and Drug Administration or any successor agency which issues a Regulatory Approval for the Marketing of a Product in the United States.

1.19 "Field" means distribution, marketing, offering to sell and selling the Product for the treatment of COVID-19.

1.20 "Firm Order" means a binding, non-cancelable agreement to purchase Product as evidenced by a purchase order, sales acknowledgement or other evidence to purchase Product in writing and delivered to CytoDyn by American Regent and accepted by CytoDyn in accordance with Section 6.2.

1.21 "First Commercial Sale" means with respect to a Product, the first commercial sale of the Product by American Regent to a Third Party in the Field in the Territory in final dosage form packaged for use by end-users, other than for testing purposes and/or sale for experimental purposes, promotional purposes, compassionate use programs, named patient programs, test market purposes, or similar purposes.

1.22 "current Good Manufacturing Practices" or "cGMP" means at any time the quality systems and good manufacturing practices as set forth in 21 C.F.R. (Parts 210 and 211) and any other Applicable Laws, directives, rules, regulations, guides and guidance in existence in the Territory at that time.

1.23 "Intellectual Property" means all patents, copyrights, trademarks, service marks, service names, trade names, internet domain names, e-mail addresses, applications or registrations for any of the foregoing, or extensions, renewals, continuations or re-issues thereof, or amendments or modifications thereto, brandmarks, brand names, trade dress, labels, logos, know-how (including the Product Know-How), show-how, technical and non-technical information, trade secrets, formulae, techniques, sketches, drawings, models, inventions, designs, specifications, processes, apparatus, equipment, databases, research, experimental work, development, pharmacology and clinical data, software programs and applications, software source documents, Third Party licenses, and any similar type of proprietary intellectual property right vesting in the owner and/or licensee thereof pursuant to the Applicable Laws of any relevant jurisdiction or under any applicable license or contract, whether now existing or hereafter created, together with all modifications, enhancements and improvements thereto.

1.24 "Latent Defect" means a defect that existed at the time that title to Product passed to American Regent which could not have been detected by American Regent utilizing American Regent's usual and customary inspection procedures for incoming finished product intended for distribution in the Territory, which in any event will be in accordance with American Regent's cGMP obligations.

1.25 "Losses" has the meaning set forth in Section 10.1.

1.26 "Manufacture" means to make Product in compliance with cGMP, including to process, prepare, make and Test the raw materials used in the preparation of Product and to Test a Product prior to release for Packaging, filling, packaging, labeling, and preparation of Product for shipment, in each case in a finished dosage form ready for administration to humans, and **"Manufacturing"** has a corresponding meaning.

1.27 "Market" means to distribute, market, offer to sell and/or sell for purposes of a commercial sale, and **"Marketing"** has a corresponding meaning.

1.28 "NDC Number" means the National Drug Code number, which is a unique 10-digit, 3-segment number that is a universal product identifier for drugs in the United States that identifies the labeler/vendor, the product and the trade package size.

1.29 "Net Profit" means an amount equal to the [***] of the Product less (i) the [***], and (ii) the [***].

1.30 "Net Profit Split" [***].

1.31 "Net Sales" means the total gross sales of the Product (number of units shipped times the invoice price per unit) by American Regent, its sub-licensees and Affiliates to independent third party customers, less the following deductions incurred, allowed, paid, accrued, or specifically allocated, to the extent actually taken by such third party customers on such sales: (a) [***] of gross sales in the Territory to cover cash discounts given by American Regent; (b) reasonable estimates for customary trade discounts, quantity discounts, credits, rebates, charge backs, and fees (including without limitation those to group purchasing organizations, managed-care entities, wholesalers, and government agencies, including without limitation Medicare and Medicaid); (c) reasonable estimates for allowances or credits to customers on account of retroactive price reductions or returns (including without limitation wholesaler and retailer returns), billing adjustments, bid defaults, shelf stock adjustments, promotional payments, or other similar allowances affecting the Product or on account of retroactive price reductions affecting the Product; (d) sales and excise taxes, customs, and any other taxes, all to the extent added to the sale price and paid by the selling party and not refundable in accordance with Applicable Law and without reimbursement from any third party (but not including taxes assessed against the income derived from such sale); (e) government fees based on the sale of the Product, including any fees due or made pursuant to the Patient Protection and Affordable Care Act; (f) reasonable estimates for allowances and credits to third parties on account of rejected, damaged, returned or recalled Product; (g) royalties payable to third parties in connection with the sale of the Product in the Territory; (h) prompt pay discounts paid to customers; and (i) other specifically identifiable amounts that have been credited against or deducted from the Product's gross sales and are substantially similar to those credits and deductions listed above. Notwithstanding anything to the contrary, the calculation of Net Sales shall be made in accordance with American Regent's standard practices for other pharmaceutical products, consistently applied.

1.32 "Official Body" means any national, federal, state or local government or government of any subdivision thereof, or any parliament, legislature, council, agency, authority, board, commission, self-regulatory authority, department, bureau or instrumentality thereof, or any court, tribunal, grand jury, mediator or arbitrator, whether foreign or domestic, in each case having jurisdiction in the relevant circumstances.

1.33 "Package" means to package and label Product for Marketing and "**Packaging**" has a corresponding meaning.

1.34 "Person" means any individual, partnership, limited partnership, joint venture, syndicate, sole proprietorship, company or corporation with or without share capital, unincorporated association, trust, trustee, executor, administrator or other legal personal representative or other entity or Official Body.

1.35 "Product" means a subcutaneous injectable biopharmaceutical drug product labeled for treating COVID-19 that contains CytoDyn's Leronlimab (a humanized monoclonal antibody (also known as PRO 140) targeting against the CCR5 receptor) as the only active pharmaceutical ingredient. For clarity, Product excludes any intravenous or infusible biopharmaceutical drug product.

1.36 "Product Know-How" means the data, information, expertise, trade secrets, manufacturing, mixing and production procedures, technical assistance, and shop rights, known to in the possession of or licensed to CytoDyn or its Affiliates, whether generally known to others or not, and relating to the Manufacturing, Packaging, Marketing and/or Testing of Product, including:

(a) characteristics, selection of properties and data relating to materials, such as excipients, used or useful in the Manufacturing, Packaging and/or Testing of Product;

(b) techniques, equipment and methods used or useful in the Manufacturing, Packaging or Testing of Product;

(c) equipment and data relating to the Manufacturing, Packaging or Testing of Product; and

(d) all *in vivo* or clinical, pharmacology, toxicology, safety and efficacy data, formulary submissions, pharmaco-economic data, and other such information useful or required in preparing applications for or obtaining or maintaining Regulatory Approval and/or for the Manufacturing, Packaging, Marketing and/or Testing of Product.

1.37 "Product Liability Claim" means any Third-Party claim involving any actual or alleged death or bodily or emotional injury arising out of or relating to any Product sold in the Territory.

1.38 "Product Technology" means collectively Product Know-How and all other Intellectual Property in or to the Product.

1.39 "Quality Agreement" means the mutually agreed Quality Agreement to be entered into by and between American Regent and CytoDyn, or a CytoDyn Affiliate, in accordance with Section 4.4.

1.40 "Recall" has the meaning set forth in Section 5.2(a).

1.41 "Regulatory Approval" means all approvals or authorizations granted by the FDA for the Marketing of a Product in the Territory.

1.42 "Regulatory Requirements" means all applicable Regulatory Approvals, licenses, registrations, cGMPs, and authorizations and all other requirements of the FDA in relation to Product, including each of the foregoing which is necessary for, or otherwise governs, the Manufacture, Marketing, Packaging and Testing of Product in the Territory.

1.43 "Sales, Marketing and Distribution Costs" means [***] to compensate American Regent for its direct costs associated with selling, marketing and distributing the Product (including the costs of obtaining the NDC Number).

1.44 "Specifications" means the specific requirement under a Biologics License Application ("**BLA**") approved by the FDA to govern the quality and integrity of the Product, including, but not limited to, procedures, formula, process, testing method, etc.

1.45 "Supply Interruption" has the meaning set forth in Section 6.4.

1.46 "Tax(es)" means, with respect to American Regent, all federal, state, local, county, foreign and other taxes or government charges constituting sales, use, transfer, value added, customs, duty or excise taxes payable by American Regent in connection with the importation or sale of Product.

1.47 "Term" has the meaning set forth in Section 9.1.

1.48 "Territory" means the United States of America, including its territories, possessions, districts, protectorates and commonwealths.

1.49 "Test" means to test a product or its ingredients prior to release for further processing or for shipping and Marketing in compliance with Applicable Law and **"Testing"** has the corresponding meaning.

1.50 "Third Party" means any Person, other than CytoDyn, American Regent or their respective Affiliates.

2. DISTRIBUTION RIGHTS

2.1 American Regent Distribution in the Field.

(a) Upon and subject to the terms and conditions of this Agreement, and upon FDA approval of the BLA for the Product in the Field, CytoDyn hereby appoints American Regent as the sole and exclusive authorized distributor in the Field in the Territory, with the right to subcontract to its subcontractors, to sell and distribute the Product in the Field in the Territory.

(b) Under the exclusive appointment set forth in Section 2.1(a), American Regent shall obtain exclusively from CytoDyn the Product for Marketing in the Field in the Territory. CytoDyn shall exclusively supply the Product (even to CytoDyn itself) to American Regent for Marketing by American Regent in the Field in the Territory in accordance with the terms of this Agreement.

(c) CytoDyn shall not sell, directly or indirectly through a distributor, any Product bearing an American Regent NDC number.

2.2 Retention of Rights. For the avoidance of doubt, CytoDyn retains all rights to the Product Know-How and Intellectual Property worldwide. CytoDyn retains the right to market, distribute and sell the Product during the Term outside of the Field or outside the Territory, by itself and/or through its Affiliates and/or Third Parties.

2.3 Restrictions on Marketing of Product. From and after the Effective Date, American Regent shall not Market or export the Product outside the Field in the Territory, or Market or export the Product to any Person who, to the knowledge of American Regent intends, or is likely to, Market or export the Product outside the Field in the Territory.

2.4 Covenant Not to Market Competing Product. From and after the Effective Date and during the Term of this Agreement, American Regent shall not Market a Competing Product in the Field in the Territory.

3. MARKETING

3.1 Marketing Obligations. American Regent shall, at its sole costs, use Commercially Reasonable Efforts to Market the Product in the Field in the Territory, including, without limitation, directing the methods of sale and distribution, organization and management of sales and Marketing and pricing in accordance with the terms and conditions of this Agreement.

3.2 Pricing.

(a) American Regent shall solely set the resale prices for the Product in the Field in accordance with Applicable Laws. American Regent shall be responsible for allowing credit for sales returns in connection with the sale of a Product to its customers according to its established procedures for other products. American Regent shall have sole responsibility for deciding distribution related decisions, including, but not limited to, issues concerning market launch, final customer pricing and customer contracts. Within ninety (90) days after the First Commercial Sale, the Parties shall conduct a business review meeting, either in person or telephonically, to discuss market conditions, supply estimates and expected Product trends.

3.3 NDC Number. American Regent shall submit drug listing information to the FDA with respect to American Regent being the distributor of the Product. American Regent shall only distribute and sell Product bearing an NDC Number that reflects American Regent as the distributor and seller thereof. Within fourteen (14) days after the Effective Date, or such other time period mutually agreed by the Parties in writing, American Regent shall obtain an NDC Number for each packaging configuration of the Product. American Regent shall have thirty (30) days after the Effective Date to conduct additional diligence on the use of its NDC Number on the Product packaging and it may terminate this Agreement with fifteen (15) days written notice in the event it determines that there is an unacceptable risk to American Regent in using its NDC Number.

3.4 Rebate; Processing.

(a) American Regent shall only be responsible for those federal, state and local government and private purchasing, pricing or reimbursement programs with respect to the Product sold by American Regent, including taking all necessary and proper steps to execute agreements and file other appropriate reports and other documents with governmental and private entities. American Regent shall be solely responsible for payment and processing of all rebates, whether required by contract or local, state or federal law, for the Product sold by American Regent.

(b) Upon the written request of American Regent, CytoDyn agrees to provide to American Regent information and data in its possession that American Regent could not otherwise reasonably obtain but must provide to any state or federal government regulators (including without limitation Centers for Medicare and Medicaid Services) pursuant to government-mandated price reporting requirements for the Product (such requirements, "**Pricing Regulations**", and such information and data, and the similarly required customer information in subsection (c) below, collectively "**Compliance Information**"), including, as applicable, aggregate sales and rebate transaction data, average manufacturer price and best price calculations, other data or information regarding sales or pricing (both on and off-invoice) of the Product or CytoDyn Product, and method(s) used for generating the foregoing information, subject to the following conditions:

(i) No later thirty (30) days before the end of a calendar quarter, American Regent shall request in writing the required Compliance Information for that calendar quarter and allow CytoDyn up to fifteen (15) days to provide the requested Compliance Information;

(ii) American Regent shall use all Compliance Information only for compliance with Pricing Regulations and not any other purpose, particularly (but not limited to) set or attempt to set its resale price or its rebate, discount or other incentive amount offered to its customers, sub-distributors, suppliers, or competitors of CytoDyn or American Regent;

(iii) American Regent may disclose the Compliance Information only to its employees and agents who are primarily responsible for American Regent's compliance with Pricing Regulations (collectively, "**Representatives**"), in each case who (A) need to know such Compliance Information to perform its Pricing Regulations obligations, (B) are not involved in any activities related to price setting or negotiation with any other customers, suppliers, or competitors of CytoDyn, and (C) are bound in writing by restrictions regarding disclosure and use of the Compliance Information no less restrictive than those set forth herein;

(iv) American Regent shall be fully liable for any breach of its obligations herein by its Representatives; and

(v) CytoDyn warrants that to its knowledge, all Compliance Information provided to American Regent will be complete and accurate in all material respects. In the event that American Regent discovers, through a routine audit, reconciliation, its compliance program or otherwise, that any government price reporting has been miscalculated or other data provided to American Regent regarding the sales or pricing of the Product in the Territory are inaccurate, it shall notify CytoDyn immediately of such circumstance and shall work with CytoDyn to ensure that proper pricing information is provided to American Regent as soon as possible, but in no event later than thirty (30) days after the end of the calendar quarter in which such inaccuracy is discovered.

(c) In the event that American Regent is required to access Compliance Information to fulfill required reporting obligations pursuant to Pricing Regulations for the Product, and upon written request, CytoDyn shall disclose to American Regent a comprehensive list of customers to whom the CytoDyn Product is directly sold by the CytoDyn Product Distributor, and CytoDyn shall (i) identify mutual customers (wholesalers or other customers that are buying both the American Regent labeled Product from American Regent and the CytoDyn Product from the CytoDyn Product Distributor, and (i) ensure that such mutual customers are segregating the CytoDyn Product from the Product sold by American Regent. Such customer information shall also be Compliance Information hereunder. If American Regent reasonably believes that any mutual customers are charging American Regent fees for services contemplated in any agreements between a mutual customer and the CytoDyn Product Distributor, the Parties shall cooperate to confirm such, and in such a case, American Regent shall not be responsible for paying such fees for service. Rather, the CytoDyn Product Distributor shall work with American Regent to promptly correct such invoices and, if not corrected, the CytoDyn Product Distributor shall be responsible for all outstanding customer fees related to its sales of the American Regent labeled Product.

(d) With respect to rebates that American Regent is obligated to pay pursuant to any government (Federal Medicaid or state assistance) rebate programs for amounts charged to an American Regent NDC Number ("Government Rebates"), American Regent shall be responsible for the processing, handling and payment of all such Government Rebates relating to the Products labeled with an American Regent NDC Number. American Regent shall not be responsible for any reporting obligations associated with the CytoDyn Product.

(e) For the avoidance of doubt, (i) the CytoDyn Product Distributor shall assume all obligations to honor and fulfill the payment of chargeback claims, administrative fees, indirect sales rebates, and all other rebates or fees associated with an indirect sale of the CytoDyn Product through a wholesaler outside the Field with respect to Products labeled with the CytoDyn Product Distributor's NDC Number; (ii) the CytoDyn Product Distributor shall be responsible for all required government reporting of CytoDyn Product sold by the CytoDyn Product Distributor; and (iii) all other payments made to customers for sales of the CytoDyn Product sold by the CytoDyn Product Distributor, or audits submitted from customers, shall be the sole responsibility of the CytoDyn Product Distributor.

3.5 Promotional Materials. American Regent shall not use any promotional materials in connection with the marketing, sale or distribution of the Product without CytoDyn's prior written approval other than (a) the labeling for the Product approved by CytoDyn in accordance with Section 6.5, and (b) after the First Commercial Sale, introduction announcements to the trade, bill sheets and American Regent's on-line product catalog; provided that any such promotional materials shall not contain any information other than the name of the Product, the available packaging configurations, and pricing and delivery terms. CytoDyn shall not make any statement that is inconsistent with the information contained in (a) or (b) in this Section. For purposes of this Agreement, "promotional materials" means all labeling and advertising materials as defined in the Act and the regulations of the FDA thereunder.

3.6 Sampling. American Regent shall not distribute any samples of the Product to any Third Party.

3.7 Reports. CytoDyn shall promptly keep American Regent fully informed of all governmental and regulatory requirements, activities and plans of the FDA including any changes thereto of which it becomes aware which materially affect, or are reasonably likely to materially affect, the sales or distribution of the Product in the Field in the Territory.

4. REGULATORY MATTERS

4.1 Regulatory Responsibilities. CytoDyn will, at its own cost, continue to own and maintain the applicable Regulatory Approvals necessary to Market the Product in the Territory. CytoDyn shall be responsible for all regulatory and safety reporting requirements associated with ownership of the Regulatory Approvals, including without limitation, Adverse Event reporting and annual reporting and pharmacovigilance activities in the Territory. American Regent shall assist CytoDyn at its sole expense by providing customer service, complaint handling and pharmacovigilance systems to support commercialization of the Product as set forth in Section 4.3. The Parties shall bear their own costs associated with the regulatory and safety reporting.

4.2 Pricing. American Regent shall be responsible for dealing with pricing issues relating to price ceilings and reimbursement for the Product in the Field and it shall share such decisions and related information with CytoDyn. American Regent shall be responsible for all government price reporting for sales of the Product in the Field.

4.3 Monitoring Adverse Events and Quality Complaints. Both Parties shall comply fully with all applicable Adverse Event reporting recommendations under Applicable Laws and agree to exchange such information as may be necessary to achieve that end and to ensure that both Parties are completely informed regarding Adverse Events with the Product, provided that CytoDyn, as the owner of the BLA for the Product, shall be solely responsible for all medical questions for the Product and for all Adverse Event reporting to the FDA in relation to the Product. In order to enable CytoDyn to comply with its regulatory reporting responsibilities, American Regent shall use reasonable efforts to inform CytoDyn of all adverse events as promptly as practical, but no later than forty-eight (48) hours of receiving information on such Adverse Event and at such time shall forward to CytoDyn all Adverse Event information received by it and all other information as required by CytoDyn by notice in writing to American Regent. The Parties shall negotiate in good faith and use Commercially Reasonable Efforts to enter into a mutually agreed Safety Data Exchange Agreement promptly after the Effective Date which will set out the policies, procedures and standards by which the Parties will coordinate and implement the pharmacovigilance procedures.

4.4 Quality Agreement. The Parties shall negotiate in good faith and use Commercially Reasonable Efforts to enter into the Quality Agreement promptly after the Effective Date which Quality Agreement will set out the policies, procedures and standards by which the Parties and any Affiliates will coordinate and implement the operation and quality assurance activities and regulatory compliance objectives contemplated under this Agreement with respect to Product. To the extent there are any inconsistencies or conflicts between this Agreement and the Quality Agreement, the terms and conditions of this Agreement shall control unless specifically otherwise agreed to in writing by the Parties.

4.5 Cooperation. Without limiting the foregoing, each of CytoDyn and American Regent shall provide to each other in a timely manner all information which the other Party reasonably requests regarding the Product in order to enable the other Party to comply with all Applicable Laws applicable to the Product in the Territory. Each of CytoDyn and American Regent shall provide to the other or if applicable, directly to the FDA, any assistance and all documents reasonably necessary to enable the other to carry out its obligations under this Article 4. In general, requests for cooperation should be responded to by the other Party within three (3) Business Days and both should make responsible efforts to ensure cooperation is maintained to ensure completion of the given project.

5. PRODUCT QUALITY AND PRODUCT RECALLS

5.1 Product quality inquiries other than Adverse Events.

(a) Each Party shall submit to the other Party, within forty-eight (48) hours of receipt any complaints or issues that question Product quality (other than Adverse Events) received by that Party or any of its Affiliates or, in the case of American Regent, to which that Party must respond, together with all evidence then available and all other information relating thereto subsequently obtained or produced by either Party.

(b) Each of American Regent and CytoDyn shall promptly notify the other of any notice of non-compliance with any Applicable Laws applicable to Product or the Packaging of Product, received from any Official Body, and of any request for or initiation of any inspection of any facility of either CytoDyn or American Regent, or any Affiliate of CytoDyn or American Regent.

5.2 Product Recall.

(a) CytoDyn shall be responsible, at its sole expense, for serialization of the Product. American Regent, at its sole expense, will maintain or cause to be maintained such records of its sales of the Product, as are necessary to permit a recall, market withdrawal or field correction of a Product including any inventory withdrawal in connection with any of the foregoing (each a **"Recall"**).

(b) Each Party shall promptly (but in any case, not later than twenty-four (24) hours of receipt) notify the other Party in writing of any information which indicates a Recall of any Product may be necessary, any safety or regulatory concerns, or any order, request or directive of a court or the FDA requesting or requiring a Recall.

(c) To the extent permitted by circumstances, the Parties will confer before initiating any Recall. If the Parties do not agree on the need for or the extent of such a Recall, either Party may authorize the Recall.

(d) With respect to Recalls agreed on by both Parties, American Regent shall manage, in accordance with CytoDyn's oversight and direction, the carrying out of such Recalls of Product sold by it in accordance with Applicable Laws. In the event CytoDyn materially impedes American Regent's efforts to Recall the Product, American Regent shall have the right to terminate this Agreement with [***] written notice to CytoDyn.

(e) If any Recall is required primarily and substantially because of failure of a Product to conform to the Specifications already existing at the time title is transferred to American Regent or as a result of a material breach of CytoDyn's obligations, as confirmed by a mutually acceptable Third Party laboratory, including a Latent Defect that is shown to have existed at the time of such title transfer, CytoDyn will be responsible for only the direct costs of such Recall (including reimbursement to American Regent and its Affiliates for their direct, out-of-pocket costs and expenses incurred during such Recall). In such event, CytoDyn shall supply to American Regent free of cost and expense replacement Product for any removed Product.

(f) If any Recall is required primarily or substantially because of failure of a Product to conform to the Specifications after title is transferred to American Regent or in circumstances caused by the negligence, mistake, fault, error or omission of American Regent, its Affiliates or subcontractors, including any breach by American Regent of a representation, warranty or covenant hereunder, American Regent will be responsible for the direct costs of such Recall (including reimbursement to CytoDyn and its Affiliates for all of their direct out-of-pocket costs and expenses incurred during such Recall) and the Transfer Price of all Products removed from American Regent's inventory.

(g) If any Recall is required under circumstances not covered in Section 5.2(e) or (f) above, the Parties will equally share the direct costs of such Recall, including direct out-of-pocket costs and expenses related to such Recall.

(h) Without limiting the foregoing, each Party will cooperate fully with the other Party in connection with any Recall efforts.

6. PURCHASE PRICE AND SUPPLY OF PRODUCT

6.1 Supply of Product.

(a) CytoDyn will be responsible for the Manufacture of the Product. American Regent shall purchase from CytoDyn all of American Regent's requirements for the Product in the Territory during the Term, pursuant to Firm Orders submitted by American Regent to CytoDyn from time to time in accordance with Section 6.2.

(b) CytoDyn shall supply all Product to American Regent for distribution in the Territory in the Field during the Term in full and on time, and in accordance with the terms and conditions of this Agreement.

(c) The terms and conditions of this Agreement shall control the Manufacture and supply of Product by CytoDyn to American Regent, and no terms or conditions contained in any purchase order, acknowledgment, invoice, bill of lading, acceptance or other pre-printed form issued by any Party shall have any force or effect to the extent they are inconsistent with or modify the terms and conditions of this Agreement.

6.2 Forecasts, Orders.

(a) Initial Firm Orders. Within [***] after FDA approval of the BLA for a Product, American Regent shall deliver to CytoDyn its initial six (6)-month order for delivery of the Product. Within [***] of CytoDyn's receipt of the initial order, CytoDyn shall notify American Regent whether it accepts or rejects such initial order (in its discretion) and the applicable Transfer Price and, in case of rejection, CytoDyn shall notify American Regent of the quantities of a Product that CytoDyn can accept for such initial order and the applicable Transfer Price. Once CytoDyn accepts the initial order, such initial order shall be construed as the "**Initial Firm Order.**"

(b) No Forecasts. American Regent shall not be required to provide forecasts for the supply of the Product in the Field. It shall purchase Product by providing Purchase Orders. Notwithstanding the foregoing, the Parties shall meet and confer at least once every calendar month to discuss the business issues generally related to the supply and Marketing of the Product (including anticipated demand and supply of Products).

(c) Firm Orders. American Regent shall place orders for a Product in writing (each a '**Purchase Order**") and CytoDyn shall, within ten (10) Business Days of receipt of a Purchase Order, confirm in writing whether a given Purchase Order has been accepted and the Transfer Price applicable to such Purchase Order. CytoDyn shall use Commercially Reasonable Efforts to accept all Purchase Orders which are provided to CytoDyn in accordance with the terms and conditions of this Agreement. All accepted Purchase Orders are Firm Orders.

(d) Delivery Against Firm Orders. Delivery on each Firm Order, including the Initial Firm Order, will take place [***] after CytoDyn has provided written notice to American Regent that such Firm Order has been accepted. CytoDyn shall deliver against each such Firm Order in accordance with this Section 6.2 (including with respect to the delivery dates and quantities set forth therein); provided that notwithstanding anything to the contrary contained herein (a) CytoDyn shall have satisfied its obligations with respect to delivery date if the actual delivery date is [***] of the desired delivery date set forth in the applicable Firm Order (or such other date as agreed to by the Parties), and (b) CytoDyn shall have satisfied its obligations with respect to quantity of Product if the actual quantity of Product Manufactured and supplied is within plus or minus [***] of the quantity of Product set forth in the applicable Firm Order.

(e) Terms and Conditions of Firm Orders. Each Firm Order shall be in the form acceptable to CytoDyn and shall specify (a) the quantities and format (if applicable) of Product ordered, (b) shipping instructions and destination(s), and (c) the requested date of delivery (provided that there shall be no more than one (1) delivery date in any thirty one (31)-day period and the delivery date is consistent with the provisions of Section 6.2(g) herein). Firm Orders shall not be made in any other form of document other than that prescribed by this Agreement unless the Parties mutually agree otherwise in writing. Any term or condition of a Firm Order that is different from or contrary to the terms and conditions of this Agreement shall be void. Except as contemplated herein, all Firm Orders shall be non-cancelable by either Party and American Regent shall be obligated to pay the Transfer Price for the Product supplied to American Regent. CytoDyn agrees to use its commercially reasonable efforts to comply with unplanned changes in Firm Orders.

(f) Maximum Capacity. Subject to a schedule to be agreed upon by the Parties at the time of the Initial Firm Order, CytoDyn will use Commercially Reasonable Efforts to supply the Product in accordance with its current manufacturing capacity and operational strategy and it shall be entitled to reject any portion of a Firm Order that CytoDyn believes will exceed its anticipated maximum capacity for a given calendar year set forth in the applicable schedule (when aggregated with all prior Firm Orders previously submitted for such calendar year).

6.3 Continuity of Supply. If CytoDyn is unable to supply any Product to American Regent pursuant to Section 6.2 for thirty (30) days or more after the anticipated date of delivery specified in a Firm Order, to the location specified therein, or if CytoDyn is unable to deliver on a timely basis at least [***] of the amount covered by Firm Orders issued by American Regent pursuant to Section 6.2(d) for [***] or more consecutive orders, (whether as a result of cGMP issues, a Force Majeure event, failure to meet quality standards, or otherwise) (individually or collectively a "**Supply Interruption**"), then at any time such Supply Interruption is continuing and CytoDyn holds less than one week of any dosage of saleable Product inventory, American Regent may declare a Supply Interruption by providing CytoDyn with a notice that a Supply Interruption has occurred. In the event that circumstances arise that may give rise to a potential Supply Interruption, the Parties will work collaboratively in good faith to avoid a Supply Interruption and in such connection CytoDyn agrees to use Commercially Reasonable Efforts to provide American Regent with the same or greater percentage of Product for its Firm Orders, as the percentage of Product it provides to any other distributor of Product outside the Territory with respect to its Firm Orders. If there is no resolution of this matter, American Regent's sole remedy shall be to terminate this Agreement.

6.4 Packaging Configuration. American Regent shall sell the Product with CytoDyn's labeling and packaging, bearing American Regent's NDC Number, and clearly identifying American Regent solely as the distributor of the Product. [***] after receiving FDA approval of its own labeling and packaging for the Product, CytoDyn shall supply American Regent with copies of CytoDyn's approved labeling and packaging for the Product. CytoDyn's labeling and packaging shall identify CytoDyn's manufacturer of the Product. [***] after American Regent's receipt of such labeling, American Regent shall provide to CytoDyn proposed camera ready artwork for the labeling and packaging for the Product American Regent will sell, which shall be consistent with the labeling and packaging of the Product provided by CytoDyn, with the addition of the American Regent's NDC Number obtained pursuant to Section 3.3. The American Regent labeling and packaging for the Product shall be subject to the prior approval of CytoDyn, which approval shall not be unreasonably withheld or delayed. CytoDyn shall only be obligated to supply to American Regent the Product in mutually agreed upon packaging configurations, including, but not limited to pallet level aggregation for serialization. Any changes to the packaging and labeling of Product requested by American Regent shall require the prior written consent of CytoDyn, which approval shall not be unreasonably withheld or delayed. If CytoDyn consents to such changes, such changes shall be effected at American Regent's sole cost and expense.

6.5 Serialization.

(a) Connectivity. CytoDyn and American Regent connectivity between American Regent's and CytoDyn's L4 (vendor supported) systems is required to be established and validated prior to the first production lot of Product for sale by American Regent. This connectivity testing confirms that the EPCIS (Electronic Product Code Information Services) file containing the lot information can be successfully transferred from American Regent to CytoDyn. American Regent uses IRIS as its L4 system. Any updates made to the AS2 (a specification about how to transport structured business-to-business data securely and reliably over the Internet) need to be communicated directly to either Party. Using its L4, CytoDyn will generate and provide the serial numbers for the smallest unit of sale and aggregate the Serialized Shipping Container Codes (SSCCs) and pallet to American Regent's L4.

(b) Lot Numbering/Expiration Dates. CytoDyn shall make arrangements for and implement the imprinting of lot numbers and expiration dates on the packaging of Product shipped. Such lot numbers and expiration dates shall be affixed on the Product packaging and on the shipping carton of Product as is required by cGMPs and consistent with the Specifications. Electronic on-line verification of the lot number, expiration date, and serialization will be performed by CytoDyn.

(c) Product Identifier and Serial Numbering. If required by Applicable Law, CytoDyn shall make arrangements for the imprinting of the product identifier, i.e., global trade identification number (GTIN) and serial number on the packaging of each Product shipped. Such product identifier and serial number shall be affixed on the Product packaging and on the shipping carton of each Product as required by cGMPs and consistent with the Specifications. Electronic on-line verification of the product identifier and serial number will be performed by CytoDyn.

(d) Data Carrier Printing and Encoding. If required by Applicable Law, CytoDyn shall make arrangements for the imprinting of the data carrier, i.e., 2D data matrix or barcode, on the packaging of Product shipped. Such data carrier shall encode the lot number, expiration date, Product identifier and serial number. Such data carriers shall be affixed on the Product packaging and on the shipping carton of each Product as required by cGMPs and consistent with the Specifications. Electronic verification of the data carrier will be performed by CytoDyn.

6.6 Method of Delivery of Product. Product shall be shipped and delivered DDP to American Regent's facility in Shirley, NY and/or New Albany, OH (Incoterms® 2010).). American Regent shall advise CytoDyn in writing at least fifteen (15) days in advance of the scheduled shipping date specified in the applicable Firm Order of the carrier to be used to ship Product to American Regent. CytoDyn shall cause such carrier to comply with all Applicable Laws, and the Product storage and shipping requirements, for the shipment of Product. CytoDyn shall determine the appropriate carrier if CytoDyn receives no direction from American Regent at least fifteen (15) days in advance of the scheduled shipping date specified in the applicable Firm Order to use a particular carrier. CytoDyn shall be responsible for providing temperature-controlled transport for the Product, along with verifiable data through temperature tails to support that the Product was not exposed to excursions during transport. Title and risk of loss to Product shall pass to American Regent immediately upon such delivery.

6.7 Acceptance, Rejection and Revocation of Acceptance.

(a) CytoDyn shall be responsible for Product test procedures for quality assurance, including Product storage and shipping requirements, before Product is released to American Regent. CytoDyn shall provide a certificate of analysis and other documents (collectively, the "**COA**") as set forth in the Quality Agreement, in such forms as the Parties shall agree upon, for any Product batch delivered to American Regent hereunder certifying that such Product have been Manufactured, Packaged and shipped in compliance with the Specifications, cGMPs and all other applicable Regulatory Requirements and with an expiry date of not less than twelve (12) months from the date of shipment.

(b) American Regent shall inspect or shall cause to be inspected all shipments of Product promptly upon receipt. American Regent may reject any Product which does not conform to the Specifications, or the shipping and storage requirements for the Product, at the time of receipt at American Regent's location. American Regent shall make any such rejection in writing, within ten (10) days of the later of the receipt of the COA or the Product at the facility designated by American Regent in the applicable Firm Order (the "**Stipulated Rejection Period**"), to CytoDyn, and shall indicate the reasons for such rejection (the **"Rejection Notice"**).

(c) If American Regent has not delivered a Rejection Notice within the Stipulated Rejection Period, American Regent shall be deemed to have accepted that shipment of Product. Once American Regent has accepted or has been deemed to have accepted a shipment of Product, and except with respect to Latent Defects discovered by American Regent or American Regent's customers after the expiration of the Stipulated Rejection Period, American Regent may not exercise any rights to subsequently reject such shipment under this Section 6.7.

6.8 Rejection Procedures.

(a) After CytoDyn receives the Rejection Notice, it will evaluate process issues and the reasons given by American Regent for the rejection. CytoDyn shall use Commercially Reasonable Efforts to promptly notify American Regent whether it agrees with the basis for American Regent's rejection, but in no event shall such notice be given later than thirty (30) days of CytoDyn's receipt of a Rejection Notice. If CytoDyn does not so notify American Regent within thirty (30) days of receipt of the Rejection Notice as to whether it agrees with the basis of American Regent's rejection, CytoDyn shall be deemed to be in agreement therewith.

(b) If CytoDyn agrees with or is deemed to agree with the basis for American Regent's rejection, CytoDyn shall use Commercially Reasonable Efforts to promptly replace, at no cost to American Regent, such rejected Product.

(c) If CytoDyn disagrees with the basis for American Regent's rejection specified in the Rejection Notice: (i) CytoDyn shall use Commercially Reasonable Efforts to promptly replace such rejected Product; (ii) no payment shall be due with respect to the replacement Product until it is determined which Party shall bear the burden of such cost hereunder; and (iii) the Parties shall submit samples of the rejected Product to a mutually acceptable Third Party laboratory, which shall determine whether such Product meets the

Specifications and, as part of this process, may also carry out a full investigation of the Manufacturing process for such Product if the Third Party laboratory reasonably believes such an investigation is necessary to resolve the disagreement. The Parties agree that the determination of the Third-Party laboratory, after it has assessed the retention samples and following any full investigation of the Manufacturing process it conducts, shall be final and determinative. If the Third-Party laboratory determines that the retained samples meet the Specifications, the rejection by American Regent is unjustified, and American Regent shall promptly pay CytoDyn for any replacement Product and, if the Product can no longer be distributed, Transfer Price on the rejected Product. If the Third-Party laboratory determines that the relevant shipment of Product does not meet the Specifications, CytoDyn shall not invoice American Regent for the replacement Product. The Party against whom the Third-Party laboratory rules shall also bear the fees charged by the Third Party laboratory in connection with resolution of the disagreement, including all out-of-pocket costs of investigating the Manufacturing process.

(d) At CytoDyn's election and upon authorization from CytoDyn, American Regent shall destroy the rejected Product promptly and provide CytoDyn with certification of such destruction unless CytoDyn elects to have the Product returned, in which event American Regent shall cooperate in arranging such return. The party against who the Third-Party laboratory rules shall pay the cost of destroying or returning the Product.

(e) Notwithstanding any of the other provisions in this Agreement and without limiting any other provision herein, American Regent agrees that the remedies set forth in this Section 6.8 are American Regent's sole and exclusive remedies with respect to the rejection of Product.

6.9 Prices and Payments.

(a) Transfer Price. The price payable by American Regent (the "Transfer Price") for all Product delivered hereunder shall be [***]. The Transfer Price shall be paid to Cytodyn by American Regent at the time American Regent pays the [***] owed to CytoDyn with respect to such calendar quarter.

(b) Adjustment to Transfer Price. CytoDyn shall use commercially reasonable efforts to reduce its Manufacturing expenses for the Product. CytoDyn shall conduct annual review on the costs of all materials and API required to Manufacture the Product. In the event that the cost of materials decreases by more than [***], CytoDyn shall reduce the Transfer Price accordingly. In the event there is a change in the Manufacturing requirements applicable to the Manufacture of the Product pursuant to this Agreement or an increase in CytoDyn's cost structure for the Manufacture of the Product (including with respect to any materials used to Manufacture the Product) of more than [***], CytoDyn shall promptly notify American Regent and the Transfer Price shall be adjusted by CytoDyn to reflect such increase.

(c) American Regent shall be responsible for the payment of any duties, levies or Taxes applied to the sale of Product in the Territory by any relevant Tax authority.

(d) Any payments to be made hereunder and which have not been made by the due date, shall accrue interest at any rate equal to the lower of (a) a floating annual rate of [***] above the commercial prime rate as published in the Wall Street Journal on the first Monday of each month, or (b) the highest rate permitted by law; provided that payments of such interest shall not constitute a remedy to a material breach for purposes of terminating this Agreement under Section 9.2. Additionally, American Regent shall be responsible for all reasonable attorneys' fees, witness fees and court costs and other costs incurred by CytoDyn to recover amounts owing to it hereunder.

(e) American Regent shall make all payments contemplated by this Agreement in U.S. Dollars and to such address as CytoDyn may from time to time direct in writing to American Regent.

6.10 Net Profit Split. American Regent shall pay CytoDyn an amount equal to [***] of the Net Profits from American Regent's sales of the Product for each calendar quarter during the Term, and any selloff period under Section 9.4 after the Term. To the extent the Net Profit is negative in any particular calendar quarter or quarters, American Regent shall be entitled to accrue and set off such shortfall against any positive Net Profit generated in any subsequent calendar quarter or quarters. Each Party shall have the right to terminate this agreement with thirty (30) days written notice in the event that the Net Profit for American Regent's sales of the Product are negative for two (2) or more consecutive calendar quarters.

6.11 Reporting and Payment.

(a) Not later than thirty (30) days after the end of each calendar quarter, through and including the calendar quarter in which all rebate and chargeback amounts on Product sold during the Term and any applicable selloff period under Section 9.4 are finally reconciled, American Regent shall:

(i) deliver to CytoDyn a written report that specifies in detail the breakdown of individual components of the Net Sales that were used to calculate the Net Profit with respect to such calendar quarter, as well as the Net Profit calculation; and

(ii) pay to CytoDyn the Net Profit split amount owed to CytoDyn with respect to such calendar quarter.

(b) Prior to May 21 every year during the Term, American Regent will use good faith efforts to provide CytoDyn with American Regent's actual and estimated forecasted sales of Product, and estimated Net Profit through to May 31, for CytoDyn's use for its end of year reporting requirements.

6.12 Audit. American Regent shall keep and retain complete and accurate records pertaining to the disposition of the Product and amounts payable under this Agreement for each calendar year or part thereof during the Term in sufficient detail to permit CytoDyn to confirm the accuracy of all payments made or due hereunder for a period of three (3) years following the applicable calendar year or part thereof. CytoDyn shall have the right to appoint an independent

internationally recognized audit firm, reasonably acceptable to American Regent, to audit the books of account of American Regent in order to determine whether American Regent has properly reported and accounted for any fees or payments due to CytoDyn pursuant to this Agreement. The appointed audit firm may perform audits during regular business hours, not more than once in any calendar year during the Term and upon reasonable prior notice to American Regent. CytoDyn shall bear the audit fees, unless such Third Party auditor determines that the amount actually due CytoDyn, in the aggregate, exceeds the amounts paid or deemed paid by American Regent hereunder by the lower of [***] or [***], in which case American Regent shall bear the audit fees. American Regent shall forthwith pay any amounts discovered to be due pursuant to an audit together with interest from the date payment was originally due at a rate equal to the lower of (a) a floating annual rate of [***] above the commercial prime rate as published in the Wall Street Journal on the first Monday of every month calculated monthly or (b) the highest rate permitted by law. The results of the audit shall be final and binding upon the Parties.

6.13 Facility Audits.

(a) American Regent and/or its nominee shall have the right to conduct an audit of any manufacturing site at which the Product is being Manufactured during business hours upon ten (10) Business Days prior written notice to CytoDyn not more than once per calendar year during the Term of this Agreement, unless either Party, the FDA or any Third Party raises any questions about the quality of a Product which could have a material detrimental effect on the sales or use of a Product, in which case American Regent's audit right shall not be subject to the foregoing limitation until the specific issue in question has been resolved, and CytoDyn shall promptly supply to American Regent all data and results relating to all Testing performed in connection with the issue in question. CytoDyn shall be responsible for its own costs, and those of its contract manufacturers, for a first audit by American Regent hereunder. American Regent shall bear the fees and costs of any subsequent audit, including the fees and costs payable by CytoDyn to any Third-Party subcontractor that Manufactures the Product.

(b) CytoDyn and/or its nominee shall have the right to conduct an audit of the facilities and records of American Regent relating to the Marketing, Testing, and storage of the Product and of any correspondence between American Regent and the FDA related to the Product or such facilities, during business hours upon reasonable prior written notice to American Regent not more than once per any twenty-four month period during the Term of this Agreement, unless any Official Body reasonably believes that American Regent may be in material breach of its obligations under Article 3 or Section 4.4 or Applicable Laws governing the Marketing of Product that could have a material detrimental effect on the sales or use of the Product, in which case CytoDyn's audit right shall not be subject to the foregoing limitation until the specific issue or question has been resolved, and American Regent shall promptly supply to CytoDyn all data and results relating to all Testing performed by American Regent on the Product.

7. INTELLECTUAL PROPERTY

7.1 Ownership of CytoDyn Intellectual Property. CytoDyn shall retain all of its rights, title and interest in and to all Product Technology, copyrights, and all other industrial and Intellectual Property embodied in or which covers the Product, in each case which is owned, held, or licensed by it as of the Effective Date or thereafter or developed, created or discovered by it or on its behalf during the Term, subject to the rights granted in this Agreement. Except as otherwise expressly provided in this Agreement, American Regent has and shall have no right, title or interest in any Intellectual Property owned by or licensed by CytoDyn relating to the Product including the Product Technology.

7.2 Ownership of American Regent Intellectual Property. American Regent shall retain all of its right, title and interest in and to any Intellectual Property owned by American Regent. For clarification purposes, the Parties agree that nothing herein grants, or constitutes an agreement or obligation to grant, to CytoDyn, or any of their Affiliates or other Third Party any right, title or interest in, to or under any Intellectual Property owned by American Regent.

7.3 Notice of Patent Infringement.

(a) Information Concerning Infringement. If either Party shall learn of (i) any claim or assertion that the Manufacture, Marketing, Packaging or Testing of a Product, or the use of the Product Technology or other Intellectual Property related to a Product infringes, misappropriates or otherwise violates the Intellectual Property rights of any Third Party, or (ii) the actual or threatened infringement, misappropriation or other violation by any Third Party of the Product Technology or other Intellectual Property related to a Product, then the Party becoming so informed shall as soon as reasonably practicable, but in all events within fifteen (15) Business Days thereof, notify the other Party of such claim or assertion, or actual or threatened infringement, misappropriation or other violation.

(b) Potential Infringement. In the event either CytoDyn or American Regent learns of any Third-Party patents which may cover the Manufacturing, Marketing, Testing or Packaging of a Product in the Territory, such Party will promptly notify the other Party. The Parties agree to confer in good faith regarding such potential infringement risk and to explore reasonable alternatives for avoiding such risk and to provide such information to each other as either Party may reasonably request.

7.4 Infringement of Product Technology by a Third Party. In the event that any Party becomes aware of any Person infringing or potentially infringing the Product Technology, whether by direct or indirect infringement, or by misappropriation of Product Technology, it shall promptly notify the other Party. CytoDyn shall notify American Regent within thirty (30) days of such notice, whether CytoDyn wishes to commence, at its own expense, an infringement action against any Person infringing or allegedly infringing the Product Technology, including actions for direct or contributory infringement or misappropriation of Product Technology. American Regent shall cooperate with CytoDyn as reasonably requested, at CytoDyn's expense. Any and all amounts recovered with respect to such an action shall be retained by CytoDyn.

8. CONFIDENTIALITY

8.1 CytoDyn's Information. Except as provided in Section 8.3 or elsewhere in this Agreement, American Regent shall maintain all Confidential Information provided by CytoDyn to American Regent, whether in writing, electronically, orally or through access to CytoDyn's premises, in strict confidence. Such information shall remain the property of CytoDyn, and American Regent shall not use the same for or on behalf of any Person or entity other than CytoDyn or make use of any such information except as permitted by this Agreement without the express prior written approval of CytoDyn.

8.2 American Regent's Information. Except as provided in Section 8.3 or elsewhere in this Agreement, CytoDyn shall maintain all Confidential Information provided by American Regent to CytoDyn, whether in writing, electronically, orally or through access to American Regent's premises, in strict confidence. Such information shall remain the property of American Regent, and CytoDyn shall not make use of any such information except as permitted by this Agreement without the express prior written approval of American Regent.

8.3 Exceptions. The covenants of the receiving Party contained in Section 8.1 and Section 8.2 shall not apply to Confidential Information (a) that the receiving Party can reasonably demonstrate by competent proof is required to be disclosed by Applicable Law or a court or other Official Body pursuant to (i) regulatory filings; (ii) prosecuting or defending litigation; or (iii) complying with Applicable Law and orders or decisions of any Official Body having jurisdiction; or (b) disclosed to Affiliates who agree to be bound by similar terms of confidentiality. Notwithstanding any provision herein to the contrary, nothing herein shall prevent or prohibit any disclosure of any information concerning this Agreement (A) required under Applicable Laws and the rules and regulations of any stock exchange or market system on which any Party's securities are or may be traded, (B) by either Party in connection with an Approved Transaction (as defined below), where prospective parties or the other party or parties to such Approved Transaction have entered into confidentiality agreements with the Party concerning such Confidential Information, (C) to either Party's financial advisors or legal advisors who have agreed to the limitations on disclosure contained herein and/or (D) to investment bankers and/or financing sources in connection with bona fide financing transactions involving either Party or an Affiliate. For the purposes of this Agreement, each of the following shall constitute an **"Approved Transaction"**: (i) the issuance by either Party of securities in connection with any financing transaction or public offering, and/or (ii) a merger, consolidation or other similar transaction involving either Party (i.e., wherein another entity acquires all or substantially all of that Party's equity interests or assets or a merger or consolidation or similar transaction wherein securities of the post transaction entity will be issued to the other party). If a Party is required or permitted to make a disclosure of the other Party's Confidential Information pursuant to this Section 8.3, it will use Commercially Reasonable Efforts to (I) limit the scope of the Confidential Information disclosed and the number of persons to whom such Confidential Information is disclosed, in each case to the minimum extent required to address the reason such disclosure is permitted hereunder and (II) secure confidential treatment of such Confidential Information and comply with any applicable provisions of Section 12.7.

8.4 Survival. This Article 8 shall survive termination of this Agreement for a period of five (5) years.

9. TERM AND TERMINATION OF AGREEMENT

9.1 Term. The term of this Agreement shall commence on the Effective Date and continue for three (3) years from the date of the First Commercial Sale (the **"Initial Term"**). The Parties may mutually agree in writing to renew the Agreement for one additional one (1) year period (the **"Renewal Term"**, if applicable, and together with the Initial Term, subject to early termination pursuant to Section 9.2 the **"Term"**) provided that if American Regent does not wish to renew it must provide CytoDyn at least six (6) months written notice to CytoDyn prior to the expiry of the Initial Term.

9.2 Termination.

(a) Material Breach. A Party shall have the right to terminate this Agreement upon prior written notice to the other Party for material breach of this Agreement by the other Party (which includes any failure by American Regent to pay amounts when due to CytoDyn in accordance with the terms of this Agreement). Any notice of material breach shall specify the breach in reasonable detail. Unless otherwise provided in this Agreement, the termination shall be effective thirty (30) days after receipt of the written notice, unless the breaching Party cures the breach within that thirty (30) day notice period, or, if such breach is incapable of cure within such thirty (30) day period, the breaching Party has commenced good faith efforts to cure such breach within such thirty (30) day period and cures such breach within three (3) months after the receipt of the notice of material breach.

(b) Termination by CytoDyn. After the First Commercial Sale occurs, CytoDyn shall have the right to terminate this Agreement at any time in its sole discretion by giving six (6) months advance written notice to American Regent.

(c) Termination by American Regent. Notwithstanding anything contained herein to the contrary, American Regent shall have the right to terminate this Agreement:

(i) upon six (6) months advance written notice to CytoDyn (a) if, following due diligence and/or a quality inspection of the manufacturing facility associated with the Product, it determines that the distribution of the Product by American Regent should not be pursued, subject to the cure provisions of Section 9.2(a) above, or (b) if there is an unresolved Supply Interruption pursuant to Section 6.4.

(ii) immediately upon written notice to CytoDyn if (a) pursuant to Section 3.3, American Regent determines there is an unacceptable risk of using American Regent's NDC Number on the Product labeling, (b) if both the mutually agreed Quality Agreement and the Safety Data Exchange Agreement have not been executed by the Parties within forty five (45) days of the Effective Date, (c) any patent or trade secret infringement alleged by a Third Party (except any company in the Daiichi Sankyo family of companies) against American Regent resulting from American Regent's Marketing of the Product survives motion to dismiss or has not been resolved six (6) months after American Regent first receives written notice of the alleged infringement, (d) any regulatory authority in the Territory requires the cessation of sale or distribution of the Product, (e) pursuant to Section 5.2(d), or (f) there is a negative Net Profit for the Product for two (2) consecutive calendar quarters pursuant to Section 6.10.

(d) Bankruptcy and Insolvency. A Party shall have the right to terminate this Agreement in the event that a court of competent jurisdiction declares the other Party insolvent or bankrupt, or a bankruptcy proceeding is commenced against the other Party or the other Party files a proposal, assignment for the benefit of creditors, arrangement, composition or seeks similar relief under any Applicable Law or the other Party is in receivership, in which case termination shall be effective upon written notice to that effect.

(e) Termination Due to Change of Control. In the event of a Change of Control of American Regent (or American Regent's controlling Affiliate) during the Term, American Regent shall deliver a written notice of such Change of Control to CytoDyn within thirty (30) days of the Change of Control event. At any time within ninety (90) days after the earlier of CytoDyn's receipt of the notice of such Change of Control, or the date CytoDyn otherwise becomes aware of such Change of Control, CytoDyn may terminate this Agreement upon ninety (90) days written notice to American Regent.

9.3 Accrued Rights, Surviving Obligations. Termination or expiration of this Agreement shall not affect any accrued rights of either Party or payments otherwise owing. Without limiting the foregoing, the terms of Sections 3.4, 4.3, 4.5, 6.11, 6.12, 9.3, 9.4, 9.5; Article 1 (to the extent needed to interpret any surviving Articles or Sections) and Articles 5, 7, 8, 10, 11, and 12 shall survive termination or expiration of this Agreement.

9.4 Transitional Matters.

(a) Upon expiration or termination of this Agreement, at CytoDyn's option, either (a) all Firm Orders previously submitted by American Regent prior to the effective date of termination or expiration shall be cancelled, or (b) all Firm Orders previously submitted by American Regent prior to the effective date of termination or expiration shall remain in effect, and CytoDyn shall supply Product, and American Regent shall purchase such Product under such Firm Orders, in accordance with the terms of this Agreement; provided, however, that to the extent CytoDyn elects to continue to fill such Firm Orders, American Regent shall be required to pre-pay the [***] for all such Product (which payment shall be made within [***] after American Regent's receipt of notice of CytoDyn's election to fill such Firm Orders).

(b) Upon expiration or termination of the Agreement, American Regent may, where permitted by Applicable Law, sell Product then in its inventory for a period of [***] thereafter, which [***] period may be extended for up to an additional [***] months but only to the extent CytoDyn has not granted a Third Party an exclusive distribution right to such Product in the Territory, all in accordance with the terms of this Agreement. Promptly after the expiration of the periods set forth in the previous sentence, American Regent will, at its cost, destroy any unsold Product remaining in its inventory and will provide appropriate evidence of such destruction to CytoDyn or, at CytoDyn's request, return the inventory to CytoDyn at CytoDyn's cost and provided CytoDyn pays American Regent the Transfer Price with respect to such inventory. In addition, all information and materials relating to Product, will, at CytoDyn's request, promptly be delivered to CytoDyn, at CytoDyn's cost of delivery, CytoDyn will have the right to cancel any Firm Orders placed by American Regent which were accepted by CytoDyn prior to such termination, and which require delivery of Product after the date of termination.

(c) Upon termination, American Regent and CytoDyn shall at their own expense use Commercially Reasonable Efforts to ensure that the continuity of patient care is not disrupted. In addition, American Regent will remain responsible for returned Product Marketed by American Regent during the Term and the sell-off period specified under Section 9.4(b), and CytoDyn will be responsible for returned Product not Marketed by American Regent. For the purpose of identifying the responsible party, Product will be tracked via lot numbers.

9.5 Effect of Termination. Upon any termination of this Agreement, except to the extent required for the purposes of Section 9.4, (i) all licenses and rights granted to American Regent hereunder shall immediately terminate and (ii) all rights, properties and interests granted by CytoDyn to American Regent shall immediately revert to and become fully vested in CytoDyn and American Regent shall return to CytoDyn all copies of documents regarding a Product and all Confidential Information supplied by CytoDyn.

10. INDEMNITY

10.1 Indemnification by CytoDyn. CytoDyn agrees to and hereby does indemnify, defend and hold the American Regent Indemnitees harmless from and against all losses, claims, damages, costs and expenses, including reasonable attorneys' fees (including, without limitation, those resulting from a Third Party claims, actions, or proceedings) (collectively **"Losses"**) to the extent arising from: (a) the breach of any representation, warranty, covenant or obligation hereunder by CytoDyn or its Affiliates, (b) any negligent act or omission, or willful misconduct by CytoDyn or its Affiliates; (c) the failure of a Product sold to American Regent to conform to the Specifications (whether the failure is patent or latent) or any Product Liability Claims, in each case because of conditions existing at the time title of such Product is transferred to American Regent, (d) any claims of infringement or misappropriation of any Third Party's patent or trade secret rights.

10.2 Indemnification by American Regent. American Regent agrees to and hereby does indemnify and hold the CytoDyn Indemnitees harmless from and against all Losses arising from claims of negligent distribution of Product by American Regent or any of its agents.

10.3 Procedure. This Section 10.3 describes the procedure for indemnification of Losses for the Third-Party claims. With respect to Losses relating to the claim of a Party hereto, the procedures provided in Article 10 shall govern. The Party seeking indemnification for third party claims under Sections 10.1 or 10.2 (the **"Indemnified Party"**) shall promptly notify the other Party (the **"Indemnifying Party"**) in writing of all matters which may give rise to the right to indemnification hereunder; *provided, however*, that failure to promptly give the notice provided in this Section 10.3 shall not be a defense to the liability of the Indemnifying Party for such claim, but the Indemnifying Party may recover any actual Losses arising from the Indemnified Party's failure to give such prompt notice. The Indemnified Party shall not admit any liability with respect to, or settle, compromise or discharge any such matter covered by this Article 10 without the Indemnifying Party's prior written consent (which shall not be unreasonably withheld). The Indemnifying Party shall have the right, with the consent of the Indemnified Party (which shall not be unreasonably withheld), to settle all indemnifiable matters under this Article 10 related to claims by Third Parties. In connection with any claim giving rise to indemnity under this Article 10 resulting from or arising out of any claim or legal proceeding by a Person other than the Indemnified

Party, the Indemnifying Party at its sole cost and expense may, upon written notice to the Indemnified Party and an acknowledgement of its indemnity obligations hereunder, assume the defense of any such claim or legal proceeding. If the Indemnifying Party assumes the defense of any such claim or legal proceeding, the Indemnifying Party shall select counsel reasonably acceptable to the Indemnified Party to conduct the defense of such claims or legal proceedings and, at the Indemnifying Party's sole cost and expense (which costs and expenses shall not be applied against any indemnity limitation herein), shall take all steps necessary in the defense or settlement thereof. The Indemnified Party shall be entitled to participate in (but not control) the defense of any such action, with its own counsel and at its own expense, and shall be entitled to any and all information and documentation relating thereto. If the Indemnifying Party does not assume (or continue to diligently and competently prosecute) the defense of any such claim or litigation resulting therefrom in accordance with the terms hereof, the Indemnified Party may, at the Indemnifying Party's expense, defend against such claim or litigation in such manner as it may deem appropriate, but may not settle such claim or litigation without the consent of the Indemnifying Party, which consent shall not be unreasonably withheld. The Indemnified Party will cooperate reasonably with the Indemnifying Party in its efforts to conduct or resolve such matters, including by making available to the Indemnifying Party relevant documents and witnesses. The Indemnified Party and the Indemnifying Party shall keep each other informed of all settlement negotiations with Third Parties and of the progress of any litigation with Third Parties. The Indemnified Party and the Indemnifying Party shall permit each other reasonable access to books and records and shall otherwise cooperate with all reasonable requests of each other in connection with any indemnifiable matter resulting from a claim by a Third Party.

10.4 Indemnification Not Sole Remedy. Each Party hereby acknowledges that the indemnification provided under thisArticle 10 shall in no manner limit, restrict or prohibit (unless liability is otherwise expressly limited by the terms of this Agreement) either Party from seeking any recovery or remedy provided at law or in equity from the other Party in connection with any breach or default by such other Party of any representation, warranty or covenant hereunder, including injunctive relief.

10.5 Insurance. American Regent shall maintain insurance (including product liability insurance) with respect to its activities under this Agreement regarding the Product in such amount as such party customarily maintains with respect to similar activities for its other products, but not less than such amount as is reasonable and customary in the industry. American Regent shall maintain such insurance for so long as it continues its activities under this Agreement, and thereafter for so long as such party customarily maintains insurance for itself covering similar activities for its other products. CytoDyn will have in force prior to the First Commercial Sale and shall maintain in good standing throughout the Term of this Agreement and for a period of three (3) years thereafter, product liability insurance policies in respect of the Product(s) with an internationally recognized insurer or insurers licensed to do business in the Territory in an amount not less than [***] per occurrence, and [***] in the aggregate, on such terms and conditions as are customary in the industry. Upon written request, CytoDyn shall provide written proof of such insurance to American Regent.

11. REPRESENTATIONS, WARRANTIES AND COVENANTS; LIMITATIONS OF LIABILITY

11.1 Representations, Warranties and Covenants.

(a) Organization and Authority. Each Party represents and warrants that it (i) is duly organized, validly existing and in good standing under the Applicable Laws of the jurisdiction of its organization, (ii) is qualified to do business in each other's jurisdiction in which the conduct of its business requires such qualification including the Territory, (iii) is in compliance with all Applicable Laws, relating to its business and assets, and (iv) is not in material default of its memorandum or articles of association, its certificate of incorporation or by-laws or all other constituent documents as the case may be, except in the case of (ii) and (iii) where such failure to qualify or be in compliance would not have a material adverse effect on the business and assets of such Party or the performance of this Agreement by such Party.

(b) Due Authorization and Enforceability. Each Party represents and warrants that (i) it has full authority to execute, deliver and perform its obligations under this Agreement, (ii) that this Agreement has been duly executed and delivered by such Party, and constitutes the legal, valid and binding obligations of such Party and is enforceable against such Party in accordance with its terms, and (iii) that the execution, delivery and performance of this Agreement will not violate, be inconsistent with or result in a default under or creation of lien or encumbrance under (except as specifically contemplated by this Agreement) (A) the memorandum or articles of association, certificate of incorporation or by-laws or other constituent documents, as the case may be, of any Party and/or its Affiliates, (B) any material agreement, contract, license understanding or instrument binding upon or affecting such Party or its properties or assets, whether express, implied, written or oral, or (C) any Applicable Laws affecting either Party or its properties or assets, except where such violation would not have a material adverse effect on the business and assets of such Party.

(c) Product Handling. Each Party covenants that it will and will cause its agents to, comply with all Applicable Laws relating to the warehousing, storage, Manufacturing, Marketing, Packaging and Testing of Product applicable to such Applicable Laws and will ensure that all required approvals are in effect and will maintain such approvals in good standing.

(d) Rights to Grant. CytoDyn represents and warrants that it has the sole, exclusive and unencumbered right to grant the rights herein granted to American Regent, and that neither CytoDyn, nor any other Person, has granted any option, license, right or interest in or to the Product in the Field to any Third Party which could conflict with the rights granted by it under this Agreement in the Territory.

(e) No Claims. CytoDyn represents, warrants and covenants that as of the Effective Date there are no proceedings currently pending or, to the knowledge of CytoDyn, threatened against, CytoDyn or any of its Affiliates, relating to or otherwise arising from (i) Product Liability Claims or claims for death or bodily injury relating to any Product, or (ii) infringement, misappropriation or other conflict with any intellectual property or other rights of any Person relating to any Product, or (iii) the Marketing or Manufacture of any Product.

11.2 No Other Warranties. Except as set forth in this Article 11, CytoDyn neither assumes, nor authorizes any Person to assume, any liability for any warranty in connection with the Product, and all liabilities of CytoDyn or any other Person in respect of the Product shall be subject to the limitations as provided under this Article 11. The warranties of CytoDyn set forth in this Article 11 are in lieu of all other warranties, express or implied, and specifically, without limitation, CytoDyn disclaims any implied warranty of merchantability or fitness for a particular purpose.

11.3 Quality Assurance Representations, Warranties and Covenants.

(a) CytoDyn, and its Affiliates engaged in the performance of the actions contemplated hereby, including the Manufacture, sale and delivery of Product hereunder, hereby represents, warrants and covenants to American Regent that all Product that CytoDyn or its Affiliates Manufactures, supplies and delivers under and pursuant to this Agreement will:

(i) conform to the Specifications at time of shipment to American Regent;

(ii) be free and clear from all liens, encumbrances and defects of title, other than those that arise directly as a result of actions taken by American Regent; and

(iii) comply with the requirements under the cGMP standards, the Regulatory Approvals and any other Applicable Law in the Territory, and will not, at the time of such delivery, (A) be adulterated or misbranded, or (B) be an article which may not, under the provisions of the Act, be introduced into interstate commerce.

(b) American Regent shall be responsible for storing Product under appropriate conditions as specified in labeling and for distribution in full compliance with the applicable cGMP standards, the Regulatory Approvals and the Applicable Law.

(c) American Regent shall not, in bad faith, disrupt or cause the disruption of the supply of Product into the marketplace in the Territory.

(d) CytoDyn shall at all times during the Term, be in current compliance with, all Regulatory Approvals as may be required to Manufacture and/or to supply the Product pursuant to this Agreement, and, as of the Effective Date.

(e) Each Party represents and warrants that neither it nor any of its Affiliates, directly involved with the performance of this Agreement has been debarred under subsections (a) or (b) of Section 306 of the Act, as amended, 21 U.S.C. Section 335a(a) and (b) or comparable foreign regulation, has been excluded, debarred, suspended or otherwise ineligible to participate in a federal, provincial, or state health care program, (e.g., Medicare or Medicaid) or government procurement or non-procurement program or comparable foreign programs (a "**Program**"). Moreover, if any Party or any of its Affiliates, directly involved with the performance of this Agreement is subsequently excluded, debarred or otherwise ruled ineligible to participate in a Program, such Party agrees to immediately notify the other Party of such debarment, exclusion or suspension. Each Party shall also immediately notify the other Party in the event the notifying Party or any of its Affiliates, directly involved with the performance of this Agreement has been proposed for exclusion from participation in any Program or charged with a criminal offense which, if convicted, would result in mandatory or discretionary exclusion in any such Program.

(f) Each Party represents and warrants that it did not and will not knowingly use in any capacity the services of any person debarred under the Act or comparable foreign regulation or excluded, debarred, or otherwise ineligible to participate in any Program in connection with its performance of this Agreement.

11.4 Limitation of Liability. Except a Party's indemnification obligations or breach of Section 8, in no event shall either Party or its Affiliates be liable to the other for any indirect, incidental, punitive or special damages, including loss of profits, goodwill or revenue, data or use, incurred by the other Party, however caused and on any theory of liability, arising in any way out of this Agreement. Notwithstanding anything to the contrary contained herein, American Regent's maximum liability under this Agreement, subject to Section 10.2, shall not exceed [***].

12. MISCELLANEOUS

12.1 Force Majeure. The Parties shall not be liable for the failure or delay in performing any obligation under this Agreement (except for the payment of money) if and to the extent such failure or delay is due to (a) acts of God, (b) weather condition, fire or explosion, (c) war, terrorism, invasion, riot or other civil unrest, (d) any governmental laws, orders, restrictions, actions, embargoes or blockades, (e) national or regional emergency, (f) injunctions, strikes, lockouts, labor trouble or other industrial disturbances, (g) shortage of adequate fuel, power, materials, or resources, or (h) any other event which is beyond the reasonable control of the affected Party (each such event, a "**Force Majeure**"); provided that the Party affected shall promptly notify the other of the Force Majeure condition and shall use Commercially Reasonable Efforts at its cost (except, for clarity, for any such costs of CytoDyn which would be allocated to the Transfer Price) to eliminate, cure or overcome any such causes and to resume performance of its obligations. In no event shall American Regent's inability to pay the amounts due under this Agreement be deemed a Force Majeure event and a Force Majeure event shall not excuse American Regent from its obligation to make payments, when due, under this Agreement.

12.2 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Delaware and the trademark and patent laws of the United States, without reference to any rules of conflict of laws. The United Nations Conventions on Contracts for the International Sale of Goods, as well as any other unified laws or regulations relating to the conclusion and implementation of contracts for the international sale of goods, shall not apply. The Parties shall negotiate in good faith and use reasonable efforts to settle any dispute, controversy or claim arising from or related to this Agreement or a breach thereof.

12.3 Consent and Waiver Regarding Services of Process, Personal Jurisdiction and Jury Trial In any action, suit, arbitration or proceeding to enforce the rights of either Party under this Agreement or otherwise arising out of this Agreement or from any acts, omissions or activities of either Party arising from or related in any way to this Agreement or the transactions contemplated hereby or related in any way to the Product, each Party, by execution and delivery of this

Agreement, expressly and irrevocably consents to the service of any complaint, summons, notice or other process relating to any such action, suit, arbitration or proceeding by delivery thereof to it by hand or by any other manner provided for in Section 12.5 hereof. Each Party hereby expressly and irrevocably waives any claim or defense in any such action, suit, arbitration or proceeding based on any alleged lack of personal jurisdiction, improper venue, forum non conveniens or any similar doctrine or theory. IN ADDITION, EACH PARTY HEREBY IRREVOCABLY WAIVES ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY SUIT, ACTION OR OTHER PROCEEDING ARISING OUT OF OR RELATED TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY.

12.4 Entire Agreement; Amendments. This Agreement, including the Schedules hereto, sets forth the entire terms of the supply and distribution arrangement between the Parties hereto and, except as otherwise set forth herein, supersedes and terminates all prior agreements and understandings between the Parties regarding the subject matter hereof. No subsequent alteration, amendment, change or addition to this Agreement shall be binding upon the Parties unless reduced to writing and signed by an authorized officer of each Party.

12.5 Notice. When a Party is required or permitted to give notice under this Agreement, the notice shall be in writing, shall be sent by email, nationally recognized express delivery service, or delivered by courier or personal delivery (with evidence of receipt where feasible) and shall be deemed to be given upon receipt of the other Party. Unless otherwise specified in writing, the mailing addresses of the Parties shall be as set forth below.

For CytoDyn:

CytoDyn Inc.
1111Main Street
Suite 660
Vancouver, Washington 98660
Attention: Nader Pourhassan
Email: npourhassan@cytodyn.com

With a copy (which shall not constitute notice) to:

General Counsel
(Same Mailing Address)
Email: legalnotices@cytodyn.com

For American Regent:

American Regent, Inc.
5 Ramsey Road
Shirley, New York 11967
Attention: Head of Business Development
Email: businessdevelopment@americanregent.com

With a copy (which shall not constitute notice) to:

Vice President and General Counsel
(Same Mailing Address)
Email: legalnotices@americanregent.com

12.6 Assignment; Change of Control. Except as provided in this Section, this Agreement may not be assigned or otherwise transferred, nor may any rights or obligations hereunder be assigned or transferred, by either Party, whether in a merger, sale of stock, sale of assets or other transaction, without the written consent of the other Party. Notwithstanding the foregoing, (i) CytoDyn may, without American Regent's consent, assign this Agreement and its rights and obligations hereunder in whole or in part to (a) a CytoDyn Affiliate or (b) to a Third Party in connection with a Change of Control of CytoDyn and (ii) subject to Section 9.2(e), American Regent may, without CytoDyn's consent, assign this Agreement and its rights and obligations hereunder to a Third Party in connection with a Change of Control of American Regent. Any permitted assignee shall assume all assigned obligations of its assignor under this Agreement. Any attempted assignment not in accordance with this Section shall be void. Notwithstanding the foregoing, in the event of a Change of Control of American Regent, CytoDyn shall have the right to require American Regent (including the Person who acquired American Regent in the Change of Control, if any), to adopt procedures as reasonably requested by CytoDyn to prevent the disclosure of all CytoDyn Confidential Information beyond American Regent personnel having access to and knowledge of CytoDyn Confidential Information prior to the Change of Control and to control the dissemination of CytoDyn Confidential Information disclosed after the Change of Control. The purposes of such procedures shall be to strictly limit such disclosures to only those personnel having a need to know CytoDyn Confidential Information in order for American Regent to perform its obligations under this Agreement and to prohibit the use of CytoDyn Confidential Information for competitive reasons against CytoDyn (and its Affiliates) products, including the use of CytoDyn Confidential Information for the development or commercialization of competing products in the event of a Change of Control of American Regent. This Agreement shall be binding on, and inure to the benefit of, each Party, and its permitted successors and assigns.

12.7 Public Announcements. Neither Party shall make any voluntary publicity releases, interviews or other dissemination of Confidential Information concerning the Product, this Agreement or its terms, or either Party's performance hereunder, to communication media, financial analysts or others without the prior written approval of the other Party, which approval shall not be unreasonably withheld. Notwithstanding the foregoing, (a) CytoDyn may comply with its legal or regulatory disclosure obligations upon prior written notice to American Regent; and (b) upon written notice to American Regent, CytoDyn may make a mutually agreeable publicity release that mentions American Regent upon the execution of this Agreement, the FDA approval of the Product in the Field, or first sale of the Product by American Regent, *provided, however*, that American Regent shall have not less than three (3) Business Days to review and comment on such disclosures and filings, unless a shorter period is necessitated by securities laws, any such comments provided shall be reasonably accepted by CytoDyn and American Regent shall not unreasonably withhold, delay or condition its review and comments on such disclosures.

12.8 Severance. If any Official Body having jurisdiction over either CytoDyn or American Regent declares any Article or part thereof invalid or any such Official Body deems any Article or part thereof to be contrary to any Applicable Laws, then such Article or part thereof shall be deemed stricken from this Agreement in that jurisdiction. To the extent possible the Parties shall revise such invalidated Article or part thereof in a manner that will render such provision valid without impairing the Parties' original intent.

12.9 Non-Waiver. The failure of a Party in any one or more instances to insist upon strict performance of any of the terms and conditions of this Agreement shall not be construed as a waiver or relinquishment, to any extent, of the right to assert or rely upon any such terms or conditions on any future occasion. Except as otherwise specified, all rights, remedies, undertakings, obligations and agreements contained in this Agreement shall be cumulative and none of them shall be a limitation of any other remedy, right, undertaking, obligation or agreement.

12.10 Further Assurances. Each Party hereto agrees to execute such further documents and take such further steps as the other Party reasonably determines may be necessary or desirable to effectuate the purposes of this Agreement.

12.11 Disclaimer of Agency. This Agreement shall not constitute either Party the legal representative or agent of the other Party, nor shall either Party have the right or authority to assume, create, or incur any Third Party liability or obligation of any kind, express or implied, against or in the name of or on behalf of another except as expressly set forth in this Agreement. None of a Party's directors, officers, agents or employees shall be considered employees agents or legal representatives of the other Party for any purpose.

12.12 Construction. The language in all parts of this Agreement shall be construed, in all cases, according to its fair meaning. The Parties acknowledge that each Party and its counsel have reviewed and revised this Agreement and that any rule of construction to the effect that any ambiguities are to be resolved against the drafting Party shall not be employed in the interpretation of this Agreement. The words "hereof," "herein," "hereto" and "hereunder" and words of similar import, when used in this Agreement, shall refer to this Agreement as a whole and not to any particular provision of this Agreement. The terms defined in the singular shall have a comparable meaning when used in the plural, and vice versa. Whenever used herein, the words "include," "includes" and "including" shall mean "include, without limitation," "includes, without limitation" and "including, without limitation," respectively. The masculine, feminine or neuter gender and the singular or plural number shall each be deemed to include the others whenever the context so indicates.

12.13 Counterparts. This Agreement shall become binding when any one or more counterparts hereof, individually or taken together, shall bear the signatures of each of the Parties hereto. This Agreement may be executed in any number of counterparts, including by facsimile, each of which shall be deemed an original as against the Party whose signature appears thereon, but all which taken together shall constitute but one and the same document.

12.14 Consents in Writing. Any consents or approvals required hereunder from a Party must be in writing.

12.15 Set-offs. No Party may set-off against any payments owing hereunder without the written consent of the other Party.

[Signature Page Follows]

IN WITNESS WHEREOF, the Parties hereto have duly executed this Agreement as of the date first written above.

AMERICAN REGENT, INC.	**CYTODYN, INC.**
By: /s/ Ken Keller	By: /s/ Nader Pourhassan
Name: Ken Keller	Name: Nader Pourhassan
Title: President & CEO	Title: Chief Executive Officer

[SIGNATURE PAGE TO DISTRIBUTION AND SUPPLY AGREEMENT]

EXHIBIT A

CYTODYN'S 2020 ESTIMATES FOR COST OF GOODS SOLD

AGC/Ajinomoto: $[***] per 700 mg dose ($[***] / vial).

Samsung: $[***] per 700 mg dose ($[***] / vial).

[***] will be adjusted on an annual basis based on [***].

EXHIBIT 10.42

CYTODYN INC.

AMENDED AND RESTATED 2012 EQUITY INCENTIVE PLAN

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2012 EQUITY INCENTIVE PLAN

ARTICLE 1
ESTABLISHMENT AND PURPOSE

1.1 Establishment. CytoDyn Inc., a Delaware corporation (the "Corporation"), hereby establishes the CytoDyn Inc. 2012 Equity Incentive Plan (the "Plan"), effective as of December 12, 2012 (the "Effective Date"). The original Plan was adopted by the Board of Directors on October 26, 2012 and approved by the shareholders on December 12, 2012. This Restatement incorporates Amendments No. 1-5 to the Plan.

1.2 Purpose. The purpose of the Plan is to promote and advance the interests of the Corporation and its shareholders by enabling the Corporation to attract, retain, and reward employees, directors, and outside consultants of the Corporation and its subsidiaries. It is also intended to strengthen the mutuality of interests between such employees, directors, and consultants and the Corporation's shareholders. The Plan is designed to serve these purposes by offering stock options and other equity-based incentive awards, thereby providing a proprietary interest in pursuing the long-term growth, profitability, and financial success of the Corporation.

ARTICLE 2
DEFINITIONS

2.1 Defined Terms. For purposes of the Plan, the following terms have the meanings set forth below:

"Affiliate" means any parent corporation or subsidiary corporation of the Corporation, whether now or hereafter existing, as those terms are defined in Sections 424(e) and (f), respectively, of the Code.

"**Award**" means an award or grant made to a Participant of Options, Stock Appreciation Rights, Restricted Awards, or Other Stock-Based Awards pursuant to the Plan.

"**Award Agreement**" means an agreement as described in Section 5.4.

"**Board**" means the Board of Directors of the Corporation.

"**Change in Control**" means:

(i) Any one person or entity, or more than one person or entity acting as a group (as defined in Treasury RegulationSection 1.409A-3), acquires ownership of stock of the Corporation that, together with stock previously held by the acquiror, constitutes more than fifty (50%) percent of the total fair market value or total voting power of the Corporation's stock. If any one person or entity, or more than one person or entity acting as a group, is considered to own more than fifty (50%) percent of the total fair market value or total voting power of the Corporation's stock, the acquisition of additional stock by the same person or entity or persons or entities acting as a group does not cause a Change in Control. An increase in the percentage of stock owned by any one person or entity, or persons or entities acting as a group, as a result of a transaction in which the Corporation acquires its stock in exchange for property, is treated as an acquisition of stock;

or (ii) A majority of the members of the Corporation's board of directors is replaced during any twelve (12) month period by directors whose appointment or election is not endorsed by a majority of the members of the board of directors prior to the date of appointment or election; or (iii) Any one person or entity, or more than one person or entity acting as a group, acquires (or has acquired during the twelve (12) month period ending on the date of the most recent acquisition by that person or entity or persons or entities acting as a group) assets from the Corporation that have a total gross fair market value equal to at least forty (40%) percent of the total gross fair market value of all the Corporation's assets immediately prior to the acquisition or acquisitions. Gross fair market value means the value of the Corporation's assets, or the value of the assets being disposed of, without regard to any liabilities associated with these assets.

In determining whether a Change in Control occurs, the attribution rules of Code Section 318 apply to determine stock ownership. The stock underlying a vested option is treated as owned by the individual who holds the vested option, and the stock underlying an unvested option is not treated as owned by the individual who holds the unvested option.

"**Change in Control Date**" means the date a Change in Control actually occurs.

"**Code**" means the Internal Revenue Code of 1986, as amended and in effect from time to time, or any successor statute, together with rules, regulations, and interpretations promulgated thereunder.

"**Committee**" means the committee appointed by the Board, if any, to administer the Plan as provided in Article 3 of the Plan. If no separate committee has been appointed to administer the Plan, the term "Committee" will refer to the full Board as administrator of the Plan.

"**Common Stock**" means the common stock of the Corporation.

"**Consultant**" means any consultant or adviser to the Corporation or an Affiliate selected by the Committee, who is not an employee of the Corporation or an Affiliate.

"**Continuing Restriction**" means a Restriction contained in Sections 5.5(d), 5.5(g), 13.4, 13.5, 13.7 and 13.8 of the Plan and any other Restrictions expressly designated by the Committee in an Award Agreement as a Continuing Restriction.

"**Continuous Service**" means that the Participant's service with the Corporation, or an Affiliate whether as an Employee,Non-Employee Director or Consultant, is not interrupted or terminated. The Committee may in its sole discretion determine whether Continuous Service shall be considered interrupted in the case of (i) any leave of absence approved by the Corporation, including sick leave, maternity leave, military leave or any other personal leave, or (ii) a change in the capacity in which the Participant renders services to the Corporation or an Affiliate.

"**Corporation**" means CytoDyn Inc., a Delaware corporation, or any successor corporation.

"Disability" means the condition of being "disabled" within the meaning of Section 22(e)(3) of the Code.

"**Exchange Act**" means the Securities Exchange Act of 1934, as amended and in effect from time to time, or any successor statute, together with rules and interpretations promulgated thereunder.

"**Fair Market Value**" means, on any given day, the fair market value per share of the Common Stock determined as follows:

(a) If the Common Stock is traded on an established securities exchange, including without limitation The Nasdaq Stock Market or any successor market thereto, the closing sale price of Common Stock as reported for such day by the principal exchange on which the Common Stock is traded (as determined by the Committee) or, if Common Stock was not traded on such day, on the next preceding day on which the Common Stock was traded;

(b) If trading activity in the Common Stock is reported on an establishedover-the-counter market, including without limitation the OTC Markets or any successor market thereto, the closing sale price of Common Stock as reported for such day by the principal market on which the Common Stock is traded (as determined by the Committee) or, if Common Stock was not traded on such day, on the next preceding day on which the Common Stock was traded;

(c) If there is no market for the Common Stock or if trading activities for the Common Stock are not reported in one of the manners described above, the Fair Market Value will be as determined by the Committee, including valuation by an independent appraisal that satisfies the requirements of Code Section 401(a)(28)(C) as of a date that is no more than twelve (12) months before the date of the transaction for which the appraisal is used (e.g., the date of grant of an Award) or such other reasonable valuation method acceptable under Treasury Regulation Section 1.409A-1(b)(5)(iv).

"**Incentive Stock Option**" or "**ISO**" means any Option intended to be an "incentive stock option" within the meaning of Section 422 of the Code.

"**Non-Employee Director**" means a member of the Board who is not an employee of the Corporation or any Affiliate.

"**Nonqualified Option**" or "**NQO**" means any Option granted pursuant to the Plan that is not an Incentive Stock Option.

"**Option**" means an ISO or an NQO.

"**Other Stock-Based Award**" means an Award as defined in Section 9.1.

"**Participant**" means an employee of the Corporation or an Affiliate, a Consultant or aNon-Employee Board Director who is granted an Award under the Plan.

"**Plan**" means this CytoDyn Inc. Amended and Restated 2012 Equity Incentive Plan, as set forth herein and as it may be amended from time to time.

"**Reporting Person**" means a Participant who is subject to the reporting requirements of Section 16(a) of the Exchange Act.

"**Restricted Award**" means a Restricted Share or a Restricted Unit granted pursuant to Article 8 of the Plan.

"**Restricted Share**" means an Award described in Section 8.1(a) of the Plan.

"**Restricted Unit**" means an Award of units representing Shares described in Section 8.1(b) of the Plan.

"**Restriction**" means a provision in the Plan or in an Award Agreement which limits the exercisability or transferability, or which governs the forfeiture or required sale, of an Award or Shares, cash, or other property payable pursuant to an Award.

"**Share**" means a share of Common Stock.

"**Stock Appreciation Right**" or "**SAR**" means an Award to benefit from the appreciation of Common Stock granted pursuant to the provisions of Article 7 of the Plan.

"**Vest**," "**Vesting**," or "**Vested**" means:

(a) In the case of an Award that requires exercise, to be or to become immediately and fully exercisable and free of all Restrictions (other than Continuing Restrictions);

(b) In the case of an Award that is subject to forfeiture, to be or to become nonforfeitable, freely transferable, and free of all Restrictions (other than Continuing Restrictions);

(c) In the case of an Award that is required to be earned by attaining specified performance goals, to be or to become earned and nonforfeitable, freely transferable, and free of all Restrictions (other than Continuing Restrictions); or

(d) In the case of any other Award as to which payment is not dependent solely upon the exercise of a right, election, or option, to be or to become immediately payable and free of all Restrictions (except Continuing Restrictions).

2.2 Gender and Number. Except where otherwise indicated by the context, any masculine or feminine terminology used in the Plan also includes the opposite gender; and the definition of any term in Section 2.1 in the singular also includes the plural, and vice versa.

ARTICLE 3
ADMINISTRATION

3.1 Administration by Board. The Board shall administer the Plan unless and until the Board delegates administration to a Committee, as provided in Section 3.2. The body administering the plan from time to time is referred to herein as the "Committee."

3.2 Delegation to Committee. The Board may delegate administration of the Plan to a Committee or Committees of one (1) or more members of the Board, and the term "Committee" shall apply to any person or persons to whom such authority has been delegated. If administration is delegated to a Committee, the Committee shall have, in connection with the administration of the Plan, the powers theretofore possessed by the Board, including the power to further delegate administrative powers, subject, however, to such resolutions, not inconsistent with the provisions of the Plan, as may be adopted from time to time by the Board. The Board may abolish the Committee at any time and re-vest in the Board the administration of the Plan.

3.3 Authority of the Committee. The Committee has full power and authority (subject to such orders or resolutions as may be issued or adopted from time to time by the Board in the event of delegation to a board committee) to administer the Plan in its sole discretion, including the authority to:

(a) Construe and interpret the Plan and any Award Agreement;

(b) Promulgate, amend, and rescind rules and procedures relating to the implementation of the Plan;

(c) Select the employees, Non-Employee Directors, and Consultants who will be granted Awards;

(d) Determine the number and types of Awards to be granted to each Participant;

(e) Determine the number of Shares, or Share equivalents, to be subject to each Award;

(f) Determine the Fair Market Value of Shares if no public market exists for such Shares;

(g) Determine the option price, purchase price, base price, or similar feature for any Award

(h) Accelerate Vesting of Awards and waive any Restrictions; and

(i) Determine all the terms and conditions of all Award Agreements, consistent with the requirements of the Plan.

Decisions of the Committee, or any delegate as permitted by the Plan, will be final, conclusive, and binding on all Participants.

3.4 Action by the Committee. A majority of the members of the Committee will constitute a quorum for the transaction of business. Action approved by a majority of the members present at any meeting at which a quorum is present, or action in writing by all of the members of the Committee, will be the valid acts of the Committee.

3.5 Further Delegation. Notwithstanding the foregoing, the Committee may delegate to one or more officers of the Corporation the authority to determine the recipients, types, amounts, and terms of Awards granted to Participants who are not Reporting Persons.

ARTICLE 4
DURATION; SHARES SUBJECT TO THE PLAN; ELIGIBILITY

4.1 Duration of the Plan. The Plan is effective as of the Effective Date. The Plan will terminate ten years after the Effective Date or, if earlier, when Awards have been granted covering all available Shares or the Plan is otherwise terminated by the Board. Termination of the Plan will not affect outstanding Awards.

4.2 Prior Plans. The Plan is separate from the CytoDyn Inc. 2004 Stock Incentive Plan (the "Prior Plan"). The adoption of the Plan neither affects nor is affected by the continued existence of the Prior Plan except that no further Awards will be granted under the Prior Plan after the Effective Date.

4.3 Shares Subject to the Plan. The Shares which may be made subject to Awards under the Plan are Shares of Common Stock, which may be either authorized and unissued Shares or reacquired Shares. Subject to adjustment pursuant to Article 11, the maximum number of Shares for which Awards may be granted under the Plan is 25,000,000, all of which may be issued under the Plan through Incentive Stock Options. If an Award under the Plan is canceled or expires for any reason prior to having been fully Vested or exercised by a Participant, is settled in cash in lieu of Shares or is exchanged for other Awards, or is otherwise forfeited or terminated, all Shares covered by such Awards will be added back into the number of Shares available for future Awards under the Plan. In addition, if the exercise price of any Option granted under the Plan is satisfied by tendering Shares to the Corporation, only the number of Shares issued net of Shares tendered to the Corporation shall be deemed delivered for purposes of determining the maximum number of Shares available under the Plan.

4.4 Reservation of Shares. The Corporation, during the term of the Plan and outstanding Awards, will at all times reserve and keep available such number of Shares as shall be sufficient to satisfy the requirements of the Plan.

4.5 Eligibility. Employees of the Corporation and any subsidiary (including employees who may also be directors of the Corporation or a subsidiary), Consultants, and Non-Employee Directors are eligible to receive Awards under the Plan.

ARTICLE 5
AWARDS

5.1 Types of Awards. The types of Awards that may be granted under the Plan are:

(a) Options governed by Article 6 of the Plan;

(b) Stock Appreciation Rights governed by Article 7 of the Plan;

(c) Restricted Awards governed by Article 8 of the Plan; and

(d) Other Stock-Based Awards or combination awards governed by Article 9 of the Plan.

In the discretion of the Committee, any Award may be granted alone, in addition to, or in tandem with other Awards under the Plan.

5.2 General. Subject to the limitations of the Plan, the Committee may cause the Corporation to grant Awards to such Participants, at such times, of such types, in such amounts, for such periods, with such option prices, purchase prices, or base prices, and subject to such terms, conditions, limitations, and restrictions as the Committee, in its discretion, deems appropriate. Awards may be granted as additional compensation to a Participant or in lieu of other compensation to such Participant. A Participant may receive more than one Award and more than one type of Award under the Plan.

5.3 Nonuniform Determinations. The Committee's determinations under the Plan or under one or more Award Agreements, including, without limitation, (a) the selection of Participants to receive Awards, (b) the type, form, amount, and timing of Awards, (c) the terms of specific Award Agreements, and (d) elections and determinations made by the Committee with respect to exercise or payments of Awards, need not be uniform and may be made by the Committee selectively among Participants and Awards, whether or not Participants are similarly situated.

5.4 Award Agreements. Each Award will be evidenced by a written agreement (an "Award Agreement") between the Corporation and the Participant. Award Agreements may, subject to the provisions of the Plan, contain any provision approved by the Committee.

5.5 Provisions Governing All Awards. All Awards are subject to the following provisions:

(a) Alternative Awards. If any Awards are designated in their Award Agreements as alternative to each other, the exercise of all or part of one Award will automatically cause an immediate equal (or pro rata) corresponding termination of the other alternative Award or Awards.

(b) Rights as Shareholders. No Participant will have any rights of a shareholder with respect to Shares subject to an Award until such Shares are issued in the name of the Participant.

(c) Employment Rights. Neither the adoption of the Plan nor the granting of any Award confers on any person the right to continued employment with the Corporation or any Affiliate or the right to remain as a director of or a Consultant to the Corporation or any Affiliate, as the case may be, nor does it interfere in any way with the right of the Corporation or an Affiliate to terminate such person's employment or to remove such person as a Consultant or as a director at any time for any reason, with or without cause.

(d) Restriction on Transfer. Unless otherwise expressly provided in an individual Award Agreement, each Award (other than Restricted Shares after they Vest) will not be transferable other than by will or the laws of descent and distribution and will be exercisable (if exercise is required), during the lifetime of the Participant, only by the Participant or, in the event the Participant becomes legally incompetent, by the Participant's guardian or legal representative. Notwithstanding the foregoing, any Award may be surrendered to the Corporation pursuant to Section 5.5(h) in connection with the payment of the purchase or option price of another Award or the payment of the Participant's federal, state, or local tax withholding obligation with respect to the exercise or payment of another Award.

(e) Termination of Employment. The terms and conditions under which an Award may be exercised, if at all, after a Participant's termination of employment or service as a Non-Employee Board Director or Consultant will be determined by the Committee and specified in the applicable Award Agreement.

(f) Change in Control. In connection with a Change in Control, the Committee, in its sole discretion, may, unless otherwise provided in an Award Agreement:

(i) Provide that, upon the occurrence of a Change in Control Date, each outstanding Award will become immediately Vested to the full extent not previously Vested. Any such acceleration of Award Vesting must comply with applicable regulatory requirements and any Participant will be entitled to decline the accelerated Vesting of all or any portion of his or her Award, if he or she determines that such acceleration may result in adverse tax consequences to him or her; and

(ii) In the event the Board approves a proposal that will result in a Change in Control or a Change in Control Date occurs (each, a "Transaction"), the Committee may, in its sole discretion, and to the extent possible under the structure of the Transaction, select one of the following alternatives for treating outstanding Awards under the Plan:

(A) The Committee may provide that outstanding Awards will be converted into or replaced by Awards of a similar type in the stock of the surviving or acquiring corporation in the Transaction. The amount and type of securities subject to and the exercise price (if applicable) of the replacement or converted Awards will be determined by the Committee based on the exchange ratio, if any, used in determining shares of the surviving corporation to be issued to holders of Shares of the Corporation. If there is no exchange ratio in the Transaction, the Committee will, in making its determination, take into account the relative values of the companies involved in the Transaction and such other factors as the Committee deems relevant. Such replacement or converted Awards will continue to Vest over the period (and at the same rate) as the Awards which the replacement or converted Awards replaced, unless determined otherwise by the Committee; or

(B) The Committee may provide a 10-day period prior to the consummation of the Transaction during which all outstanding Awards will tentatively become fully Vested, and upon consummation of such Transaction, all outstanding and unexercised Awards will immediately terminate. If the Committee elects to provide such 10-day period for the exercise of Awards, the Committee must provide written notice (a "Proposal Notice") to all Participants at least 15 days prior to the commencement of such 10-day period and must so state its intention to terminate all unexercised Awards. Participants, by written notice to the Corporation, may exercise their Awards and, in so exercising the Awards, may condition such exercise upon, and provide that such exercise will become effective immediately prior to, the consummation of the Transaction, in which event Participants need not make payment for any Common Stock to be purchased upon exercise of an Award until five days after written notice by the Corporation to the Participants that the Transaction has been consummated. If the Transaction is consummated, each Award, to the extent not previously exercised prior to the consummation of the Transaction, will terminate and cease being exercisable as of the effective date of such Transaction. If the Transaction is abandoned, (1) all outstanding Awards not exercised will continue to be Vested and exercisable, to the extent such Awards were Vested and exercisable prior to the date of a Proposal Notice, and (2) to the extent that any Awards not exercised prior to such abandonment have become Vested and exercisable solely by operation of this Section 5.5(f)(ii), such Vesting and exercisability will be deemed annulled, and the Vesting and exercisability provisions otherwise in effect will be reinstituted, as of the date of such abandonment; or

(C) The Committee may provide that outstanding Awards that are not fully Vested will become fully Vested subject to the Corporation's right to pay each Participant a cash amount (determined by the Committee and based on the amount, if any, being received by the Corporation's shareholders in the Transaction) in exchange for cancellation of the applicable Award.

Unless the Committee specifically provides otherwise in a Change in Control provision for a specific Award Agreement, Awards will become Vested as of a Change in Control Date only if, or to the extent, such acceleration in the Vesting of the Awards does not result in an "excess parachute payment" within the meaning of Section 280G(b) of the Code. The Committee, in its discretion, may include specific Change in Control provisions in some Award Agreements and not in others, may include different Change in Control provisions in different Award Agreements, and may include Change in Control provisions for some Awards or some Participants and not for others.

(g) Conditioning or Accelerated Benefits. The Committee, in its discretion, may include in any Award Agreement a provision conditioning or accelerating the Vesting of an Award or the receipt of benefits pursuant to an Award, either automatically or in the discretion of the Committee, upon the occurrence of specified events, including without limitation, a Change in Control of the Corporation (subject to the foregoing), a sale of all or substantially all of the property and assets of Corporation, or an event of the type described in Article 11 of this Plan.

(h) Payment of Purchase Price and Withholding. The Committee, in its discretion, may include in any Award Agreement a provision permitting the Participant to pay the purchase or option price, if any, for Shares or other property issuable pursuant to the Award, in whole or in part by any one or more of the following methods; provided, however, that the availability of any one or more methods of payment may be suspended from time to time if the Committee determines that the use of such payment method would result in adverse financial accounting treatment for the Corporation or a violation of laws or regulations applicable to the Corporation:

(i) By delivering cash or a check;

(ii) By delivering previously owned Shares (including Restricted Shares, whether or not Vested);

(iii) By reducing the number of Shares or other property otherwise Vested and issuable pursuant to the Award;

(iv) Unless specifically prohibited by any applicable statute or rule, including, without limitation, the provisions of the Sarbanes-Oxley Act of 2002, by delivering to the Corporation a promissory note on such terms and over such period as the Committee may determine;

(v) In the event Shares are publicly traded, by delivery (in a form approved by the Committee) of an irrevocable direction to a securities broker acceptable to the Committee (subject to the provisions of the Sarbanes-Oxley Act of 2002 and any other applicable statute or rule); or

(vi) In any combination of the foregoing or in any other form approved by the Committee.

If Restricted Shares are surrendered in full or partial payment of the purchase or option price of Shares issuable under an Award, a corresponding number of the Shares issued upon exercise of the Award will be Restricted Shares subject to the same Restrictions as the surrendered Restricted Shares. Shares withheld or surrendered as described above will be valued based on their Fair Market Value on the date of the transaction. Any Shares withheld or surrendered with respect to a Reporting Person will be subject to such additional conditions and limitations as the Committee may impose to comply with the requirements of the Exchange Act.

(i) Service Periods. At the time of granting an Award, the Committee may specify, by resolution or in the Award Agreement, the period or periods of service performed or to be performed by the Participant in connection with the grant of the Award.

ARTICLE 6
OPTIONS

6.1 Types of Options. Options granted under the Plan may be in the form of Incentive Stock Options or Nonqualified Options. The grant of each Option and the Award Agreement governing each Option will identify the Option as an ISO or an NQO. In the event the Code is amended to provide for tax-favored forms of stock options other than or in addition to Incentive Stock Options, the Committee may grant Options under the Plan meeting the requirements of such forms of options. ISOs may not be awarded unless the Plan is approved by shareholders within 12 months of adoption of the Plan.

6.2 General. All Options will be subject to the terms and conditions set forth in Article 5 and this Article 6 and Award Agreements governing Options may contain such additional terms and conditions, not inconsistent with the express provisions of the Plan, as the Committee deems desirable.

6.3 Option Price. Each Award Agreement for Options will state the option exercise price per Share of Common Stock purchasable under the Option, which may not be less than 100 percent of the Fair Market Value of a Share on the date of grant for all Options.

6.4 Option Term. The Award Agreement for each Option will specify the term of each Option, which may be unlimited or may have a specified period during which the Option may be exercised, as determined by the Committee, provided, however, that no ISO may be exercisable after the expiration of 10 years from the date such ISO is granted.

6.5 Time of Exercise. The Award Agreement for each Option will specify, as determined by the Committee:

(a) The time or times when the Option becomes exercisable and whether the Option becomes exercisable in full or in graduated amounts based on: (i) continuation of employment over a period specified in the Award Agreement, (ii) satisfaction of performance goals or criteria specified in the Award Agreement, or (iii) a combination of continuation of employment and satisfaction of performance goals or criteria; and

(b) Such other terms, conditions, and restrictions as to when the Option may be exercised as determined by the Committee.

(c) The extent, if any, to which the Option will remain exercisable after the Participant ceases to be an employee, Consultant, or director of Corporation or an Affiliate.

An Award Agreement for an Option may, in the discretion of the Committee, provide whether, and to what extent, the time when an Option becomes exercisable may be accelerated or otherwise modified (i) in the event of the death, Disability, or retirement of the Participant or (ii) upon the occurrence of a Change in Control. The Committee may, at any time in its discretion, accelerate the time when all or any portion of an outstanding Option becomes exercisable.

6.6 Special Rules for Incentive Stock Options. In the case of an Option designated as an Incentive Stock Option, the terms of the Option and the Award Agreement will conform with the statutory and regulatory requirements specified pursuant to Section 422 of the Code, as in effect on the date such ISO is granted. ISOs may be granted only to employees of the Corporation or an Affiliate. ISOs may not be granted under the Plan after ten years following the date specified in Section 1.1, unless the ten-year limitation of Section 422(b)(2) of the Code is removed or extended.

6.7 Restricted Shares. In the discretion of the Committee, the Shares issuable upon exercise of an Option may be Restricted Shares if so provided in the Award Agreement for the Option.

ARTICLE 7
STOCK APPRECIATION RIGHTS

7.1 General. Stock Appreciation Rights are subject to the terms and conditions set forth in Article 5 and this Article 7 and Award Agreements governing Stock Appreciation Rights may contain such additional terms and conditions, not inconsistent with the express terms of the Plan, as the Committee deems desirable.

7.2 Nature of Stock Appreciation Right. A Stock Appreciation Right is an Award entitling a Participant to receive an amount equal to the excess (or, if the Committee determines at the time of grant, a portion of the excess) of the Fair Market Value of a Share of Common Stock on the date of exercise of the SAR over the base price, as described below, on the date of grant of the SAR, multiplied by the number of Shares with respect to which the SAR is being exercised. The base price will be designated by the Committee in the Award Agreement for the SAR and may be the Fair Market Value of a Share on the grant date of the SAR or such other higher price as the Committee determines. The base price may not be less than the Fair Market Value of a Share on the grant date of the SAR.

7.3 Exercise. A Stock Appreciation Right may be exercised by a Participant in accordance with procedures established by the Committee. The Committee may also provide that a SAR will be automatically exercised on one or more specified dates or upon the satisfaction of one or more specified conditions.

7.4 Form of Payment. Payment upon exercise of a Stock Appreciation Right may be made in cash, in Shares, in other property, or in any combination of the foregoing, or in any other form as the Committee may determine.

7.5 Limitation on Number of Stock Appreciation Rights. The maximum number of Shares with respect to which Stock Appreciation Rights may be granted to any individual under the Plan during any calendar year is 3,000,000. To the extent required by Section 162(m) of the Code, if any SAR is canceled, the canceled SAR shall continue to be counted against the maximum number of Shares for which SARs may be granted to an individual under the Plan.

ARTICLE 8
RESTRICTED AWARDS

8.1 Types of Restricted Awards. Restricted Awards granted under the Plan may be in the form of either Restricted Shares or Restricted Units.

(a) Restricted Shares. A Restricted Share is an Award of Shares to a Participant subject to such terms and conditions as the Committee deems appropriate, including, without limitation, a requirement that the Participant forfeit such Restricted Shares back to the Corporation upon termination of Participant's employment (or service as a Non-Employee Board Director or Consultant) for specified reasons within a specified period of time or upon other conditions, including failure to achieve performance goals, as set forth in the Award Agreement for such Restricted Shares. Each Participant receiving a Restricted Share will be issued a stock certificate in respect of such Shares, registered in the name of such Participant, and will execute a stock power in blank with respect to the Shares evidenced by such certificate. The certificate evidencing such Restricted Shares and the stock power will be held in custody by the Corporation until the Restrictions have lapsed.

(b) Restricted Units. A Restricted Unit is an Award of units (with each unit having a value equivalent to one Share) granted to a Participant subject to such terms and conditions as the Committee deems appropriate, and may include a requirement that the Participant forfeit such Restricted Units upon termination of Participant's employment (or service as a Non-Employee Board Director or Consultant) for specified reasons within a specified period of time or upon other conditions, as set forth in the Award Agreement for such Restricted Units. The Committee will set the terms and conditions of the Award Agreement so that the Restricted Unit Award will comply with or be exempt from Code Section 409A.

8.2 General. Restricted Awards are subject to the terms and conditions of Article 5 and this Article 8 and Award Agreements governing Restricted Awards may contain such additional terms and conditions, not inconsistent with the express provisions of the Plan, as the Committee deems desirable.

8.3 Restriction Period. Award Agreements for Restricted Awards will provide that Restricted Awards, and the Shares subject to Restricted Awards, may not be transferred, and may provide that, in order for a Participant to Vest in such Restricted Awards, the Participant must remain in the employment (or remain as a Non-Employee Board Director or Consultant) of the Corporation or its Affiliates, subject to relief for reasons specified in the Award Agreement, for a period commencing on the grant date of the Award and ending on such later date or dates as the Committee may designate at the time of the Award (the "Restriction Period"). During the Restriction Period, a Participant may not sell, assign, transfer, pledge, encumber, or otherwise dispose of Shares received under or governed by a Restricted Award grant. The Committee, in its sole discretion, may provide for the lapse of restrictions in installments during the Restriction Period. In addition, the Committee, in its discretion, may condition Vesting of Restricted Awards on continued employment (or service as a Non-Employee Board Director or Consultant) or attainment of performance goals, or both.

8.4 Forfeiture. If a Participant ceases to be an employee (or Consultant orNon-Employee Director) of the Corporation or an Affiliate during the Restriction Period for any reason other than reasons which may be specified in an Award Agreement, the Award Agreement may require that all non-Vested Restricted Awards previously granted to the Participant be forfeited and returned to the Corporation.

8.5 Settlement of Restricted Awards.

(a) Restricted Shares. Upon Vesting of a Restricted Share Award, the restrictive stock legend on certificates for such Shares covering applicable Restrictions will be removed, the Participant's stock power will be returned, and the Shares will no longer be Restricted Shares.

(b) Restricted Units. Upon Vesting of a Restricted Unit Award, a Participant is entitled to receive payment for Restricted Units in an amount equal to the aggregate Fair Market Value of the Shares covered by such Restricted Units at the expiration of the Applicable Restriction Period. Payment in settlement of a Restricted Unit will be made as soon as practicable following the conclusion of the applicable Restriction Period in cash, in installments, in Restricted Shares or unrestricted Shares equal to the number of Restricted Units or in any other manner or combination as the Committee, in its sole discretion, determines.

8.6 Rights as a Shareholder. A Participant has, with respect to unforfeited Shares received under a grant of Restricted Shares, all the rights of a shareholder of the Corporation, including the right to vote the shares and the right to receive any cash dividends. Stock dividends issued with respect to Restricted Shares will be treated as additional Shares covered by the grant of Restricted Shares and will be subject to the same Restrictions. A Participant will have no rights as a shareholder with respect to a Restricted Unit Award until Shares are issued to the Participant in settlement of the Award.

ARTICLE 9
OTHER STOCK-BASED AND COMBINATION AWARDS

9.1 Other Stock-Based Awards. The Committee may grant other Awards under the Plan pursuant to which Shares are or may in the future be acquired, or Awards denominated in or measured by Share equivalent units, including Awards valued using measures other than the market value of Shares. Other Stock-Based Awards are not restricted to any specific form or structure and may include, without limitation, Share purchase warrants, other rights to acquire Shares, and securities convertible into or redeemable for Shares. Such Other Stock-Based Awards may be granted either alone, in addition to, or in tandem with, any other type of Award granted under the Plan.

9.2 Combination Awards. The Committee may also grant Awards under the Plan in tandem or combination with other Awards or in exchange of Awards, or in tandem or combination with, or as alternatives to, grants or rights under any other employee plan of the Corporation, including the plan of any acquired entity. No action authorized by this section will reduce the amount of any existing benefits or change the terms and conditions thereof without the Participant's consent.

ARTICLE 10
DIVIDEND EQUIVALENTS

Any Awards may, at the discretion of the Committee, earn dividend equivalents. In respect of any such Award which is outstanding on a dividend record date for Common Stock, the Participant may be credited with an amount equal to the amount of cash or stock dividends that would have been paid on the Shares covered by such Award, had such covered Shares been issued and outstanding on such dividend record date. The Committee will establish such rules and procedures governing the crediting of dividend equivalents, including the timing, form of payment, and payment contingencies of such dividend equivalents, as it deems appropriate or necessary.

ARTICLE 11
ADJUSTMENTS UPON CHANGES IN CAPITALIZATION, ETC.

11.1 Plan Does Not Restrict the Corporation. The existence of the Plan and the Awards granted under the Plan will not affect or restrict in any way the right or power of the Board or the shareholders of the Corporation to make or authorize any adjustment, recapitalization, reorganization, or other change in the Corporation's capital structure or its business, any merger

or consolidation of the Corporation, any issue of bonds, debentures, preferred or prior preference stocks ahead of or affecting the Corporation's capital stock or the rights thereof, the dissolution or liquidation of the Corporation or any sale or transfer of all or any part of its assets or business, or any other corporate act or proceeding.

11.2 Mandatory Adjustment. In the event of any stock dividend, stock split, reverse stock split, recapitalization, reclassification, or other distribution of the Corporation's securities without the receipt of consideration by the Corporation, of or on the Common Stock, the Committee shall make proportionate adjustments or substitution to the aggregate number and type of Shares for which Awards may be granted under the Plan, the maximum number and type of Shares which may be sold or awarded to any Participant, the number and type of Shares covered by each outstanding Award, and the base price or purchase price per Share in respect of outstanding Awards.

11.3 Adjustments by the Committee. In the event of any change in capitalization affecting the Common Stock of the Corporation not described in Section 11.2 above, such proportionate adjustments, if any, as the Committee, in its sole discretion, may deem appropriate to reflect such change, will be made with respect to the aggregate number of Shares for which Awards in respect thereof may be granted under the Plan, the maximum number of Shares which may be sold or awarded to any Participant, the number of Shares covered by each outstanding Award, and the base price or purchase price per Share in respect of outstanding Awards. The Committee may also make such adjustments in the number of Shares covered by, and price or other value of, any outstanding Awards in the event of a spin-off or other distribution (other than normal cash dividends), of the Corporation assets to shareholders.

ARTICLE 12
AMENDMENT AND TERMINATION

The Board may amend, suspend, or terminate the Plan or any portion of the Plan at any time, provided that no amendment may be made without shareholder approval if such approval is required by applicable law or the requirements of an applicable stock exchange or registered securities association.

ARTICLE 13
MISCELLANEOUS

13.1 Tax Withholding. The Corporation has the right to deduct from any settlement of any Award under the Plan, including the delivery or Vesting of Shares or Awards, any federal, state, or local taxes of any kind required by law to be withheld with respect to such payments or to take such other action as may be necessary in the opinion of the Corporation to satisfy all obligations for the payment of such taxes. The recipient of any payment or distribution under the Plan has the obligation to make arrangements satisfactory to the Corporation for the satisfaction of any such tax withholding obligations. The Corporation will not be required to make any such payment or distribution under the Plan until such obligations are satisfied.

13.2 Unfunded Plan. The Plan will be unfunded and the Corporation will not be required to segregate any assets that may at any time be represented by Awards under the Plan. Any liability of the Corporation to any person with respect to any Award under the Plan will be based solely upon any contractual obligations that may be effected pursuant to the Plan. No such obligation of the Corporation will be deemed to be secured by any pledge of, or other encumbrance on, any property of the Corporation.

13.3 Fractional Shares. No fractional Shares of Common Stock will be issued or delivered under the Plan or any Option, Options granted under the Plan will not be exercisable with respect to fractional Shares. In lieu of such fractional Shares, the Corporation will pay an amount in cash equal to the same fraction using the current market value of a Share of Common Stock.

13.4 Annulment of Awards. Any Award Agreement may provide that the grant of an Award payable in cash is revocable until cash is paid in settlement thereof or that grant of an Award payable in Shares is revocable until the Participant becomes entitled to the certificate in settlement thereof. In the event Participant's employment (or services as a Non-Employee Director or Consultant) terminates for cause (as defined below), any Award which is revocable will be annulled as of the date of such termination for cause. For the purpose of this Section 13.4, the term "for cause" has the meaning set forth in the Participant's employment agreement, if any, or otherwise means any discharge (or removal) for material or flagrant violation of the policies and procedures of the Corporation or for other performance or conduct which is materially detrimental to the best interests of the Corporation, as determined by the Committee.

13.5 Engaging in Competition With the Corporation. Any Award Agreement may provide that, if a Participant terminates employment (or service as a Non-Employee Board Director or Consultant) with the Corporation or an Affiliate for any reason whatsoever, and within a period of time (as specified in the Award Agreement) after the date thereof accepts employment with any competitor of (or otherwise engages in competition with) the Corporation, the Committee, in its sole discretion, may require such Participant to return to the Corporation the economic value of any Award that is realized or obtained (measured at the date of exercise, Vesting, or payment) by such Participant at any time during the period beginning on the date that is one year prior to the date of such Participant's termination of employment (or service as a Non-Employee Board Director or Consultant) with the Corporation.

13.6 Other Corporation Benefit and Compensation Programs. Payments and other benefits received by a Participant under an Award made pursuant to the Plan are not to be deemed a part of a Participant's regular, recurring compensation for purposes of the termination indemnity or severance pay law of any state or country and will not be included in, or have any effect on, the determination of benefits under any other employee benefit plan or similar arrangement provided by the Corporation or an Affiliate unless expressly so provided by such other plan or arrangements, or except where the Committee expressly determines that an Award or portion of an Award should be included to accurately reflect competitive compensation practices or to recognize that an Award has been made in lieu of a portion of cash compensation. Awards under the Plan may be made in combination with or in tandem with, or as alternatives to, grants, awards, or payments under any other Corporation or Affiliate plans, arrangements, or programs. The Plan notwithstanding, the Corporation or any Affiliate may adopt such other compensation programs and additional compensation arrangements as it deems necessary to attract, retain, and reward employees and directors for their service with the Corporation and its Affiliates.

13.7 Securities Law Restrictions. No Shares may be issued under the Plan unless counsel for the Corporation is satisfied that such issuance will be in compliance with applicable federal and state securities laws. Certificates for Shares delivered under the Plan may be subject to such stop-transfer orders and other restrictions as the Committee may deem advisable under the rules, regulations, and other requirements of the Securities and Exchange Commission, any stock exchange or registered securities association upon which the Common Stock is then listed or quoted, and any applicable federal or state securities laws. The Committee may cause a legend or legends to be put on any such certificates to make appropriate reference to such restrictions.

13.8 Continuing Restriction Agreement. Each Participant will, if requested by the Corporation and as a condition to issuance of Shares under the Plan upon an Award or exercise of an Award granted under the Plan that results in the issuance of Shares, become a party to and be bound by a stock restriction or other agreement with the Corporation containing restrictions on transfer of Shares, including a right of first refusal for the benefit of the Corporation, a market stand-off provision, and such other terms as the Corporation may reasonably require.

13.9 Governing Law. Except with respect to references to the Code or federal securities laws, the Plan and all actions taken thereunder will be governed by and construed in accordance with the laws of the state of Delaware, without regard to principles of conflict of laws.

CYTODYN INC.

2012 EQUITY INCENTIVE PLAN

STOCK OPTION AWARD AGREEMENT
(FOR EXECUTIVES)

This STOCK OPTION AWARD AGREEMENT (this "Option Agreement") is made effective as of_____ by and between CytoDyn Inc., a Delaware corporation (the "Corporation"), and _____ (the "Participant").

1. Grant of Option2,

The Corporation hereby grants to the Participant an option (the "Option") to purchase 200,000 shares of Common Stock (the "Shares") as of _____(the "Date of Grant") at the exercise price per Share of $_____ (the "Exercise Price") subject to the terms and conditions of this Option Agreement.

2. Application of Plan Terms.

Unless otherwise defined herein, the capitalized terms in this Option Agreement will have the same defined meanings as set forth in the Corporation's Amended and Restated 2012 Equity Incentive Plan, as it may be amended from time to time (the "Plan").

3. Term.

The Option will automatically terminate on 10 years from the Date of Grant date (the "Expiration Date"), to the extent not exercised, unless terminated earlier in accordance with this Option Agreement.

4. Exercise of Option.

(a) Right to Exercise. The Option will become Vested and exercisable cumulatively according to the following Vesting Schedule:

Percentage of Options Vested and Exercisable	Vesting Date
33.3%	
33.3%	
33.4%	

(b) Acceleration of Exercisability. Notwithstanding the Vesting Schedule in Section 4(a), if the Participant's employment is terminated other than for cause (not including voluntary termination, death or disability) or by the Participant with Good Reason, in each case within 12 months following a Change in Control Date, the Option will be deemed to be fully Vested effective immediately prior to such termination of employment, except to the extent the Participant chooses to decline accelerated Vesting of all or any portion of the Option. For purposes of this Section 4(b), "Cause" and "Good Reason" have the meanings set forth in the Participant's employment agreement with the Company.

(c) Method of Exercise. The Option shall be exercisable by delivery of an exercise notice (a form of which is attached as Exhibit A), stating the election to exercise the Option, the number of whole Shares in respect of which the Option is being exercised, the form of payment, the proposed closing date, and such other provisions as may be required by the Committee. The exercise notice shall be delivered to the Corporation in accordance with Section 16 below accompanied by full payment of the Exercise Price, which must be made by one or a combination of the following:

(1) Payment in cash;

(2) Delivery of previously acquired Shares having a Fair Market Value equal to the Exercise Price; or

(3) Delivery of an irrevocable direction to a securities broker acceptable to the Committee (subject to the provisions of the Sarbanes-Oxley Act of 2002 and any other applicable statute or rule) to sell Shares subject to the Option and to pay a sufficient portion of the net proceeds of the sale to the Corporation in satisfaction of the Exercise Price.

The Option shall be deemed to be exercised on the date (the "Exercise Date") on which the Corporation has received all of the following: (i) the exercise notice, (ii) the aggregate Exercise Price and (iii) the Tax Payment (defined below).

(d) Previously Acquired Shares. Delivery of previously acquired Shares in full or partial payment of the aggregate Exercise Price will be subject to the following conditions:

(1) The Shares tendered must be in good delivery form;

(2) The Fair Market Value of the Shares delivered as of the Exercise Date, together with the amount of cash, if any, tendered must equal or exceed the aggregate Exercise Price;

(3) Any Shares remaining after satisfying the payment of the aggregate Exercise Price will be reissued in the same manner as the Shares tendered; and

(4) No fractional Shares will be issued and cash will not be paid to the Participant for any fractional Share value not used to pay the aggregate Exercise Price.

(e) Taxes. The Participant (or other person exercising the Option) is responsible for the payment of all federal, state and local withholding taxes and the Participant's portion of any applicable payroll taxes imposed in connection with the exercise of the Option (collectively, the "Tax Payment"). No portion of the Option may be exercised and no Shares will be delivered to the Participant or other person pursuant to the exercise of the Option until the Participant or other person has made arrangements acceptable to the Committee for the satisfaction of the Tax Payment obligation. At its election, the Corporation may offset or withhold (from any cash amount owed by the Corporation to the Participant), or collect from the Participant or other person, an amount sufficient to satisfy such Tax Payment obligation.

The Participant understands that the Participant may suffer adverse tax consequences as a result of the Participant's purchase or disposition of the Shares. The Participant represents that the Participant has consulted with any tax consultants the Participant deems advisable in connection with the purchase or disposition of the Shares and that the Participant is not relying on the Corporation for any tax advice.

5. Restrictions on Exercise.

The Option may not be exercised if the issuance of the Shares subject to the Option upon such exercise would constitute a violation of any applicable federal or state securities law, the rules of any securities exchange or association on which the Shares are listed or traded, or the requirements of any other governmental or regulatory agency. If the exercise of the Option within the time periods set forth in Sections 6, 7, or 8 of this Option Agreement is prevented by the provisions of this Section 5, the Option shall remain exercisable until one month after the date the Participant is notified by the Corporation that the Option is exercisable, but in no event later than the Expiration Date.

6. Termination or Change of Continuous Service.

In the event the Participant's Continuous Service terminates, other than for Cause as defined in the Participant's employment agreement, the Participant may, but only during the Post-Termination Exercise Period, exercise the portion of the Option that was Vested at the date of such termination (the "Termination Date"), including the portion Vested in accordance with Section 4(b) above. The "Post-Termination Exercise Period" is the period commencing on the Termination Date and continuing for three months thereafter. In the event of termination of the Participant's Continuous Service for cause, the Participant's right to exercise the Option shall, except as otherwise determined by the Committee, terminate concurrently with the termination of the Participant's Continuous Service (also the "Termination Date"). In no event, however, shall the Option be exercised later than the Expiration Date.

In the event of the Participant's change in status from employee to a status of Non-Employee Director or Consultant, the Option shall remain in effect. Except as provided in Sections 7 and 8 below, to the extent that the Option was not Vested on the Termination Date, or if the Participant does not exercise the Vested portion of the Option within the Post-Termination Exercise Period, the Option shall terminate.

7. Death of Participant.

In the event of the Participant's death, the person who acquires the right to exercise the Option pursuant to will or the laws of descent and distribution may exercise the portion of the Option that was Vested on the date of death during the period commencing on the date of death and continuing for twelve months thereafter (but in no event later than the Expiration Date). To the extent that the Option was not Vested on the date of death, or if the Vested portion of the Option is not exercised within the time specified herein, the Option shall terminate.

8. Disability of Participant.

If the Participant's Continuous Service terminates as a result of the Participant's Disability, the Participant may exercise the portion of the Option that was Vested on the date of such termination of Continuous Service during the period commencing on the date of termination of Continuous Service and continuing for three months thereafter (but in no event later than the Expiration Date). To the extent that the Option was not Vested on the date of termination of Continuous Service, or if the Vested portion of the Option is not exercised within the time specified herein, the Option shall terminate.

9. Transferability of Option.

Subject to restrictions on transferability set forth in the Plan, this Option Agreement will be binding upon and benefit the parties, their successors and assigns.

10. Engaging in Competition with the Corporation.

If the Participant terminates Continuous Service with the Corporation or an Affiliate for any reason whatsoever, and within twelve months after the date thereof accepts employment with any competitor of (or otherwise engages in competition with) the Corporation, the Committee, in its sole discretion, may require the Participant to return to the Corporation the economic value of any Award that is realized or obtained (measured at the Exercise Date, Vesting, or payment) by the Participant at any time during the period beginning on the date that is one year prior to the date of the Participant's termination of Continuous Service with the Corporation.

11. Rights as Stockholder.

Until the stock certificate representing the Shares is issued, no right to vote or receive dividends or any other rights as a stockholder shall exist with respect to the Shares, notwithstanding the exercise of the Option. The Corporation shall issue (or cause to be issued) such stock certificate promptly after the Option is exercised. No adjustment will be made for a dividend or other right for which the record date is prior to the date the stock certificate is issued, except as provided in Article 10 of the Plan.

12. Adjustments Upon Changes in Capitalization.

The Option shall be subject to the provisions of Article 11 of the Plan relating to adjustments upon changes in capitalization and similar corporate events.

13. Recovery (Clawback) of Compensation.

Compensation paid to the Participant under this Option Agreement is subject to recoupment in accordance with any compensation recovery or clawback policy of the Corporation in effect from time to time, including any such policy adopted after the date of this Option Agreement, as well as any similar requirement of applicable law, including without limitation the Dodd-Frank Wall Street Reform and Consumer Protection Act and the Sarbanes-Oxley Act of 2002, and rules adopted by a governmental agency or applicable securities exchange under any such law. The Participant agrees to promptly repay or return any such compensation as directed by the Corporation under any such policy or requirement, including the value received from a disposition of Shares acquired pursuant to this Option Agreement.

14. Governing Law.

This Option Agreement will be administered, interpreted and enforced in accordance with the laws of the State of Delaware, without regard to principles of conflicts of laws.

15. Venue and Waiver of Jury Trial.

The Corporation, the Participant, and the Participant's assignees pursuant to Section 9 (the "parties") agree that any suit, action, or proceeding arising out of or relating to the exercise notice or this Option Agreement shall be brought in the United States District Court for the Western District of Washington (or should such court lack jurisdiction to hear such action, suit or proceeding, in a Washington state court in Clark County) and that the parties shall submit to the jurisdiction of such court. The parties irrevocably waive, to the fullest extent permitted by law, any objection the party may have to the laying of venue for any such suit, action or proceeding brought in such court. THE PARTIES ALSO EXPRESSLY WAIVE ANY RIGHT THEY HAVE OR MAY HAVE TO A JURY TRIAL OF ANY SUCH SUIT, ACTION OR PROCEEDING. If any one or more provisions of this Section 14 shall for any reason be held invalid or unenforceable, it is the specific intent of the parties that such provisions shall be modified to the minimum extent necessary to make it or its application valid and enforceable.

16. Attorney Fees.

In the event of any suit or action or arbitration proceeding to enforce or interpret any provision of this Agreement (or which is based on this Agreement), the prevailing party will be entitled to recover, in addition to other costs, reasonable attorney fees in connection with such suit, action, or arbitration, and in any appeal. The determination of who is the prevailing party and the amount of reasonable attorney fees to be paid to the prevailing party will be decided by the arbitrator or arbitrators (with respect to attorney fees incurred prior to and during the arbitration proceedings) and by the court or courts, including any appellate courts, in which the matter is tried, heard, or decided, including the court which hears any exceptions made to an arbitration award submitted to it for confirmation as a judgment (with respect to attorney fees incurred in such confirmation proceedings).

17. Notices.

Any notice required or permitted hereunder shall be given in writing and shall be deemed effectively given (a) upon personal delivery, (b) one business day after deposit for overnight delivery by a nationally recognized air courier service, (c) five business days after deposit in the United States mail by certified mail (if the parties are within the United States), with postage and fees prepaid, (d) on the date of fax transmission, with confirmed transmission, or (e) by e-mail transmission, addressed to the party to be notified as follows:

If to the Corporation:

CytoDyn Inc.
1111 Main Street, Suite 660
Vancouver, Washington 98660
Fax: (360) 779-8549
E-mail: _____
Attn: Secretary

If to the Participant:

_____
E-mail:_____
Fax: _____

or such other address as such party may designate by ten days' advance written notice to the other party.

CYTODYN INC.

By: _____

PARTICIPANT

By: _____

EXHIBIT A

CYTODYN INC.
2012 EQUITY INCENTIVE PLAN

EXERCISE NOTICE

CytoDyn Inc.
1111 Main Street, Suite 660
Vancouver, Washington 98660
Telephone: (360) 980-8524
Facsimile: (360) 779-8549
Attention: Secretary

Participant: _____
Print Name

Mailing Address: _____

_____

_____

Telephone Number: _____

Option: The option evidenced by a Stock Option Award Agreement dated_____, 20__.

OPTION EXERCISE

I hereby elect to exercise the Option to purchase shares ("Shares") of common stock of CytoDyn Inc. covered by the Option as follows:

Number of Shares Purchased (a)_____

Per-Share Exercise Price (b) $_____

Aggregate Purchase Price (a times b) $_____

Closing Date of Purchase _____

Form of Payment [Check One]:

☐ My check in the full amount of the Aggregate Purchase Price (as well as a check for any withholding taxes, if this box ☐ is checked). See "Instructions" below.

☐ Delivery of previously acquired shares of CytoDyn common stock with a fair market value equal to the Aggregate Purchase Price. See "Instructions" below.

☐ My irrevocable direction to my securities broker (see below) to sell Shares subject to the Option and deliver a portion of the sales proceeds to CytoDyn Inc., in full payment of the Aggregate Purchase Price (as well as any withholding

taxes, if this box ☐ is checked). See "Instructions" below. I hereby confirm that any sale of Shares will be in compliance with CytoDyn's policies on insider trading and Rule 144, if applicable. I HEREBY IRREVOCABLY AUTHORIZE _____ to
(*name of broker*)
transfer funds to CytoDyn Inc., from my account in payment of the Aggregate Purchase Price (and withholding taxes, if applicable) and CytoDyn Inc., is hereby directed to issue the Shares for my account with such broker and to transmit the Shares to the broker indicated above.

Instructions:

(1) If payment is to be by check, a certified or cashier's check for the amount of the Aggregate Purchase Price payable to CytoDyn Inc., should be submitted with this Notice. If you wish to pay by wire transfer, please contact CytoDyn Inc. for instructions.

(2) If payment is to be by surrender of previously acquired shares or by attestation of ownership (see Attestation Form below), either a certificate for the shares accompanied by a stock power endorsed in blank or the completed Attestation Form should be submitted with this Notice. If applicable, a certificate for any shares in excess of those needed to satisfy the Aggregate Purchase Price will be returned to you with the certificate for your option shares. Any change in registration between the payment shares and the new shares will require a properly executed stock power that is guaranteed by an institution participating in a recognized medallion signature guarantee program.

(3) Withholding tax is due immediately upon exercise of a nonqualified stock option by an employee or former employee. Non-employee directors are not currently subject to withholding. If withholding tax is due at the time of exercise, you will be notified of the amount and satisfactory arrangements must be made for payment before a stock certificate for your option shares will be delivered to you (or your broker, if applicable).

ISSUANCE INSTRUCTIONS FOR STOCK CERTIFICATES

Please register the stock certificate(s) in the following name(s):

_____
_____
_____

If applicable, please check one: ☐ JT TEN ☐ TEN COM ☐ Other

Please deliver the stock certificate(s) to (check one):

☐ My brokerage account

Attn: _____
Account No.:_____; or

☐ My mailing address set forth above.

Date

Signature of Participant

ATTESTATION FORM

As indicated above, I have elected to use shares of CytoDyn common stock that I already own to pay the Aggregate Purchase Price of the Option.

I attest to the ownership of the shares represented by the certificate(s) listed below or to the beneficial ownership of the shares held in the name of my broker, as indicated in the attached copy of my brokerage statement. I will be deemed to have delivered such shares to CytoDyn in connection with the exercise of my Option.

I understand that, because I (and any joint owner) will retain ownership of the shares (the "Payment Shares") deemed delivered to pay the Aggregate Purchase Price, the number of shares to be issued to me upon exercise of my Option will be reduced by the number of Payment Shares. I represent that I have full power to deliver and convey certificates representing the Payment Shares to CytoDyn and by such delivery and conveyance could have caused CytoDyn to become sole owner of the Payment Shares. The joint owner of the Payment Shares, if any, by signing this Form, consents to these representations and to the exercise of the Option by this attestation.

I certify that any Payment Shares originally issued to me as restricted shares are now fully vested.

List certificate(s) and number of shares covered, or attach a copy of your brokerage statement:

Common Stock Certificate Number	Number of Shares Covered

Date: _____

Print Name of Optionholder: _____

Signature of Optionholder: _____

Print Name of Joint Owner: _____

Signature of Joint Owner: _____

If you are attaching a copy of your brokerage statement, you must have your securities broker complete the following:

The undersigned hereby certifies that the foregoing attestation is correct.

_____
Name of Brokerage Firm

By:_____
_____

_____
Print Name of Signing Broker

Date:_____
_____

Telephone No.:_____

Exhibit 10.58

AMENDED AND RESTATED EMPLOYMENT AGREEMENT

This AMENDED AND RESTATED EMPLOYMENT AGREEMENT (this "Agreement"), effective as of June 15, 2020 (the "Effective Date"), is by and between CYTODYN INC., a Delaware corporation (the "Company") and Nitya G. Ray (the "Executive").

W I T N E S E T H:

WHEREAS, Executive and the Company previously entered into an Employment Agreement, dated December 22, 2018 (the "Original Agreement"); and

WHEREAS, Executive and the Company desire to amend and restate the Original Agreement to reflect the terms and conditions set forth in this Agreement.

NOW, THEREFORE, in consideration of the promises and the mutual covenants and agreements contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto, intending to be legally bound hereby, agree as follows:

ARTICLE 1

EMPLOYMENT; TERMINATION OF PRIOR AGREEMENT; TERM OF AGREEMENT

Section 1.1 Employment and Acceptance. During the Term (as defined in Section 1.2), the Company shall employ the Executive, and the Executive shall accept such employment and serve the Company, in each case, subject to the terms and conditions of this Agreement.

Section 1.2 Term. The employment relationship hereunder shall be for the period (such period of the employment relationship shall be referred to herein as the "Term") commencing on the Effective Date and ending upon the Executive's employment hereunder by either party hereto pursuant to the terms of Section 4.1, Section 4.2, Section 4.3 or Section 4.4. In the event that the Executive's employment with the Company terminates, the Company's obligation to continue to pay, after the Termination Date (as defined in Section 4.3(b)), Base Salary (as defined in Section 3.1(a)), Annual Bonus (as defined in Section 3.1(b)) and other unaccrued benefits shall terminate except as may be provided for in ARTICLE 4.

ARTICLE 2

TITLE; DUTIES AND OBLIGATIONS; LOCATION

Section 2.1 Title. The Company shall employ the Executive to render exclusive and full-time services to the Company. The Executive shall serve in the capacity Chief Technology Officer – Head of Process Sciences, Manufacturing & Supply Chain.

Section 2.2 Duties. Subject to the direction and authority of the Board of Directors of the Company (the "Board"), the Executive shall have direct responsibility for the day to day management and advancement of the Company's biologic manufacturing activities, including responsibility for all Chemistry and Manufacturing Control ("CMC") processes of PRO 140, including, without limitation, managing consultants of the Company with respect to CMC-related issues. In addition, the Executive will advise the Chief Executive Officer ("CEO") of the Company on all tactical and strategic issues related to CMC matters. The Executive shall report to, and be subject to the lawful direction of, the CEO. The Executive agrees to perform to the best of his ability, experience, and talent those acts and duties, consistent with the position of Chief Technology Officer – Head of Process Sciences, Manufacturing & Supply Chain as the CEO shall from time to time direct. During the Term, the Executive also shall serve in such other Executive-level positions or capacities as may, from time to time, be reasonably requested by the CEO.

Section 2.3 Compliance with Policies, etc. During the Term, the Executive shall be bound by, and comply fully with, all of the Company's policies and procedures for officers, directors and/or employees in place from time to time, including, but not limited to, all terms and conditions set forth in the Company's employee handbook, if any, compliance manual, codes of conduct and any other memoranda and communications applicable to the Executive pertaining to the policies, procedures, rules and regulations, as currently in effect and as may be amended from time to time. These policies and procedures include, among other things and without limitation, the Executive's obligations to comply with the Company's rules regarding confidential and proprietary information and trade secrets.

Section 2. Time Commitment. During the Term, the Executive shall use his best efforts to promote the interests of the Company (including its subsidiaries and other Affiliates (as defined below)) and shall devote substantially all of his business time, ability and attention to the performance of his duties for the Company and shall not, directly or indirectly, render any

services to any other person or organization, whether for compensation or otherwise, except with the CEO's prior written consent, provided that the foregoing shall not prevent the Executive from (i) participating in charitable, civic, educational, professional, community or industry affairs, (ii) managing the Executive's passive personal investments and affairs, or (iii) serving on the board of directors (or similar governing bodies) of not more than two (2) other corporations (or other business entities) that are not competitors of the Company, its subsidiaries or any of its other Affiliates (as determined by the Board), so long as, in each case, such activities individually or in the aggregate do not materially interfere or conflict with the Executive's duties hereunder or create a potential business or fiduciary conflict (in each case, as determined by the CEO). As used in this Agreement, "Affiliate" of any individual or entity means any other individual or entity that directly or individual controls, is controlled by, or is under common control with, the individual or entity.

Section 2.5 Location. The Executive's principal place of business for the performance of his duties under this Agreement shall be at the principal executive office of the Company (currently located in Vancouver, Washington), provided it is agreed that Executive may work remotely from East Hanover, New Jersey. Notwithstanding, the foregoing, the Executive shall be required to travel as necessary to perform his duties hereunder.

ARTICLE 3

COMPENSATION AND BENEFITS; EXPENSES

Section 3.1 Compensation and Benefits. For all services rendered by the Executive in any capacity during the Term (including, without limitation, serving as an officer, director or member of any committee of the Company or any of its subsidiaries or other Affiliates), the Executive shall be compensated (subject, in each case, to the provisions of ARTICLE 4 below), as determined by the Compensation Committee, as follows:

(a) Base Salary. During the Term, the Company shall pay the Executive a base salary (the "Base Salary") approved by the Compensation Committee of the Board (the "Compensation Committee"), which shall be subject to customary withholdings and authorized deductions and be payable in equal installments in accordance with the Company's customary payroll practices in place from time to time. The Executive's Base Salary shall be subject to periodic adjustments as determined by the Compensation Committee. As used in this Agreement, the term "Base Salary" shall refer to Base Salary as may be adjusted from time to time, but shall not be reduced to an annualized rate below $335,000. As used in this Agreement, the term "Base Salary" shall refer to Base Salary as may be adjusted from time to time.

(b) Annual Bonus. For each fiscal year ending during the Term (beginning with the fiscal year ending May 31, 2020, the Executive shall be eligible to receive an annual bonus (the "Annual Bonus") with a target amount equal to fifty percent (50%) of the Base Salary earned by the Executive for such fiscal year (the "Target Annual Bonus"). The actual amount of each Annual Bonus will be based upon the level of achievement of the Company's corporate objectives and the Executive's individual objectives established by the Compensation Committee for the fiscal year with respect to which such Annual Bonus relates. The level of achievement of the corporate objectives and the Executive's individual performance objectives for any fiscal year shall be determined by the Compensation Committee. Each Annual Bonus for a fiscal year, to the extent earned, will be paid in a lump sum at a time determined by the Company, but in no event later than March 15 of the calendar year immediately following the year in which such Annual Bonus was earned. Each Annual Bonus shall be payable, as determined by the Compensation Committee, either in cash, in full, or fifty percent (50%) in cash and (50%) in unrestricted shares under (and as defined in) the Company's 2012 Equity Incentive Plan (as it may be amended from time to time, the "2012 Plan"), or any successor equity compensation plan as may be in place from time to time (collectively with the 2012 Plan, the "Plan"), subject to the availability of shares under the Plan. The Annual Bonus shall not be deemed earned until the date that it is paid. Accordingly, in order for the Executive to receive an Annual Bonus, the Executive must be actively employed by the Company at the time of such payment.

(c) Equity Compensation. During the Term, subject to the terms and conditions established within the Plan and separate Award Agreements (as defined in the Plan), the Executive shall be eligible to receive from time to time additional Options, Stock Appreciation Rights, Restricted Awards or Other Stock-Based Awards (as such capitalized terms are defined in the Plan), in amounts, if any, as determined by the Compensation Committee.

(d) Benefit Plans. The Executive shall be entitled to participate in all employee benefit plans and programs (excluding severance plans, if any) generally made available by the Company to senior leadership of the Company, to the extent permissible under the general terms and provisions of such plans or programs and in accordance with the

provisions thereof. The Company may amend, modify or rescind any employee benefit plan or program and/or change employee contribution amounts to benefit costs without notice in its discretion.

(e) Paid Vacation. The Executive shall be entitled to paid vacation days in accordance with the Company's vacation policies in effect from time to time for its senior management.

Section 3.2 Expense Reimbursement. The Company shall reimburse the Executive during the Term, in accordance with the Company's expense reimbursement policies in place from time, for all reasonable out-of-pocket business expenses incurred by the Executive in the performance of his duties hereunder. In order to receive such reimbursement, the Executive shall furnish to the Company documentary evidence of each such expense in the form required to comply with the Company's policies in place from time to time.

ARTICLE 4

TERMINATION OF EMPLOYMENT

Section 4.1 Termination Without Cause.

(a) The Company may terminate the Executive's employment hereunder at any time without Cause (other than by reason of death or Disability) upon written notice to the Executive.

(b) As used in this Agreement, "Cause" means: (i) a material act, or act of fraud, committed by the Executive that is intended to result in the Executive's personal enrichment to the detriment or at the expense of the Company or any of its Affiliates; (ii) the Executive is convicted of a felony; (iii) willful and continued failure by the Executive to perform the duties or obligations reasonably assigned to the Executive by the Board from time to time, which failure is not cured upon ten (10) days prior written notice (unless such failure is not susceptible to cure, as determined in the reasonable discretion of the Board); or (iv) the Executive materially violates either of the Covenants Agreements (as defined in Section 5.1 below).

(c) If the Executive's employment is terminated pursuant to Section 4.1(a), the Executive shall, in full discharge of all of the Company's obligations to the Executive, be entitled to receive, and the Company's sole obligation to the Executive under this Agreement or otherwise shall be to pay or provide to the Executive, the following:

(i) the Accrued Obligations (as defined in Section 4.3(b)); and

(ii) subject to Section 4.5 and Section 4.6, a severance (the "Severance Payments") to be paid to Executive as follows: (A) a lump sum payment equal to six (6) month's of Executive's Base Salary at the rate in effect immediately prior to the Termination Date (less applicable withholdings and authorized deductions) on the sixtieth (60th) day following the Termination Date (or the next business day thereafter, but in no event later that March 15th of the calendar year immediately following the Ter1mination Date); and (B) payments equal to six (6) months of Executive's Base Salary at the rate in effect immediately prior to the Termination Date (less applicable withholdings and authorized deductions) to be paid in regular installments corresponding with the Company's regular payroll schedule, and commencing on the first regular payroll date following the date that is one hundred and eighty (180) days after the Termination Date.

Notwithstanding the foregoing, in no event shall the Severance Payments to which the Executive is entitled hereunder exceed two times the lesser of (x) the sum of the Executive's annualized compensation based upon the Executive's annual salary in the year preceding the year in which the Executive's employment is terminated (adjusted for any increase during that year that was expected to continue indefinitely if the Executive's employment had not terminated) or (y) the applicable dollar limit under Section 401(a)(17) of the Internal Revenue Code for the calendar year in which the Executive's employment is terminated.

(d) Notwithstanding anything in Section 4.1(c) to the contrary, the Severance Payments may be made, as determined by the Compensation Committee, in whole or in part through the issuance of shares of the Company's common stock, in each case with a Fair Market Value (as defined in the Plan) equal to the amount to be paid on the applicable date.

(e) Unless the award agreement specifically provides otherwise, all stock options and other awards that the Executive has been granted under the Plan as of the date of this Agreement shall vest and, in the case of stock options or like awards, become exercisable, to the extent not already vested and (if applicable) exercisable, on the Termination Date, and (if applicable) shall remain exercisable following termination to the extent provided in the award agreement for such award.

Section 4.2 Termination Without Cause or for Good Reason Within 12 Months Following a Change in Control

(a) Provided that the Executive has completed 180 days of full-time continuous employment with the Company, if, within twelve (12) months following the occurrence of a Change in Control of the Company (as defined below), the Executive's employment hereunder is terminated without Cause (other than by reason of death or Disability) or the Executive resigns for Good Reason, the provisions of this Section 4.2 shall control instead of the provisions of Section 4.1.

(b) As used in this Agreement, "Change in Control" means

(i) Any one person or entity, or more than one person or entity acting as a group (as defined in Treasury Regulation Section 1.409A-3), acquires ownership of stock of the Company that, together with stock previously held by the acquiror, constitutes more than fifty percent (50%) of the total fair market value or total voting power of the Company's stock. If any one person or entity, or more than one person or entity acting as a group, is considered to own more than fifty percent (50%) of the total fair market value or total voting power of the Company's stock, the acquisition of additional stock by the same person or entity or persons or entities acting as a group does not cause a Change in Control. An increase in the percentage of stock owned by any one person or entity, or persons or entities acting as a group, as a result of a transaction in which the Company acquires its stock in exchange for property, is treated as an acquisition of stock; or

(ii) A majority of the members of the Company's Board is replaced during any twelve (12) month period by directors whose appointment or election is not endorsed by a majority of the members of the Board prior to the date of appointment or election; or

(iii) Any one person or entity, or more than one person or entity acting as a group, acquires (or has acquired during the twelve (12) month period ending on the date of the most recent acquisition by that person or entity or persons or entities acting as a group) assets from the Company that have a total gross fair market value equal to at least forty percent (40%) of the total gross fair market value of all the Company's assets immediately prior to the acquisition or acquisitions. Gross fair market value means the value of the Company's assets, or the value of the assets being disposed of, without regard to any liabilities associated with these assets. Notwithstanding anything in this clause (iii) to the contrary, in no event shall a license of (or other similar transfer of rights in) leronlimab be a change in the ownership of a substantial portion of the Company's assets

In determining whether a Change in Control occurs, the attribution rules of Code Section 318 apply to determine stock ownership. The stock underlying a vested option is treated as owned by the individual who holds the vested option, and the stock underlying an unvested option is not treated as owned by the individual who holds the unvested option.

(c) As used in this Agreement, "Good Reason" means the occurrence of any of the following: (1) a material breach by the Company of the terms of this Agreement; (2) a material reduction in the Executive's Base Salary unless the reduction is generally applicable to substantially all similarly situated Company employees or is otherwise offset economically by increases in other compensation or replacement plans or programs; (3) a material diminution in the Executive's authority, duties or responsibilities; or (4) a relocation by the Company of the Executive's principal place of business for the performance of his duties under this Agreement to a location that is anywhere outside of a 50-mile radius of East Hanover, New Jersey; provided, however, that the Executive must notify the Company within ninety (90) days of the occurrence of any of the foregoing conditions that he considers it to be a "Good Reason" condition and provide the Company with at least thirty (30) days in which to cure the condition. If the Executive fails to provide this notice and cure period prior to his resignation, or resigns more than six (6) months after the initial existence of the condition, his resignation will not be deemed to be for "Good Reason."

(d) If the Executive's employment is terminated pursuant to Section 4.2(a) (i.e., the Company terminates the Executive's employment hereunder without Cause, and not by reason of death or Disability, within twelve (12) months following a Change in Control of the Company, or the Executive resigns for Good Reason within twelve (12) months following a Change in Control of the Company), the Executive shall, in full discharge of all of the Company's obligations to the Executive, be entitled to receive, and the Company's sole obligation to the Executive under this Agreement or otherwise shall be to pay or provide to the Executive, the following:

(i) the Accrued Obligations; and

(ii) subject to Section 4.5 and Section 4.6:

(A) a lump sum payment equal to the sum of eighteen (18) months of the Executive's Base Salary at the rate in effect immediately prior to Termination Date (less applicable withholdings and authorized deductions), to be paid on the first regular payroll date

on or following the date that is sixty (60) days following such termination of employment (the "Enhanced Severance Payment"); provided, however, that the Enhanced Severance Payment shall not exceed two times the lesser of (x) the sum of the Executive's annualized compensation based upon the Executive's annual salary in the year preceding the year in which the Executive's employment is terminated (adjusted for any increase during that year that was expected to continue indefinitely if the Executive's employment had not terminated) or (y) the applicable dollar limit under Section 401(a)(17) of the Internal Revenue Code for the calendar year in which the Executive's employment is terminated; and

(B) Unless the award agreement specifically provides otherwise, all stock options and other awards that the Executive has been granted under the Plan as of the date of this Agreement shall vest and, in the case of stock options or like awards, become exercisable, to the extent not already vested and (if applicable) exercisable, on the Termination Date, and (if applicable) shall remain exercisable following termination to the extent provided in the award agreement for such award.

For purposes of clarity, it is understood and agreed that the Enhanced Severance Payment set forth in this Section 4.2 shall be in lieu of (and not in addition to) the Severance Payments set forth in Section 4.1.

Section 4.3 Termination for Cause; Voluntary Termination.

(a) The Company may terminate the Executive's employment hereunder at any time for Cause upon written notice to the Executive. The Executive may voluntarily terminate his employment hereunder at any time for any reason or no reason upon ninety (90) days prior written notice to the Company; provided, however, the Company reserves the right, upon written notice to the Executive, to accept the Executive's notice of resignation and to accelerate such notice and make the Executive's resignation effective immediately, or on such other date prior to Executive's intended last day of work as the Company deems appropriate. It is understood and agreed that the Company's election to accelerate Executive's notice of resignation shall not be deemed a termination by the Company without Cause for purposes of Section 4.1 or 4.2 of this Agreement or otherwise or constitute Good Reason for purposes of Section 4.2 of this Agreement or otherwise.

(b) If the Executive's employment is terminated pursuant to Section 4.3(a), the Executive shall, in full discharge of all of the Company's obligations to the Executive, be entitled to receive, and the Company's sole obligation under this Agreement or otherwise shall be to pay or provide to the Executive, the following (collectively, the "Accrued Obligations"):

(i) the Executive's accrued but unpaid Base Salary through the final date of the Executive's employment by the Company (the "Termination Date"), payable in accordance with the Company's standard payroll practices;

(ii) the Executive's unused vacation as accrued in accordance with the Company's policies, if any; (iii) expenses reimbursable under Section 3.2 above incurred on or prior to the Termination Date but not yet reimbursed; and

(iv) any amounts or benefits that are vested amounts or vested benefits or that the Executive is otherwise entitled to receive under any plan, program, policy or practice (with the exception of those, if any, relating to severance) on the Termination Date, in accordance with such plan, program, policy, or practice.

Section 4.4 Termination Resulting from Death or Disability.

(a) As the result of any Disability suffered by the Executive, the Company may, upon five (5) days prior notice to the Executive, terminate the Executive's employment under this Agreement. The Executive's employment shall automatically terminate upon his death.

(b) "Disability" means a determination by the Company in accordance with applicable law that as a result of a physical or mental injury or illness, the Executive has been unable to perform the essential functions of his job with or without reasonable accommodation for a period of (i) ninety (90) consecutive days; or (ii) one hundred twenty (120) days during any twelve (12) month period.

(c) If the Executive's employment is terminated pursuant to Section 4.4(a), the Executive or the Executive's estate, as the case may be, shall be entitled to receive, and the Company's sole obligation under this Agreement or otherwise shall be to pay or provide to the Executive or the Executive's estate, as the case may be, the Accrued Obligations.

Section 4.5 Release Agreement. In order to receive the Severance Payments set forth inSection 4.1, or to receive the Enhanced Severance Payment set forth in Section 4.2 (as applicable, and, in each case, if eligible), the Executive must timely execute (and not revoke) a separation agreement and general release (the "Release Agreement") in a customary form as is determined to be reasonably necessary by the Company in its good faith and reasonable

discretion; provided, that the Company provides the Executive with the form of Release Agreement within three (3) days following the Termination Date, and such form does not address subjects other than the release of claim and post-employment restrictions by which the Executive is already bound. The Severance Payments or the Enhanced Severance Payment, as applicable, are subject to the Executive's execution of such Release Agreement within twenty-one (21) days of the Executive's receipt of the Release Agreement and the Executive'snon-revocation of such Release Agreement.

Section 4.6 Post-Termination Breach. Notwithstanding anything to the contrary contained in this Agreement, the Company's obligations to provide the Severance Payments or the Enhanced Severance Payment, as applicable, will immediately cease if the Executive materially breaches any of the provisions of either of the Covenants Agreements or the Release Agreement.

Section 4.7 Removal from any Boards and Position. If the Executive's employment is terminated for any reason under this Agreement, he shall be deemed (without further action, deed or notice) to resign (i) if a member, from the Board or board of directors (or similar governing body) of any Affiliate of the Company or any other board to which he has been appointed or nominated by or on behalf of the Company and (ii) from all other positions with the Company or any subsidiary or other Affiliate of the Company, including, but not limited to, as an officer of the Company and any of its subsidiaries or other Affiliates.

ARTICLE 5

GENERAL PROVISIONS

Section 5.1 Employee Inventions Assignment and Non-Disclosure Agreement. The Executive acknowledges and confirms that the Confidentiality Agreement executed by the Executive in favor of the Company on October 31, 2015 (the "Confidentiality Agreement"), the terms of which are incorporated herein by reference, remains in full force and effect and binding on the Executive, and the Executive further agrees to execute and be bound by the Employee Non-Competition Agreement (such agreement, together with the Confidentiality Agreement, the "Covenants Agreements") attached hereto as Schedule A, the terms of which are also incorporated herein by reference. The Covenants Agreements shall each survive the termination of this Agreement and the Executive's employment by the Company for the applicable period(s) set forth therein.

Section 5.2 Expenses. Each of the Company and the Executive shall bear its/his own costs, fees and expenses in connection with the negotiation, preparation and execution of this Agreement.

Section 5.3 Key-Person Insurance. Upon the Company's request, the Executive shall cooperate (including, without limitation, taking any required physical examinations) in all respects in obtaining a key-person life insurance policy on the life of the Executive in which the Company is named as the beneficiary.

Section 5.4 Entire Agreement. Without limitation, this Agreement supersedes and replaces the Original Agreement. This Agreement, the Indemnification Agreement between the Executive and the Company effective December 22, 2018, as it may be amended from time to time (the "Indemnification Agreement"), and the Covenants Agreements contain the entire agreement of the parties hereto with respect to the terms and conditions of the Executive's employment during the Term and activities following termination of this Agreement and the Executive's employment with the Company and supersede any and all prior agreements and understandings, whether written or oral, between the parties hereto with respect to the subject matter of this Agreement, the Indemnification Agreement, and the Covenants Agreements. Each party hereto acknowledges that no representations, inducements, promises or agreements, whether oral or in writing, have been made by any party, or on behalf of any party, which are not embodied herein, or in the Covenants Agreements. The Executive acknowledges and agrees that the Company has fully satisfied, and has no further obligations to the Executive arising under, or relating to, any prior employment or consulting arrangement or understanding (including, without limitation, any claims for compensation or benefits of any kind) or otherwise. No agreement, promise or statement not contained in this Agreement or the Covenants Agreements shall be valid and binding, unless agreed to in writing and signed by the parties sought to be bound thereby.

Section 5.5 No Other Contracts. The Executive represents and warrants to the Company that neither the execution and delivery of this Agreement by the Executive nor the performance by the Executive of the Executive's obligations hereunder, shall constitute a default under or a breach of the terms of any other agreement, contract or other arrangement, whether written or oral, to which the Executive is a party or by which the Executive is bound, nor shall the execution and delivery of this Agreement by the Executive nor the performance by the

Executive of his duties and obligations hereunder give rise to any claim or charge against either the Executive, the Company or any Affiliate, based upon any other contract or other arrangement, whether written or oral, to which the Executive is a party or by which the Executive is bound. The Executive further represents and warrants to the Company that he is not a party to or subject to any restrictive covenants, legal restrictions or other agreement, contract or arrangement, whether written or oral, in favor of any entity or person which would in any way preclude, inhibit, impair or limit the Executive's ability to perform his obligations under this Agreement, including, but not limited to, non-competition agreements, non-solicitation agreements or confidentiality agreements. The Executive shall defend, indemnify and hold the Company harmless from and against all claims, actions, losses, liabilities, damages, costs and expenses (including reasonable attorney's fees and amounts paid in settlement in good faith) arising from or relating to any breach of the representations and warranties made by the Executive in this Section 5.5.

Section 5.6 Notices. Any notice or other communication required or permitted hereunder shall be in writing and shall be delivered personally or sent by nationally recognized overnight courier service (with next business day delivery requested). Any such notice or communication shall be deemed given and effective, in the case of personal delivery, upon receipt by the other party, and in the case of a courier service, upon the next business day, after dispatch of the notice or communication. Any such notice or communication shall be addressed as follows:

If to the Company, to:
CytoDyn Inc.
1111 Main Street, Suite 660
Vancouver, Washington 98660
Attn: Chief Executive Officer

If to the Executive, to the address provided on Executive's current Form W-4 on file with the Company.

Section 5.7 Governing Law; Jurisdiction. This Agreement shall be governed by, and construed in accordance with, the laws of the State of Washington, without regard to principles of conflicts of law. Any and all actions arising out of this Agreement or Executive's employment by Company or termination therefrom shall be brought and heard in the state and federal courts of the State of Washington and the parties hereto hereby irrevocably submit to the exclusive jurisdiction of any such courts.

Section 5.8 Waiver. Either party hereto may waive compliance by the other party with any provision of this Agreement. The failure of a party to insist on strict adherence to any term of this Agreement on any occasion shall not be considered a waiver or deprive that party of the right thereafter to insist upon strict adherence to that term or any other term of this Agreement. No waiver of any provision shall be construed as a waiver of any other provision. Any waiver must be in writing.

Section 5.9 Severability. If any one or more of the terms, provisions, covenants and restrictions of this Agreement shall be determined by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the terms, provisions, covenants and restrictions of this Agreement shall remain in full force and effect and shall in no way be affected, impaired or invalidated and the parties will attempt to agree upon a valid and enforceable provision which shall be a reasonable substitute for such invalid and unenforceable provision in light of the tenor of this Agreement, and, upon so agreeing, shall incorporate such substitute provision in this Agreement. In addition, if any one or more of the provisions contained in this Agreement shall for any reason be determined by a court of competent jurisdiction to be excessively broad as to duration, geographical scope, activity or subject, it shall be construed, by limiting or reducing it, so as to be enforceable to the extent compatible with then applicable law.

Section 5.10 Counterparts. This Agreement may be executed in any number of counterparts and each such duplicate counterpart shall constitute an original, any one of which may be introduced in evidence or used for any other purpose without the production of its duplicate counterpart. Moreover, notwithstanding that any of the parties did not execute the same counterpart, each counterpart shall be deemed for all purposes to be an original, and all such counterparts shall constitute one and the same instrument, binding on all of the parties hereto. Signatures delivered by facsimile (including without limitation by “pdf”) shall be deemed effective for all purposes.

Section 5.11 Advice of Counsel. Both parties hereto acknowledge that they have had the opportunity to seek and obtain the advice of counsel before entering into this Agreement and have done so to the extent desired, and have fully read the Agreement and understand the meaning and import of all the terms hereof.

Section 5.12 Assignment. This Agreement shall inure to the benefit of the Company and its successors and assigns (including, without limitation, the purchaser of all or substantially

all of its assets) and shall be binding upon the Company and its successors and assigns. This Agreement is personal to the Executive, and the Executive shall not assign or delegate his rights or duties under this Agreement, and any such assignment or delegation shall be null and void.

Section 5.13 Agreement to Take Actions. Each party to this Agreement shall execute and deliver such documents, certificates, agreements and other instruments, and shall take all other actions, as may be reasonably necessary or desirable in order to perform his or its obligations under this Agreement.

Section 5.14 No Attachment. Except as required by law, no right to receive payments under this Agreement shall be subject to anticipation, commutation, alienation, sale, assignment, encumbrance, charge, pledge, or hypothecation or to execution, attachment, levy or similar process or assignment by operation of law, and any attempt, voluntary or involuntary, to effect any such action shall be null, void and of no effect; provided, however, that nothing in this Section 5.14 shall preclude the assumption of such rights by executors, administrators or other legal representatives of the Executive or the Executive's estate and their assigning any rights hereunder to the person or persons entitled thereto.

Section 5.15 Source of Payment. Except as otherwise provided under the terms of any applicable employee benefit plan, all payments provided for under this Agreement shall be paid in cash from the general funds of the Company. The Company shall not be required to establish a special or separate fund or other segregation of assets to assure such payments, and, if the Company shall make any investments to aid it in meeting its obligations hereunder, the Executive shall have no right, title or interest whatever in or to any such investments except as may otherwise be expressly provided in a separate written instrument relating to such investments. Nothing contained in this Agreement, and no action taken pursuant to its provisions, shall create or be construed to create a trust of any kind, or a fiduciary relationship, between the Company and the Executive or any other person. To the extent that any person acquires a right to receive payments from the Company hereunder, such right, without prejudice to rights which employees may have, shall be no greater than the right of an unsecured creditor of Company. The Executive shall not look to the owners of the Company for the satisfaction of any obligations of the Company under this Agreement.

Section 5.16 Tax Withholding. The Company or other payor is authorized to withhold from any benefit provided or payment due hereunder, the amount of withholding taxes due any

federal, state or local authority in respect of such benefit or payment and to take such other action as may be necessary in the opinion of the Compensation Committee to satisfy all obligations for the payment of such withholding taxes. The Executive will be solely responsible for all taxes assessed against him with respect to the compensation and benefits described in this Agreement, other than typical employer-paid taxes such as FICA, and the Company makes no representations as to the tax treatment of such compensation and benefits.

Section 5.17 409A Compliance. All payments under this Agreement are intended to comply with or be exempt from the requirements of Section 409A of the Code and regulations promulgated thereunder ("Section 409A"). As used in this Agreement, the "Code" means the Internal Revenue Code of 1986, as amended. To the extent permitted under applicable regulations and/or other guidance of general applicability issued pursuant to Section 409A, the Company reserves the right to modify this Agreement to conform with any or all relevant provisions regarding compensation and/or benefits so that such compensation and benefits are exempt from the provisions of 409A and/or otherwise comply with such provisions so as to avoid the tax consequences set forth in Section 409A and to assure that no payment or benefit shall be subject to an "additional tax" under Section 409A. To the extent that any provision in this Agreement is ambiguous as to its compliance with Section 409A, or to the extent any provision in this Agreement must be modified to comply with Section 409A, such provision shall be read in such a manner so that no payment due to the Executive shall be subject to an "additional tax" within the meaning of Section 409A(a)(1)(B) of the Code. If necessary to comply with the restriction in Section 409A(a)(2)(B) of the Code concerning payments to "specified employees," any payment on account of the Executive's separation from service that would otherwise be due hereunder within six (6) months after such separation shall be delayed until the first business day of the seventh month following the Termination Date and the first such payment shall include the cumulative amount of any payments (without interest) that would have been paid prior to such date if not for such restriction. Each payment in a series of payments hereunder shall be deemed to be a separate payment for purposes of Section 409A. In no event may the Executive, directly or indirectly, designate the calendar year of payment. All reimbursements provided under this Agreement shall be made or provided in accordance with the requirements of Section 409A, including, where applicable, the requirement that (i) any reimbursement is for expenses incurred during the Executive's lifetime (or during a shorter

period of time specified in this Agreement), (ii) the amount of expenses eligible for reimbursement during a calendar year may not affect the expenses eligible for reimbursement in any other calendar year, (iii) the reimbursement of an eligible expense will be made on or before the last day of the calendar year following the year in which the expense is incurred, and (iv) the right to reimbursement is not subject to liquidation or exchange for another benefit. Notwithstanding anything contained herein to the contrary, the Executive shall not be considered to have terminated employment with the Company for purposes of Section 4.1 or 4.2 unless the Executive would be considered to have incurred a "separation from service" from the Company within the meaning of Treasury Regulation §1.409A-1(h). In no event whatsoever shall the Company be liable for any additional tax, interest or penalty that may be imposed on the Executive by Section 409A or damages for failing to comply with Section 409A.

Section 5.18 280G Modified Cutback.

(a) If any payment, benefit or distribution of any type to or for the benefit of the Executive, whether paid or payable, provided or to be provided, or distributed or distributable pursuant to the terms of this Agreement or otherwise (collectively, the "Parachute Payments") would subject the Executive to the excise tax imposed under Section 4999 of the Code (the "Excise Tax"), the Parachute Payments shall be reduced so that the maximum amount of the Parachute Payments (after reduction) shall be one dollar ($1.00) less than the amount which would cause the Parachute Payments to be subject to the Excise Tax; provided that the Parachute Payments shall only be reduced to the extent the present-value after-tax economic value of amounts received by the Executive after application of the above reduction would exceed the present-value after-tax economic value of the amounts received without application of such reduction. For this purpose, the after-tax value of an amount shall be determined taking into account all federal, state, and local income, employment and excise taxes applicable to such amount. Unless the Executive shall have given prior written notice to the Company to effectuate a reduction in the Parachute Payments if such a reduction is required, which notice shall be consistent with the requirements of Section 409A to avoid the imputation of any tax, penalty or interest thereunder, then the Company shall reduce or eliminate the Parachute Payments by first reducing or eliminating any cash payments (with the payments to be made furthest in the future being reduced first), then by reducing or eliminating accelerated vesting of full-value performance-vesting equity or similar awards, then by reducing or eliminating accelerated

vesting of full-value time-vesting equity or similar awards, then by reducing or eliminating accelerated vesting of stock options or similar awards, and then by reducing or eliminating any other remaining Parachute Payments; provided, that no such reduction or elimination shall apply to any non-qualified deferred compensation amounts (within the meaning of Section 409A) to the extent such reduction or elimination would accelerate or defer the timing of such payment in manner that does not comply with Section 409A.

(b) An initial determination as to whether (x) any of the Parachute Payments received by the Executive in connection with the occurrence of a change in the ownership or control of the Company or in the ownership of a substantial portion of the assets of the Company shall be subject to the Excise Tax, and (y) the amount of any reduction, if any, that may be required pursuant to the previous paragraph, shall be made by an independent accounting firm selected by the Company (the "Accounting Firm") prior to the consummation of such change in the ownership or effective control of the Company or in the ownership of a substantial portion of the assets of the Company. The Executive shall be furnished with notice of all determinations made as to the Excise Tax payable with respect to the Executive's Parachute Payments, together with the related calculations of the Accounting Firm, promptly after such determinations and calculations have been received by the Company.

(c) For purposes of this Section 5.18, (i) no portion of the Parachute Payments the receipt or enjoyment of which the Executive shall have effectively waived in writing prior to the date of payment of the Parachute Payments shall be taken into account; (ii) no portion of the Parachute Payments shall be taken into account which in the opinion of the Accounting Firm does not constitute a "parachute payment" within the meaning of Section 280G(b)(2) of the Code; (iii) the Parachute Payments shall be reduced only to the extent necessary so that the Parachute Payments (other than those referred to in the immediately preceding clause (i) or (ii)) in their entirety constitute reasonable compensation for services actually rendered within the meaning of Section 280G(b)(4) of the Code or are otherwise not subject to disallowance as deductions, in the opinion of the auditor or tax counsel referred to in such clause (ii); and (iv) the value of any non-cash benefit or any deferred payment or benefit included in the Parachute Payments shall be determined by the Company's independent auditors based on Sections 280G and 4999 of the Code and the regulations for applying those sections of the Code, or on substantial authority within the meaning of Section 6662 of the Code.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement effective as of the day and year first above written.

EXECUTIVE:

By: /s/ Nitya G. Ray
Name: Nitya G. Ray
Title: Chief Technology Officer

COMPANY:

CytoDyn Inc.

By: /s/ Nader Pourhassan
Name: Nader Pourhassan, Ph. D.
Title: President & CEO

SEPARATION AGREEMENT AND RELEASE OF CLAIMS

This Separation Agreement and Release of Claims (the "Agreement") is made and entered into by and between Craig S. Eastwood ("Employee") and CytoDyn Inc. ("Employer") on the date execution is complete by both parties (the "Execution Date").

RECITALS

A. Employer has notified Employee of its decision to end his employment effective, April 24, 2020 (the "Separation Date"); and

B. In accordance with the terms of his Employment Agreement effective November 13, 2019 (the "Eastwood Employment Agreement"), Employer has offered Employee severance pay and other benefits as outlined in this Agreement in exchange for a full release of all claims, and Employee wishes to accept the severance pay on the terms set forth in this Agreement.

AGREEMENT AND RELEASE

NOW, THEREFORE, in consideration of the mutual terms, conditions, promises, and covenants set forth below, it is agreed as follows:

1. Non-admission of Liability. This Agreement is to be entered into on anon-precedential basis and shall not be construed in any way as an admission by Employer of any liability whatsoever against Employee or any other persons. Employer specifically disclaims any liability to, or any acts of wrongdoing against Employee or any other persons.

2. Separation from Employment and Final Paycheck. Employee's employment with Employer terminated effective April 24, 2020 (the "Separation Date") and he will receive his final paycheck inclusive of his salary through the Separation Date, any outstanding reimbursements, and any accrued but unused vacation, on the next regular payroll date irrespective of his acceptance of this Agreement as provided herein.

3. Consideration by Employer. Employer agrees to provide the following, provided that Employee accepts without revocation as provided in Section 10, and otherwise complies with, this Agreement:

a. Employer agrees to pay Employee the sum of Two Hundred Forty-Five Thousand Dollars 00/100 ($245,000.00) in severance pay, less standard deductions required by law ("Severance Payment"). The Severance Payment will be paid in equal bi-weekly installments over a twelve (12) month period through the Employer's normal payroll processing commencing 60 days following the Separation Date; provided that this Agreement has become effective as set forth in Section 10, and subject to the requirements of Section 13.

Notwithstanding the foregoing, at the election of Employer with the approval of its Board of Directors in its sole discretion, any installment of the Severance Payment may be satisfied in whole or in part by the issuance of shares of Employer's Common Stock to Employee with a Fair Market Value, as defined in Employer's 2012 Equity Incentive Plan, as amended (the "Plan"), on the date of issuance equal to the amount of the Severance Payment to be paid in shares.

b. Subject to applicable provisions of the Plan and the Stock Option Award Agreements between Employer and Employee dated April 29, 2019, June 18, 2019, November 13, 2019, and February 21, 2020, all stock options that Employee may have under the Plan shall vest and become exercisable, to the extent not already vested and (if applicable) exercisable, as of the Separation Date and will remain exercisable until the expiration of three months following the Separation Date.

4. Medical Benefits. Employee's group health coverage (if any) will continue through April 30, 2020. Employee and any of Employee's qualified beneficiaries may elect and pay for continuation coverage to extend participation in Employers group health coverage, as applicable, in accordance with any election materials and other continuation coverage eligibility notices sent to Employee by the plan's designated administrator.

5. Complete Release of Employer. In consideration of the consideration provided by Employer as set forth herein, Employee does hereby, and for his heirs, representatives, executors, administrators, successors, and assigns, release, acquit, and forever discharge Employer and all persons or entities associated therewith, and all of their officers, directors, shareholders, employees, agents, insurers, and attorneys, and each of them ("Releasees"), from any and all actions, causes of action, obligations, costs, expenses, damages, losses, claims, liabilities, suits, debts, and demands (including attorneys' fees and costs actually incurred), of whatever character in law or in equity known or unknown, suspected or unsuspected, from the beginning of time to the date of execution hereof, except as otherwise excluded by the terms of this Agreement. Employee hereby forever covenants not to pursue any lawsuit, arbitration, or administrative claim arising out of his employment or termination of employment by Employer that is released pursuant to this Agreement. Employee represents and warrants that he is aware of no action, charge or lawsuit involving any released claim pending as of the date Employee signs this Agreement.

This release specifically includes but is not limited to rights and claims under any local, state, or federal laws prohibiting discrimination and retaliation in employment, including claims under any local, state or federal statute for age discrimination (such as the Age Discrimination in Employment Act), the Civil Rights Acts of 1964, as amended, the Americans With Disabilities Act, the Employee Retirement Income Security Act, as well as any other state or federal laws or common law theories relating to discrimination or retaliation in employment, the termination of employment or personal injury, including all claims for additional compensation, economic and noneconomic, back pay or benefits, and any and all contractual claims, including without limitation those arising out of or related to the Eastwood Employment Agreement. Employee acknowledges that this release includes any unknown claims. Employee also acknowledges that he is not owed any wages, benefits or other compensation by Employer other than as expressly outline in this Agreement.

No part of this agreement limits or interferes with Employee's right to pursue, participate in, or cooperate with any charge of discrimination against Employer by a state or federal agency enforcing discrimination laws. However, Employee does release his right to any relief, damages, costs, attorney fees, or other monies in any such proceeding by a state or federal agency.

Notwithstanding the foregoing, this release shall not include: (i) any claims based on obligations created by or reaffirmed in this Agreement; (ii) any unemployment insurance claims and any workers' compensation claims; or (iii) any claim that cannot be waived based on applicable law.

6. Return of Employer's Property. As additional and necessary consideration for the consideration outlined in Section 3 above, Employee warrants and represents that he has not removed and will not remove any Employer property from its premises, except and to the extent authorized by Employer in writing. Employee agrees to return all of the property unaltered and undamaged immediately upon termination of employment, except to the extent authorized by Employer in writing.

7. Transition Assistance. As additional and necessary consideration for the severance benefits, Employee agrees to be reasonably available and responsive to Employer to answer questions as needed to facilitate the transition with respect to Employee's former position.

8. Continuing Confidentiality. Employee acknowledges and reaffirms his post-employment commitments as reflected in the Inventions Assignment and Non-Disclosure Agreement dated April 8, 2019, Employer's confidentiality policies and directives communicated to him during employment, and applicable law.

9. Full and Independent Knowledge. Employee acknowledges that this Agreement is written in language he understands, that he has been advised in writing to consult with an attorney prior to signing this Agreement. Employee acknowledges that he has carefully read and fully understands all the provisions of this Agreement, and that he is voluntarily entering into this Agreement.

10. Consideration and Revocation Periods. In accordance with the requirements mandated by the Older Worker Benefits Protection Act, the parties agree and acknowledge as follows:

a. Employee specifically intends to knowingly and voluntarily waive any rights he may have under the Age Discrimination in Employment Act ("ADEA"), and he intends to release Releasees from any and all claims for damages or other remedies he may have under the ADEA. This release is not to be construed as a waiver of ADEA claims that may arise after the execution of this Agreement.

b. By this Agreement, Employer has advised Employee that he should consult with and obtain the advice of an attorney of his choice before signing this Agreement.

c. This Agreement was delivered to Employee on April 24, 2020 and he shall have forty-five (45) calendar days from this date to consider this Agreement. By executing this Agreement on the date specified below, Employee waives the balance of that consideration period, if any remains.

d. This Agreement must be accepted by Employee by delivering a signed copy of this Agreement to Arian Colachis at acolachis@cytodyn.com. If a signed document is not received by the end of the 45th calendar day specified above, and the parties have not agreed in writing to an extension, this Agreement shall be null and void, and the offer of consideration and other terms contained herein revoked.

e. After signing, Employee may revoke this Agreement within seven (7) calendar days of the day that he signs this Agreement by delivering written notice in the same manner outlined above. If he does so, this entire Agreement becomes invalid and unenforceable and no severance or any other benefit provided hereunder will be provided to Employee. This Agreement becomes effective on the eighth (8th) day after Employee signs it without revocation as specified herein.

11. No Representations. Employee acknowledges that, except as expressly set forth herein, no representations of any kind or character have been made to him by Employer or by any of Employer's agents, representatives, or attorneys to induce the execution of this Agreement.

12. Ownership of Claims. Employee represents that he has not assigned or transferred, or purported to assign or transfer, to any person or entity, any claim or any portion thereof or interest therein related in any way to Employer, its officers, employees, or agents. Employee further agrees to indemnify, defend, and hold harmless each and all of the Releasees against any and all claims based on, arising out of or in connection with any such transfer or assignment, or purported transfer or assignment, of any claims or any portion thereof or interest therein.

13. 409A Compliance. The payments under this Agreement are intended to be exempt from the requirements of Section 409A of the Internal Revenue Code (the "Code") by reason of being either "short-term deferrals" within the meaning of Treasury Regulation Section 1.409A-1(b)(4) or separation pay due to involuntary separation from service under Treasury Regulation Section 1.409A-1(b)(9). All provisions of this Agreement shall be interpreted in a manner consistent with preserving these exemptions. Each payment of any severance amount payable under this Agreement will be considered a "separate payment" and not one of a series of payments for purposes of Code Section 409A. As used in this Agreement, "termination of employment" and similar terms means "separation from service" as defined and interpreted in Code Section 409A, Treasury Regulation 1.409A-1(h), or in subsequent regulations or other guidance issued by the Internal Revenue Service. In no event will Employer be liable for any tax, interest, or penalties that may be imposed on Employee under Code Section 409A or any damages for failing to comply with Code Section 409A.

14. Complete Understanding. Except as otherwise expressly provided or incorporated by reference herein, all agreements and understandings between the parties are embodied and expressed herein. Employee acknowledges that no representations have been made to him other than those set forth herein.

15. Applicable Law. This Agreement shall be interpreted, construed, and enforced in accordance with the laws of Washington.

16. Counterparts and Electronic Signatures. This Agreement may be executed in counterparts and each shall be deemed an original, but all of which together shall constitute a single instrument. The parties agree further that the exchange of copies of this Agreement and of signature pages by facsimile or electronic mail in "portable document format" (".pdf") form, or by any other electronic means intended to preserve the original graphic and pictorial appearance of a document, shall constitute effective execution and delivery of this Agreement as to the parties and may be used in lieu of the original Agreement for all purposes. Signatures of the parties transmitted by electronic means as described herein shall be deemed to be their original signatures for all purposes.

PLEASE READ CAREFULLY. THIS AGREEMENT INCLUDES A RELEASE OF CERTAIN KNOWN OR UNKNOWN CLAIMS.

EMPLOYEE:	EMPLOYER:
	CytoDyn Inc.
/s/Craig S. Eastwood	/s/Nader Pourhassan
Craig S. Eastwood	By: Nader Pourhassan, President and CEO
Date: 4/30/2020	Date: 5/1/2020

EMPLOYMENT AGREEMENT

This Employment Agreement (this "Agreement"), dated as of March 16, 2020 (the "Effective Date"), is by and between CytoDyn Inc., a Delaware corporation (the "Company") and Arian Colachis (the "Executive").

WITNESSETH:

WHEREAS, the Company desires to employ the Executive as its General Counsel, and the Executive desires to accept such employment, on the terms and conditions set forth in this Agreement.

NOW, THEREFORE, in consideration of the promises and the mutual covenants and agreements contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto, intending to be legally bound hereby, agree as follows:

ARTICLE 1
EMPLOYMENT; TERMINATION OF PRIOR AGREEMENT; TERM OF AGREEMENT

Section 1.1 Employment and Acceptance. During the Term (as defined in Section 1.2), the Company shall employ the Executive, and the Executive shall accept such employment and serve the Company, in each case, subject to the terms and conditions of this Agreement.

Section 1.2 Term. The employment relationship hereunder shall be for the period (such period of the employment relationship shall be referred to herein as the "Term") commencing on the Effective Date and ending upon the termination of the Executive's employment hereunder by either party hereto pursuant to the terms of Section 4.1, Section 4.2, Section 4.3 or Section 4.4. In the event that the Executive's employment with the Company

terminates, the Company's obligation to continue to pay, after the Termination Date (as defined in Section 4.3(b)), Base Salary (as defined in Section 3.1(a)), Annual Bonus (as defined in Section 3.1(b)) and other unaccrued benefits shall terminate except as may be provided for in Article 4.

ARTICLE 2
TITLE; DUTIES AND OBLIGATIONS; LOCATION

Section 2.1 Title. The Company shall employ the Executive to render exclusive and full-time services to the Company. The Executive shall serve in the capacity of General Counsel and Corporate Secretary.

Section 2.2 Duties. The Executive shall have direct responsibility for the management of the Company's litigation matters, management of the Company's relationships with external legal service providers, drafting and negotiation of contracts on the Company's behalf, development of the Company's policies on industry-specific issues, corporate governance, documentation and regulatory affairs, providing advice to executives within the Company on key legal matters, and consultation with management, commercial advisors, tax experts and accountants as appropriate. The Executive shall report to, and be subject to the lawful direction of the Chief Executive Officer (CEO). The Executive will also report to the Board of Directors (the "Board") on such matters as the Board may request or as directed by the CEO. The Executive agrees to perform to the best of the Executive's ability, experience, and talent those acts and duties, consistent with the position of General Counsel, as the CEO shall from time to time direct. During the Term, the Executive also shall serve as Corporate Secretary upon appointment and thereafter at the pleasure of the Board, and in such other positions or capacities as may, from time to time, be reasonably directed by the CEO or the Board, including, without limitation (subject to election, appointment, re-election or re-appointment, as applicable) as (a) a

member of the Board and/or as a member of the board of directors or similar governing body of any of the Company's subsidiaries or other Affiliates (as defined below), (b) an officer of any of the Company's subsidiaries or other Affiliates, and/or (c) a member of any committee of the Company and/or any of its subsidiaries or other Affiliates, in each case, for no additional compensation. As used in this Agreement, "Affiliate" of any individual or entity means any other individual or entity that directly or indirectly controls, is controlled by, or is under common control with, the individual or entity.

Section 2.3 Compliance with Policies, etc. During the Term, the Executive shall be bound by, and comply fully with, all of the Company's applicable policies and procedures, including, but not limited to, all terms and conditions set forth in the Company's employee handbook, compliance manual, codes of conduct and any other memoranda and communications applicable to the Executive pertaining to any policies, procedures, rules and regulations, as currently in effect and as may be amended from time to time. These policies and procedures include, among other things and without limitation, the Executive's obligations to comply with the Company's rules regarding confidential and proprietary information and trade secrets.

Section 2.4 Time Commitment. During the Term, the Executive shall use the Executive's best efforts to promote the interests of the Company (including its subsidiaries and other Affiliates) and shall devote all of the Executive's business time, ability and attention to the performance of the Executive's duties for the Company and shall not, directly or indirectly, render any services to any other person or organization, whether for compensation or otherwise, except with the CEO's or Board's prior written consent, provided that the foregoing shall not prevent the Executive from (i) participating in charitable, civic, educational, professional, community or industry affairs, (ii) managing the Executive's passive personal investments, or

(iii) serving on the board of directors (or similar governing bodies) of not more than two (2) other corporations (or other business entities) that are not competitors of the Company, its subsidiaries or any of its other Affiliates (as determined by the CEO or the Board), so long as, in each case, such activities individually or in the aggregate do not materially interfere or conflict with the Executive's duties hereunder or create a potential business or fiduciary conflict (in each case, as determined by the CEO or the Board).

Section 2.5 Location. The Executive's principal place of business for the performance of the Executive's duties under this Agreement shall be at the principal executive office of the Company (currently located in Vancouver, Washington), provided it is agreed Executive may work remotely from Seattle, Washington. Notwithstanding the foregoing, the Executive shall be required to travel as necessary to perform the Executive's duties hereunder.

ARTICLE 3
COMPENSATION AND BENEFITS; EXPENSES

Section 3.1 Compensation and Benefits. For all services rendered by the Executive in any capacity during the Term (including, without limitation, serving as an officer, director or member of any committee of the Company or any of its subsidiaries or other Affiliates), the Executive shall be compensated (subject, in each case, to the provisions of Article 4 below), as determined by the Compensation Committee, as follows:

(a) Base Salary. During the Term, the Company shall pay the Executive a base salary (the "Base Salary") approved by the Compensation Committee of the Board (the "Compensation Committee"), which shall be subject to customary withholdings and authorized deductions and be payable in equal installments in accordance with the Company's customary payroll practices in place from time to time. The Executive's Base Salary shall be subject to periodic adjustments as determined by the Compensation Committee. As used in this Agreement, the term "Base Salary" shall refer to Base Salary as may be adjusted from time to time.

(b) Annual Bonus. For each fiscal year ending during the Term (beginning with the fiscal year ending May 31, 2020, the Executive shall be eligible to receive an annual bonus (the "Annual Bonus") with a target amount equal to fifty percent (50%) of the Base Salary earned by the Executive for such fiscal year (the "Target Annual Bonus"). The actual amount of each Annual Bonus will be based upon the level of achievement of the Company's corporate objectives and the Executive's individual objectives established by the Compensation Committee for the fiscal year with respect to which such Annual Bonus relates. The level of achievement of the corporate objectives and the Executive's individual performance objectives for any fiscal year shall be determined by the Compensation Committee. Each Annual Bonus for a fiscal year, to the extent earned, will be paid in a lump sum at a time determined by the Company, but in no event later than March 15 of the calendar year immediately following the year in which such Annual Bonus was earned. Each Annual Bonus shall be payable, as determined by the Compensation Committee, either in cash, in full, or fifty percent (50%) in cash and (50%) in unrestricted shares under (and as defined in) the Company's 2012 Equity Incentive Plan (as it may be amended from time to time, the "2012 Plan"), or any successor equity compensation plan as may be in place from time to time (collectively with the 2012 Plan, the "Plan"), subject to the availability of shares under the Plan. The Annual Bonus shall not be deemed earned until the date that it is paid. Accordingly, in order for the Executive to receive an Annual Bonus, the Executive must be actively employed by the Company at the time of such payment. Any Annual Bonus paid to the Executive with respect to the fiscal year ending May 31, 2020 shall be prorated based on the number of days the Executive has been employed by the Company during the fiscal year ended May 31, 2020 based on a 365-day fiscal year.

(c) Equity Compensation. Executive was granted options to purchase shares of the Company's common stock pursuant to the terms of a stock option agreement between the parties hereto entered into as of March 16, 2020, and subject to the terms and conditions established within the Plan. During the Term, and likewise subject to the terms and conditions established within the Plan and separate Award Agreements (as defined in the Plan), the Executive also shall be eligible to receive from time to time additional Options, Stock Appreciation Rights, Restricted Awards or Other Stock-Based Awards (as such capitalized terms are defined in the Plan), in amounts, if any, as determined by the Compensation Committee.

(d) Benefit Plans. The Executive shall be entitled to participate in all employee benefit plans and programs (excluding severance plans, if any) generally made available by the Company to senior leadership of the Company, to the extent permissible under the general terms and provisions of such plans or programs and in accordance with the provisions thereof. The Company may amend, modify or rescind any employee benefit plan or program and/or change employee contribution amounts to benefit costs without notice in its discretion.

(e) Paid Vacation. The Executive shall be entitled to paid vacation days in accordance with the Company's vacation policies in effect from time to time for its senior management.

Section 3.2 Expense Reimbursement. Subject to the requirements contained in Section 5.17, the Company shall reimburse the Executive during the Term, in accordance with the Company's expense reimbursement policies in place from time to time, for all reasonable out-

of-pocket business expenses incurred by the Executive in the performance of the Executive's duties hereunder. In order to receive such reimbursement, the Executive shall furnish to the Company documentary evidence of each such expense in the form required to comply with the Company's policies in place from time to time.

ARTICLE 4
TERMINATION OF EMPLOYMENT

Section 4.1 Termination Without Cause.

(a) The Company may terminate the Executive's employment hereunder at any time without Cause (other than by reason of death or Disability) upon written notice to the Executive.

(b) As used in this Agreement, "Cause" means: (i) a material act, or act of fraud, committed by the Executive that is intended to result in the Executive's personal enrichment to the detriment or at the expense of the Company or any of its Affiliates; (ii) the Executive is convicted of a felony; (iii) willful and continued failure by the Executive to perform the duties or obligations reasonably assigned to the Executive by the Board from time to time, which failure is not cured upon ten (10) days' prior written notice (unless such failure is not susceptible to cure, as determined in the reasonable discretion of the Board); or (iv) the Executive violates the Covenants Agreement (as defined in Section 5.1 below).

(c) If the Executive's employment is terminated pursuant to Section 4.1(a), the Executive shall, in full discharge of all of the Company's obligations to the Executive, be entitled to receive, and the Company's sole obligation to the Executive under this Agreement or otherwise shall be to pay or provide to the Executive, the following:

(i) theAccrued Obligations (as defined in Section 4.3(b)); and

(ii) subjectto Section 4.5 and Section 4.6, either:

(1) If prior to completion of a full year of employment, payments equal to four (4) months of the Executive's Base Salary at the rate in effect immediately prior to the Termination Date (less applicable withholdings and authorized deductions), to be paid in accordance with the Company's customary payroll practices, commencing on the first regular payroll date on or following the date that is sixty (60) days following such termination of employment (the "Severance Payments"); provided, however, that the Executive must have completed at least 180 days (six (6) months) of full-time continuous employment with the Company, to be eligible for any Severance Payments hereunder; or

(2) After one year of full-time continuous employment, the Severance Payments shall be as follows: (A) a lump sum payment equal to three (3) month's of Executive's Base Salary at the rate in effect immediately prior to the Termination Date (less applicable withholdings and authorized deductions) on the sixtieth (60th) day following the Termination Date (or the next business day thereafter, but in no event later that March 15th of the calendar year immediately following the Termination Date); and (B) payments equal to nine (9) months of Executive's Base Salary at the rate in effect immediately prior to the Termination Date (less applicable withholdings and authorized deductions) to be paid in regular installments corresponding with the Company's regular payroll schedule, and commencing on the first regular payroll date following the date that is ninety (90) days after the Termination Date.

Notwithstanding the foregoing, in no event shall the Severance Payment to which the Executive is entitled hereunder exceed two times the lesser of (x) the sum of the Executive's annualized compensation based upon the Executive's annual salary in the year preceding the year in which the Executive's employment is terminated (adjusted for any increase during that year that was expected to continue indefinitely if the Executive's employment had not terminated) or (y) the applicable dollar limit under Section 401(a)(17) of the Internal Revenue Code for the calendar year in which the Executive's employment is terminated.

(d) Notwithstanding anything in Section 4.1(c) to the contrary, the Severance Payments may be made, as determined by the Compensation Committee, in whole or in part through the issuance of shares of the Company's Common Stock, in each case with a Fair Market Value (as defined in the Plan) equal to the amount to be paid on the applicable date.

(e) Unless the award agreement specifically provides otherwise, all stock options and other awards that the Executive has been granted under the Plan as of the date of this Agreement shall vest and, in the case of stock options or like awards, become exercisable, to the extent not already vested and (if applicable) exercisable, on the Termination Date, and (if applicable) shall remain exercisable following termination to the extent provided in the award agreement for such award.

Section 4.2 Termination without Cause or for Good Reason within 12 Months following a Change in Control

(a) Provided that the Executive has completed 180 days of full-time continuous employment with the Company, if, within twelve (12) months following the occurrence of a Change in Control of the Company (as defined below), the Executive's employment hereunder is terminated without Cause (other than by reason of death or Disability) or the Executive resigns for Good Reason, the provisions of this Section 4.2 shall control instead of the provisions of Section 4.1.

(b) Asused in this Agreement, "Change in Control" means

(i) Any one person or entity, or more than one person or entity acting as a group (as defined in Treasury Regulation Section 1.409A-3), acquires ownership of stock of the Company that, together with stock previously held by the acquiror, constitutes more than fifty percent (50%) of the total fair market value or total voting power of the Company's stock. If any one person or entity, or more than one person or entity acting as a group, is considered to own more than fifty percent (50%) of the total fair market value or total voting power of the Company's stock, the acquisition of additional stock by the same person or entity or persons or entities acting as a group does not cause a Change in Control. An increase in the percentage of stock owned by any one person or entity, or persons or entities acting as a group, as a result of a transaction in which the Company acquires its stock in exchange for property, is treated as an acquisition of stock; or

(ii) A majority of the members of the Company's board of directors is replaced during any twelve (12) month period by directors whose appointment or election is not endorsed by a majority of the members of the board of directors prior to the date of appointment or election; or

(iii) Any one person or entity, or more than one person or entity acting as a group, acquires (or has acquired during the twelve (12) month period ending on the date of the most recent acquisition by that person or entity or persons or entities acting as a group) assets from the Company that have a total gross fair market value equal to at

least forty percent (40%) of the total gross fair market value of all the Company's assets immediately prior to the acquisition or acquisitions. Gross fair market value means the value of the Company's assets, or the value of the assets being disposed of, without regard to any liabilities associated with these assets. Notwithstanding anything in this clause (iii) to the contrary, in no event shall a license of (or other similar transfer of rights in) leronlimab be a change in the ownership of a substantial portion of the Company's assets.

In determining whether a Change in Control occurs, the attribution rules of Code Section 318 apply to determine stock ownership. The stock underlying a vested option is treated as owned by the individual who holds the vested option, and the stock underlying an unvested option is not treated as owned by the individual who holds the unvested option.

(c) As used in this Agreement, "Good Reason" means the occurrence of any of the following: (1) a material breach by the Company of the terms of this Agreement; (2) a material reduction in the Executive's Base Salary unless the reduction is generally applicable to substantially all similarly situated Company employees or is otherwise offset economically by increases in other compensation or replacement plans or programs; (3) a material diminution in the Executive's authority, duties or responsibilities; or (4) a relocation by the Company of the Executive's principal place of business for the performance of the Executive's duties under this Agreement to a location that is anywhere outside of a 50 mile radius of Vancouver, Washington; provided, however, that the Executive must notify the Company within ninety (90) days of the occurrence of any of the foregoing conditions that the Executive considers it to be a "Good Reason" condition and provide the Company with at least thirty (30) days in which to cure the condition. If the Executive fails to provide this notice and cure period prior to the Executive's resignation, or resigns more than six (6) months after the initial existence of the condition, the Executive's resignation will not be deemed to be for "Good Reason."

(d) If the Executive's employment is terminated without Cause (other than by reason of death or Disability) within twelve (12) months following a Change in Control of the Company, or the Executive resigns for Good Reason within twelve (12) months following a Change in Control of the Company), the Executive shall, in full discharge of all of the Company's obligations to the Executive, be entitled to receive, and the Company's sole obligation to the Executive under this Agreement or otherwise shall be to pay or provide to the Executive, the following:

(i) the Accrued Obligations; and

(ii) subject to Section 4.5 and Section 4.6:

(1) a lump sum payment equal to the sum of eighteen (18) months of the Executive's Base Salary at the rate in effect immediately prior to Termination Date (less applicable withholdings and authorized deductions), to be paid on the first regular payroll date on or following the date that is sixty (60) days following such termination of employment (the "Enhanced Severance Payment"); provided, however, that the Enhanced Severance Payment shall not exceed two times the lesser of (x) the sum of the Executive's annualized compensation based upon the Executive's annual salary in the year preceding the year in which the Executive's employment is terminated (adjusted for any increase during that year that was expected to continue indefinitely if the Executive's employment had not terminated) or (y) the applicable dollar limit under Section 401(a)(17) of the Internal Revenue Code for the calendar year in which the Executive's employment is terminated; and

(2) Unless the award agreement specifically provides otherwise, all stock options and other awards that the Executive has been granted under the Plan as of the date of this Agreement shall vest and, in the case of stock options or like awards, become exercisable, to the extent not already vested and (if applicable) exercisable, on the Termination Date, and (if applicable) shall remain exercisable following termination to the extent provided in the award agreement for such award.

For purposes of clarity, it is understood and agreed that the Enhanced Severance Payment set forth in this Section 4.2 shall be in lieu of (and not in addition to) the Severance Payments set forth in Section 4.1.

Section 4.3 Termination for Cause; Voluntary Termination.

(a) The Company may terminate the Executive's employment hereunder at any time for Cause upon written notice to the Executive. The Executive may voluntarily terminate the Executive's employment hereunder at any time for any reason or no reason as well, but is requested to provide ninety (90) days' prior written notice to the Company, if possible; provided, however, the Company reserves the right, upon written notice to the Executive, to accept the Executive's notice of resignation and to accelerate such notice and make the Executive's resignation effective immediately, or on such other date prior to the Executive's intended last day of work as the Company deems appropriate. It is understood and agreed that the Company's election to accelerate the Executive's notice of resignation shall not be deemed a termination by the Company without Cause for purposes of Section 4.1 or 4.2 of this Agreement or otherwise or constitute Good Reason for purposes of Section 4.2 of this Agreement or otherwise.

(b) If the Executive's employment is terminated pursuant to Section 4.3(a), the Executive shall, in full discharge of all of the Company's obligations to the Executive, be entitled to receive, and the Company's sole obligation under this Agreement or otherwise shall be to pay or provide to the Executive, the following (collectively, the "Accrued Obligations"):

(i) the Executive's accrued but unpaid Base Salary through the final date of the Executive's employment by the Company (the "Termination Date"), payable in accordance with the Company's standard payroll practices;

(ii) the Executive's accrued, but unused, vacation;

(iii) expenses reimbursable under Section 3.2 above incurred on or prior to the Termination Date but not yet reimbursed; and

(iv) any amounts or benefits that are vested amounts or vested benefits or that the Executive is otherwise entitled to receive under any plan, program, policy or practice (with the exception of those, if any, relating to severance) on the Termination Date, in accordance with such plan, program, policy, or practice.

Section 4.4 Termination Resulting from Death or Disability.

(a) As the result of any Disability suffered by the Executive, the Company, upon five (5) days' prior notice to the Executive, may terminate the Executive's employment under this Agreement. The Executive's employment shall automatically terminate upon the Executive's death.

(b) "Disability" means a determination by the Company in accordance with applicable law that as a result of a physical or mental injury or illness, the Executive is unable to

perform the essential functions of the Executive's job with or without reasonable accommodation for a period of (i) ninety (90) consecutive days; or (ii) one hundred twenty (120) days during any twelve (12) month period.

(c) If the Executive's employment is terminated pursuant to Section 4.4(a), the Executive or the Executive's estate, as the case may be, shall be entitled to receive, and the Company's sole obligation under this Agreement or otherwise shall be to pay or provide to the Executive or the Executive's estate, as the case may be, the Accrued Obligations.

Section 4.5 Release Agreement. In order to receive the Severance Payments set forth in Section 4.1 or to receive the Enhanced Severance Payment set forth in Section 4.2 (as applicable, and, in each case, if eligible), the Executive must timely execute (and not revoke) a separation agreement and general release (the "Release Agreement") in a customary form as is determined to be reasonably necessary by the Company in its good faith and reasonable discretion; provided, that the Company shall endeavor to provide the Executive with the form of Release Agreement within three (3) days following the Termination Date. The Severance Payments or the Enhanced Severance Payment, as applicable, are subject to the Executive's execution of such Release Agreement within 21 days of the Executive's receipt of the Release Agreement and the Executive's non-revocation of such Release Agreement, if applicable.

Section 4.6 Post-Termination Breach. Notwithstanding anything to the contrary contained in this Agreement, the Company's obligations to provide the Severance Payments or the Enhanced Severance Payment, as applicable, will immediately cease if the Executive breaches any of the provisions of the Covenants Agreement, the Release Agreement or any other agreement the Executive has with the Company, or if any provision of those agreements is determined to be unenforceable, to any extent, by a court or arbitration panel, whether by preliminary or final adjudication.

Section 4.7 Removal from any Boards and Position. If the Executive's employment is terminated for any reason under this Agreement, the Executive shall be deemed (without further action, deed or notice) to resign (i) if a member, from the Board or board of directors (or similar governing body) of the Company, any Affiliate of the Company or any other board to which the Executive has been appointed or nominated by or on behalf of the Company and (ii) from all other positions with the Company or any subsidiary or other Affiliate of the Company, including, but not limited to, as an officer of the Company and any of its subsidiaries or other Affiliates.

ARTICLE 5
GENERAL PROVISIONS

Section 5.1 Employee Inventions Assignment and Non-Disclosure Agreement. The Executive acknowledges and confirms that the Employee Inventions Assignment and Non-Disclosure Agreement executed by the Executive on March 16, 2020 (the "Covenants Agreement"), the terms of which are incorporated herein by reference, remains in full force and effect and binding on the Executive. The Covenants Agreement shall survive the termination of this Agreement and the Executive's employment by the Company for the applicable period(s) set forth therein.

Section 5.2 Expenses. Each of the Company and the Executive shall bear its/the Executive's own costs, fees and expenses in connection with the negotiation, preparation and execution of this Agreement.

Section 5.3 Key-Person Insurance. Upon the Company's request, the Executive shall cooperate (including, without limitation, taking any required physical examinations) in all respects in obtaining a key-person life insurance policy on the life of the Executive in which the Company is named as the beneficiary.

Section 5.4 Entire Agreement. This Agreement, the Indemnification Agreement between the Executive and the Company effective March 16, 2020, as it may be amended from time to time (the "Indemnification Agreement"), and the Covenants Agreement contain the entire agreement of the parties hereto with respect to the terms and conditions of the Executive's employment during the Term and activities following termination of this Agreement and the Executive's employment with the Company and supersede any and all prior agreements and understandings, whether written or oral, between the parties hereto with respect to the subject matter of this Agreement, the Indemnification Agreement, or the Covenants Agreement. Each party hereto acknowledges that no representations, inducements, promises or agreements, whether oral or in writing, have been made by any party, or on behalf of any party, which are not embodied herein, or in the Indemnification Agreement or Covenants Agreement. The Executive acknowledges and agrees that the Company has fully satisfied, and has no further obligations to the Executive arising under, or relating to, any prior employment or consulting arrangement or understanding (including, without limitation, any claims for compensation or benefits of any kind) or otherwise. No agreement, promise or statement not contained in this Agreement, the Indemnification Agreement, or the Covenants Agreement shall be valid and binding, unless agreed to in writing and signed by the parties sought to be bound thereby.

Section 5.5 No Other Contracts. The Executive represents and warrants to the Company that neither the execution and delivery of this Agreement by the Executive nor the performance by the Executive of the Executive's obligations hereunder, shall constitute a default under or a breach of the terms of any other agreement, contract or other arrangement, whether

written or oral, to which the Executive is a party or by which the Executive is bound, nor shall the execution and delivery of this Agreement by the Executive nor the performance by the Executive of the Executive's duties and obligations hereunder give rise to any claim or charge against either the Executive, the Company or any Affiliate, based upon any other contract or other arrangement, whether written or oral, to which the Executive is a party or by which the Executive is bound. The Executive further represents and warrants to the Company that the Executive is not a party to or subject to any restrictive covenants, legal restrictions or other agreement, contract or arrangement, whether written or oral, in favor of any entity or person that would in any way preclude, inhibit, impair or limit the Executive's ability to perform the Executive's obligations under this Agreement, including, but not limited to, non-competition agreements, non-solicitation agreements or confidentiality agreements. The Executive shall defend, indemnify and hold the Company harmless from and against all claims, actions, losses, liabilities, damages, costs and expenses (including reasonable attorney's fees and amounts paid in settlement in good faith) arising from or relating to any breach of the representations and warranties made by the Executive in this Section 5.5.

Section 5.6 Notices. Any notice or other communication required or permitted hereunder shall be in writing and shall be delivered personally or sent by nationally recognized overnight courier service (with next business day delivery requested). Any such notice or communication shall be deemed given and effective, in the case of personal delivery, upon receipt by the other party, and in the case of a courier service, upon the next business day, after dispatch of the notice or communication. Any such notice or communication shall be addressed as follows:

If to the Company, to:

CytoDyn Inc.
1111 Main Street, Suite 660
Vancouver, Washington 98660
Attn: Chief Executive Officer

If to the Executive, to the address provided on Executive's current Form W-4 on file with the Company, if different.

Section 5.7 Governing Law; Jurisdiction. This Agreement shall be governed by, and construed in accordance with, the laws of the state of Washington, without regard to principles of conflicts of law. Any and all actions arising out of this Agreement or Executive's employment by the Company or termination therefrom shall be brought and heard in the state and federal courts of the state of Washington and the parties hereto hereby irrevocably submit to the exclusive jurisdiction of any such courts.

Section 5.8 Waiver. Either party hereto may waive compliance by the other party with any provision of this Agreement. The failure of a party to insist on strict adherence to any term of this Agreement on any occasion shall not be considered a waiver or deprive that party of the right thereafter to insist upon strict adherence to that term or any other term of this Agreement. No waiver of any provision shall be construed as a waiver of any other provision. Any waiver must be in writing.

Section 5.9 Severability. If any one or more of the terms, provisions, covenants and restrictions of this Agreement shall be determined by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the terms, provisions, covenants and restrictions of this Agreement shall remain in full force and effect and shall in no way be affected, impaired or invalidated and the parties will attempt to agree upon a valid and enforceable provision which shall be a reasonable substitute for such invalid and unenforceable provision in light of the tenor of this Agreement, and, upon so agreeing, shall incorporate such substitute provision in this Agreement. In addition, if any one or more of the provisions contained in this Agreement shall

for any reason be determined by a court of competent jurisdiction to be excessively broad as to duration, geographical scope, activity or subject, it shall be construed, by limiting or reducing it, so as to be enforceable to the extent compatible with then applicable law.

Section 5.10 Counterparts. This Agreement may be executed in any number of counterparts and each such duplicate counterpart shall constitute an original, any one of which may be introduced in evidence or used for any other purpose without the production of its duplicate counterpart. Moreover, notwithstanding that any of the parties did not execute the same counterpart, each counterpart shall be deemed for all purposes to be an original, and all such counterparts shall constitute one and the same instrument, binding on all of the parties hereto.

Section 5.11 Advice of Counsel. Both parties hereto acknowledge that they have had the opportunity to seek and obtain the advice of counsel before entering into this Agreement and have done so to the extent desired, and have fully read the Agreement and understand the meaning and import of all the terms hereof.

Section 5.12 Assignment. This Agreement shall inure to the benefit of the Company and its successors and assigns (including, without limitation, the purchaser of all or substantially all of its assets) and shall be binding upon the Company and its successors and assigns. This Agreement is personal to the Executive, and the Executive shall not assign or delegate the Executive's rights or duties under this Agreement, and any such assignment or delegation shall be null and void.

Section 5.13 Agreement to Take Actions. Each party to this Agreement shall execute and deliver such documents, certificates, agreements and other instruments, and shall take all other actions, as may be reasonably necessary or desirable in order to perform the Executive's or its obligations under this Agreement.

Section 5.14 No Attachment. Except as required by law, no right to receive payments under this Agreement shall be subject to anticipation, commutation, alienation, sale, assignment, encumbrance, charge, pledge, or hypothecation or to execution, attachment, levy or similar process or assignment by operation of law, and any attempt, voluntary or involuntary, to effect any such action shall be null, void and of no effect; provided, however, that nothing in this Section 5.14 shall preclude the assumption of such rights by executors, administrators or other legal representatives of the Executive or the Executive's estate and their assigning any rights hereunder to the person or persons entitled thereto.

Section 5.15 Source of Payment. Except as otherwise provided under the terms of any applicable Executive benefit plan, all payments provided for under this Agreement shall be paid in cash from the general funds of Company. The Company shall not be required to establish a special or separate fund or other segregation of assets to assure such payments, and, if the Company shall make any investments to aid it in meeting its obligations hereunder, the Executive shall have no right, title or interest whatever in or to any such investments except as may otherwise be expressly provided in a separate written instrument relating to such investments. Nothing contained in this Agreement, and no action taken pursuant to its provisions, shall create or be construed to create a trust of any kind, or a fiduciary relationship, between Company and the Executive or any other person. To the extent that any person acquires a right to receive payments from Company hereunder, such right, without prejudice to rights which employees may have, shall be no greater than the right of an unsecured creditor of Company. The Executive shall not look to the owners of the Company for the satisfaction of any obligations of the Company under this Agreement.

Section 5.16 Tax Withholding. The Company or other payor is authorized to withhold from any benefit provided or payment due hereunder, the amount of withholding taxes due any federal, state or local authority in respect of such benefit or payment and to take such other action as may be necessary in the opinion of the Compensation Committee to satisfy all obligations for the payment of such withholding taxes. The Executive will be solely responsible for all taxes assessed against the Executive with respect to the compensation and benefits described in this Agreement, other than typical employer-paid taxes such as FICA, and the Company makes no representations as to the tax treatment of such compensation and benefits.

Section 5.17 409A Compliance. All payments under this Agreement are intended to comply with or be exempt from the requirements of Section 409A of the Code and regulations promulgated thereunder ("Section 409A"), and this Agreement shall be construed and administered to give full effect to such intention. As used in this Agreement, the "Code" means the Internal Revenue Code of 1986, as amended. To the extent permitted under applicable regulations and/or other guidance of general applicability issued pursuant to Section 409A, the Company reserves the right to modify this Agreement to conform with any or all relevant provisions regarding compensation and/or benefits so that such compensation and benefits are exempt from the provisions of 409A and/or otherwise comply with such provisions so as to avoid the tax consequences set forth in Section 409A and to assure that no payment or benefit shall be subject to an "additional tax" under Section 409A. To the extent that any provision in this Agreement is ambiguous as to its compliance with Section 409A, or to the extent any provision in this Agreement must be modified to comply with Section 409A, such provision shall

be read in such a manner so that no payment due to the Executive shall be subject to an "additional tax" within the meaning of Section 409A(a)(1)(B) of the Code. If necessary to comply with the restriction in Section 409A(a)(2)(B) of the Code concerning payments to "specified employees," any payment on account of the Executive's separation from service that would otherwise be due hereunder within six (6) months after such separation shall be delayed until the first business day of the seventh month following the Termination Date, and the first such payment shall include the cumulative amount of any payments (without interest) that would have been paid prior to such date if not for such restriction. Each payment in a series of payments hereunder shall be deemed to be a separate payment for purposes of Section 409A. In no event may the Executive, directly or indirectly, designate the calendar year of payment. All reimbursements provided under this Agreement shall be made or provided in accordance with the requirements of Section 409A, including, where applicable, the requirement that (i) any reimbursement is for expenses incurred during the Executive's lifetime (or during a shorter period of time specified in this Agreement), (ii) the amount of expenses eligible for reimbursement during a calendar year may not affect the expenses eligible for reimbursement in any other calendar year, (iii) the reimbursement of an eligible expense will be made on or before the last day of the calendar year following the year in which the expense is incurred, and (iv) the right to reimbursement is not subject to liquidation or exchange for another benefit. Notwithstanding anything contained herein to the contrary, the Executive shall not be considered to have terminated employment with the Company for purposes of Section 4.1 or 4.2 unless the Executive would be considered to have incurred a "separation from service" from the Company within the meaning of Treasury Regulation §1.409A-1(h). In no event whatsoever shall the Company be liable for any additional tax, interest or penalty that may be imposed on the Executive by Section 409A or damages for failing to comply with Section 409A.

Section 5.18 280G Modified Cutback.

(a) If any payment, benefit or distribution of any type to or for the benefit of the Executive, whether paid or payable, provided or to be provided, or distributed or distributable pursuant to the terms of this Agreement or otherwise (collectively, the "Parachute Payments") would subject the Executive to the excise tax imposed under Section 4999 of the Code (the "Excise Tax"), the Parachute Payments shall be reduced so that the maximum amount of the Parachute Payments (after reduction) shall be one dollar ($1.00) less than the amount which would cause the Parachute Payments to be subject to the Excise Tax; provided that the Parachute Payments shall only be reduced to the extent the after-tax value of amounts received by the Executive after application of the above reduction would exceed the after-tax value of the amounts received without application of such reduction. For this purpose, the after-tax value of an amount shall be determined taking into account all federal, state, and local income, employment and excise taxes applicable to such amount. Unless the Executive shall have given prior written notice to the Company to effectuate a reduction in the Parachute Payments if such a reduction is required, which notice shall be consistent with the requirements of Section 409A to avoid the imputation of any tax, penalty or interest thereunder, then the Company shall reduce or eliminate the Parachute Payments by first reducing or eliminating any cash payments (with the payments to be made furthest in the future being reduced first), then reducing or eliminating accelerated vesting of stock options or similar awards, then by reducing or eliminating any other remaining Parachute Payments; provided, that no such reduction or elimination shall apply to any non-qualified deferred compensation amounts (within the meaning of Section 409A) to the extent such reduction or elimination would accelerate or defer the timing of such payment in manner that does not comply with Section 409A.

(b) An initial determination as to whether (x) any of the Parachute Payments received by the Executive in connection with the occurrence of a change in the ownership or control of the Company or in the ownership of a substantial portion of the assets of the Company shall be subject to the Excise Tax, and (y) the amount of any reduction, if any, that may be required pursuant to the previous paragraph, shall be made by an independent accounting firm selected by the Company (the "Accounting Firm") prior to the consummation of such change in the ownership or effective control of the Company or in the ownership of a substantial portion of the assets of the Company. The Executive shall be furnished with notice of all determinations made as to the Excise Tax payable with respect to the Executive's Parachute Payments, together with the related calculations of the Accounting Firm, promptly after such determinations and calculations have been received by the Company.

(c) For purposes of this Section 5.18, (i) no portion of the Parachute Payments the receipt or enjoyment of which the Executive shall have effectively waived in writing prior to the date of payment of the Parachute Payments shall be taken into account; (ii) no portion of the Parachute Payments shall be taken into account which in the opinion of the Accounting Firm does not constitute a "parachute payment" within the meaning of Section 280G(b)(2) of the Code; (iii) the Parachute Payments shall be reduced only to the extent necessary so that the Parachute Payments (other than those referred to in the immediately preceding clause (i) or (ii)) in their entirety constitute reasonable compensation for services actually rendered within the meaning of Section 280G(b)(4) of the Code or are otherwise not subject to disallowance as deductions, in the opinion of the auditor or tax counsel referred to in such clause (ii); and (iv) the

value of any non-cash benefit or any deferred payment or benefit included in the Parachute Payments shall be determined by the Company's independent auditors based on Sections 280G and 4999 of the Code and the regulations for applying those sections of the Code, or on substantial authority within the meaning of Section 6662 of the Code.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement effective as of the day and year first above written.

EXECUTIVE:

By: /s/Arian Colachis
Name: Arian Colachis

COMPANY:

CytoDyn Inc.

By: /s/ Nader Pourhassan
Name: Nader Pourhassan, Ph.D.
Title: President & CEO

Exhibit 10.64

EMPLOYMENT AGREEMENT

This EMPLOYMENT AGREEMENT (this "Agreement"), dated as of April 10, 2020 (the "Effective Date"), is by and between CYTODYN INC., a Delaware corporation (the "Company") and SCOTT A. KELLY (the "Executive").

W I T N E S S E T H:

WHEREAS, the Company desires to employ the Executive as its Chief Medical Officer, and the Executive desires to accept such employment, on the terms and conditions set forth in this Agreement.

NOW, THEREFORE, in consideration of the promises and the mutual covenants and agreements contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto, intending to be legally bound hereby, agree as follows:

ARTICLE 1

EMPLOYMENT; TERMINATION OF PRIOR AGREEMENT; TERM OF AGREEMENT

Section 1.1 Employment and Acceptance. During the Term (as defined in Section 1.2), the Company shall employ the Executive, and the Executive shall accept such employment and serve the Company, in each case, subject to the terms and conditions of this Agreement.

Section 1.2 Term. The employment relationship hereunder shall be for the period (such period of the employment relationship shall be referred to herein as the "Term") commencing on the Effective Date and ending upon the termination of the Executive's employment hereunder by either party hereto pursuant to the terms of Section 4.1, Section 4.2, Section 4.3 or Section 4.4. In the event that the Executive's employment with the Company terminates, the Company's obligation to continue to pay, after the Termination Date (as defined in Section 4.3(b)), Base Salary (as defined in Section 3.1(a)), Annual Bonus (as defined in Section 3.1(b)) and other unaccrued benefits shall terminate except as may be provided for in ARTICLE 4.

ARTICLE 2

TITLE; DUTIES AND OBLIGATIONS; LOCATION

Section 2.1 Title. The Company shall employ the Executive to render exclusive and full-time services to the Company. The Executive shall serve in the capacity of Chief Medical Officer ("CMO"), and at least initially also as the Chief Business Development Officer ("CBDO").

Section 2.2 Duties. Subject to the direction and authority of the Board of Directors of the Company (the "Board"), the Executive shall have direct responsibility for providing direction and leadership for the Company's pipeline and development programs in oncology and immunology for PRO 140. The Executive will be actively engaged in assisting to define the overall business strategy and direction for the Company's clinical development plans, including strategic development and implementation of clinical programs, collaboration with strategic partners and further exploration of new and existing patent protection for PRO 140 in oncology and immunology. The Executive will also have oversight responsibilities for the Company's Scientific Advisory Board. In addition, Executive shall also serve as CBDO, with duties, authorities and responsibilities commensurate with a Chief Business Development Officer at the pleasure of the Board. The Executive shall report to, and be subject to the lawful direction of the Chief Executive Officer ("CEO"). The Executive agrees to perform to the best of Executive's ability, experience, and talent those acts and duties, consistent with the positions of CMO and CBDO, as the CEO shall from time to time direct. The Executive will also report to the Board on such matters as the Board may request or as directed by the CEO. The Executive agrees to perform to the best of the Executive's ability, experience, and talent those acts and duties, consistent with the position of General Counsel, as the CEO shall from time to time direct. During the Term, the Executive also shall serve as a member of the Board and Chairperson upon appointment and thereafter at the pleasure of the Board, and in such other positions or capacities as may, from time to time, be reasonably directed by the CEO or the Board, including, without limitation (subject to election, appointment, re-election or re-appointment, as applicable) as (a) a member of the board of directors or similar governing body of any of the Company's subsidiaries or other Affiliates (as defined below), (b) an officer of any of the Company's subsidiaries or other Affiliates, and/or (c) a member of any committee of the Company and/or any of its subsidiaries or other Affiliates, in each case, for no additional compensation. As used in this Agreement, "Affiliate" of any individual or entity means any other individual or entity that directly or indirectly controls, is controlled by, or is under common control with, the individual or entity.

Section 2.3 Compliance with Policies, etc. During the Term, the Executive shall be bound by, and comply fully with, all of the Company's applicable policies and procedures, including, but not limited to, all terms and conditions set forth in the Company's employee handbook, compliance manual, codes of conduct and any other memoranda and communications applicable to the Executive pertaining to any policies, procedures, rules and regulations, as currently in effect and as may be amended from time to time. These policies and procedures include, among other things and without limitation, the Executive's obligations to comply with the Company's rules regarding confidential and proprietary information and trade secrets.

Section 2.4 Time Commitment. During the Term, the Executive shall use the Executive's best efforts to promote the interests of the Company (including its subsidiaries and other Affiliates) and shall devote all of the Executive's business time, ability and attention to the performance of the Executive's duties for the Company and shall not, directly or indirectly, render any services to any other person or organization, whether for compensation or otherwise, except with the CEO's or Board's prior written consent, provided that the foregoing shall not prevent the Executive from (i) participating in charitable, civic, educational, professional, community or industry affairs, (ii) managing the Executive's passive personal investments, or (iii) serving on the board of directors (or similar governing bodies) of not more than two (2) other corporations (or other business entities) that are not competitors of the Company, its subsidiaries or any of its other Affiliates (as determined by the CEO or the Board), so long as, in each case, such activities individually or in the aggregate do not materially interfere or conflict with the Executive's duties hereunder or create a potential business or fiduciary conflict (in each case, as determined by the CEO or the Board).

Section 2.5 Location. The Executive's principal place of business for the performance of the Executive's duties under this Agreement shall be at the principal executive office of the Company (currently located in Vancouver, Washington), provided it is agreed that Executive may work remotely from Atlanta, Georgia. Notwithstanding the foregoing, the Executive shall be required to travel as necessary to perform the Executive's duties hereunder.

ARTICLE 3

COMPENSATION AND BENEFITS; EXPENSES

Section 3.1 Compensation and Benefits. For all services rendered by the Executive in any capacity during the Term (including, without limitation, serving as an officer, director or member of any committee of the Company or any of its subsidiaries or other Affiliates), the Executive shall be compensated (subject, in each case, to the provisions of ARTICLE 4 below), as determined by the Compensation Committee, as follows:

(a) Base Salary. During the Term, the Company shall pay the Executive a base salary (the "Base Salary") approved by the Compensation Committee of the Board (the "Compensation Committee"), which shall be subject to customary withholdings and authorized deductions and be payable in equal installments in accordance with the Company's customary payroll practices in place from time to time. The Executive's Base Salary shall be subject to periodic adjustments as determined by the Compensation Committee. As used in this Agreement, the term "Base Salary" shall refer to Base Salary as may be adjusted from time to time.

(b) Annual Bonus. For each fiscal year ending during the Term (beginning with the fiscal year ending May 31, 2020, the Executive shall be eligible to receive an annual bonus (the "Annual Bonus") with a target amount equal to fifty percent (50%) of the Base Salary earned by the Executive for such fiscal year (the "Target Annual Bonus"). The actual amount of each Annual Bonus will be based upon the level of achievement of the Company's corporate objectives and the Executive's individual objectives established by the Compensation Committee for the fiscal year with respect to which such Annual Bonus relates. The level of achievement of the corporate objectives and the Executive's individual performance objectives for any fiscal year shall be determined by the Compensation Committee. Each Annual Bonus for a fiscal year, to the extent earned, will be paid in a lump sum at a time determined by the Company, but in no event later than March 15 of the calendar year immediately following the year in which such Annual Bonus was earned. Each Annual Bonus shall be payable, as determined by the Compensation Committee, either in cash in full or fifty percent (50%) in cash and (50%) in unrestricted shares under (and as defined in) the Company's 2012 Equity Incentive Plan (as it may be amended from time to time, the "2012 Plan"), or any successor equity compensation plan as may be in place from time to time (collectively with the 2012 Plan, the "Plan"), subject to the

availability of shares under the Plan. The Annual Bonus shall not be deemed earned until the date that it is paid. Accordingly, in order for the Executive to receive an Annual Bonus, the Executive must be actively employed by the Company at the time of such payment. Any Annual Bonus paid to the Executive with respect to the fiscal year ending May 31, 2020 shall be prorated based on the number of days the Executive has been employed by the Company during the fiscal year ended May 31, 2020 based on a 365-day fiscal year.

(c) Equity Compensation. Executive was previously granted options to purchase shares of the Company's common stock pursuant to the terms of a stock option agreement between the parties hereto entered into on the following dates, and subject to the terms and conditions established within the Plan: April 10, 2017; June 1, 2017; February 7, 2018; June 8, 2018; November 8, 2018; June 18, 2019; September 12, 2019; October 7, 2019; and, December 19, 2019. During the Term, and likewise subject to the terms and conditions established within the Plan and separate Award Agreements (as defined in the Plan), the Executive also shall be eligible to receive from time to time additional Options, Stock Appreciation Rights, Restricted Awards or Other Stock-Based Awards (as such capitalized terms are defined in the Plan), in amounts, if any, as determined by the Compensation Committee.

(d) Benefit Plans. The Executive shall be entitled to participate in all employee benefit plans and programs (excluding severance plans, if any) generally made available by the Company to senior leadership of the Company, to the extent permissible under the general terms and provisions of such plans or programs and in accordance with the provisions thereof. The Company may amend, modify or rescind any employee benefit plan or program and/or change employee contribution amounts to benefit costs without notice in its discretion.

(e) Paid Vacation. The Executive shall be entitled to paid vacation days in accordance with the Company's vacation policies in effect from time to time for its senior management.

Section 3.2 Expense Reimbursement. Subject to the requirements contained in Section 5.17, the Company shall reimburse the Executive during the Term, in accordance with the Company's expense reimbursement policies in place from time to time, for all reasonable out-of-pocket business expenses incurred by the Executive in the performance of the Executive's duties hereunder. In order to receive such reimbursement, the Executive shall furnish to the Company documentary evidence of each such expense in the form required to comply with the Company's policies in place from time to time.

ARTICLE 4

TERMINATION OF EMPLOYMENT

Section 4.1 Termination Without Cause.

(a) The Company may terminate the Executive's employment hereunder at any time without Cause (other than by reason of death or Disability) upon written notice to the Executive.

(b) As used in this Agreement, "Cause" means: (i) a material act, or act of fraud, committed by the Executive that is intended to result in the Executive's personal enrichment to the detriment or at the expense of the Company or any of its Affiliates; (ii) the Executive is convicted of a felony; (iii) willful and continued failure by the Executive to perform the duties or obligations reasonably assigned to the Executive by the Board from time to time, which failure is not cured upon ten (10) days' prior written notice (unless such failure is not susceptible to cure, as determined in the reasonable discretion of the Board); or (iv) the Executive violates the Covenants Agreement (as defined in Section 5.1 below).

(c) If the Executive's employment is terminated pursuant to Section 4.1(a), the Executive shall, in full discharge of all of the Company's obligations to the Executive, be entitled to receive, and the Company's sole obligation to the Executive under this Agreement or otherwise shall be to pay or provide to the Executive, the following:

(i) the Accrued Obligations (as defined in Section 4.3(b)); and

(ii) subject to Section 4.5 and Section 4.6, either:

(1) If prior to completion of a full year of employment, payments equal to four (4) months of the Executive's Base Salary at the rate in effect immediately prior to the Termination Date (less applicable withholdings and authorized deductions), to be paid in accordance with the Company's customary payroll practices, commencing on the first regular payroll date on or following the date that is sixty (60) days following such termination of employment (the "Severance Payments"); provided, however, that the Executive must have completed at least 180 days (six (6) months) of full-time continuous employment with the Company, to be eligible for any Severance Payments hereunder; or

(2) After one year of full-time continuous employment, the Severance Payments shall consist of: (A) a lump sum payment equal to six (6) months of Executive's Base Salary at the rate in effect immediately prior to the Termination Date (less applicable withholdings and authorized deductions) on the sixtieth (60th) day following the Termination Date (or the next business day thereafter, but in no event later that March 15th of the calendar year immediately following the Termination Date); and (B) payments equal to six (6) months of Executive's Base Salary at the rate in effect immediately prior to the Termination Date (less applicable withholdings and authorized deductions) to be paid in regular installments corresponding with the Company's regular payroll schedule, and commencing on the first regular payroll date following the date that is one hundred and eighty (180) days after the Termination Date.

Notwithstanding the foregoing, in no event shall the portion of the Severance Payments described in clause (B) above exceed two times the lesser of (x) the sum of the Executive's annualized compensation based upon the Executive's annual salary in the year preceding the year in which the Executive's employment is terminated (adjusted for any increase during that year that was expected to continue indefinitely if the Executive's employment had not terminated) or (y) the applicable dollar limit under Section 401(a)(17) of the Internal Revenue Code for the calendar year in which the Executive's employment is terminated.

(d) Notwithstanding anything in Section 4.1(c) to the contrary, the Severance Payments may be made, as determined by the Compensation Committee, in whole or in part through the issuance of shares of the Company's common stock, in each case with a Fair Market Value (as defined in the Plan) equal to the amount to be paid on the applicable date.

(e) Unless the award agreement specifically provides otherwise, all stock options and other awards that the Executive has been granted under the Plan as of the date of this Agreement shall vest and, in the case of stock options or like awards, become exercisable, to the extent not already vested and (if applicable) exercisable, on the Termination Date, and (if applicable) shall remain exercisable following termination to the extent provided in the award agreement for such award.

Section 4.2 Termination Without Cause or for Good Reason Within 12 Months Following a Change in Control

(a) Provided that the Executive has completed 180 days of full-time continuous employment with the Company, if, within twelve (12) months following the occurrence of a Change in Control of the Company (as defined below), the Executive's employment hereunder is terminated without Cause (other than by reason of death or Disability) or the Executive resigns for Good Reason, the provisions of this Section 4.2 shall control instead of the provisions of Section 4.1.

(b) As used in this Agreement, "Change in Control" means:

(i) Any one person or entity, or more than one person or entity acting as a group (as defined in Treasury Regulation Section 1.409A-3), acquires ownership of stock of the Company that, together with stock previously held by the acquiror, constitutes more than fifty percent (50%) of the total fair market value or total voting power of the Company's stock. If any one person or entity, or more than one person or entity acting as a group, is considered to own more than fifty percent (50%) of the total fair market value or total voting power of the Company's stock, the acquisition of additional stock by the same person or entity or persons or entities acting as a group does not cause a Change in Control. An increase in the percentage of stock owned by any one person or entity, or persons or entities acting as a group, as a result of a transaction in which the Company acquires its stock in exchange for property, is treated as an acquisition of stock; or

(ii) A majority of the members of the Company's Board is replaced during any twelve (12) month period by directors whose appointment or election is not endorsed by a majority of the members of the Board prior to the date of appointment or election; or

(iii) Any one person or entity, or more than one person or entity acting as a group, acquires (or has acquired during the twelve (12) month period ending on the date of the most recent acquisition by that person or entity or persons or entities acting as a group) assets from the Company that have a total gross fair market value equal to at least forty percent (40%) of the total gross fair market value of all the Company's assets immediately prior to the acquisition or acquisitions. Gross fair market value means the value of the Company's assets, or the value of the assets being disposed of, without regard to any liabilities associated with these assets. Notwithstanding anything in this clause (iii) to the contrary, in no event shall a license of (or other similar transfer of rights in) leronlimab be a change in the ownership of a substantial portion of the Company's assets

In determining whether a Change in Control occurs, the attribution rules of Code Section 318 apply to determine stock ownership. The stock underlying a vested option is treated as owned by the individual who holds the vested option, and the stock underlying an unvested option is not treated as owned by the individual who holds the unvested option.

(c) As used in this Agreement, "Good Reason" means the occurrence of any of the following: (1) a material breach by the Company of the terms of this Agreement; (2) a material reduction in the Executive's Base Salary unless the reduction is generally applicable to substantially all similarly situated Company employees or is otherwise offset economically by increases in other compensation or replacement plans or programs; (3) a material diminution in the Executive's authority, duties or responsibilities; or (4) a relocation by the Company of the Executive's principal place of business for the performance of the Executive's duties under this Agreement to a location that is anywhere outside of a 50-mile radius of Vancouver, Washington; provided, however, that the Executive must notify the Company within ninety (90) days of the occurrence of any of the foregoing conditions that the Executive considers it to be a "Good Reason" condition and provide the Company with at least thirty (30) days in which to cure the condition. If the Executive fails to provide this notice and cure period prior to the Executive's resignation, or resigns more than six (6) months after the initial existence of the condition, the Executive's resignation will not be deemed to be for "Good Reason."

(d) If Executive's employment is terminated pursuant to Section 4.2(a) (i.e., the Executive's employment hereunder is terminated without Cause (other than by reason of death or Disability) within twelve (12) months following a Change in Control of the Company, or the Executive resigns for Good Reason within twelve (12) months following a Change in Control of the Company), the Executive shall, in full discharge of all of the Company's obligations to the Executive, be entitled to receive, and the Company's sole obligation to the Executive under this Agreement or otherwise shall be to pay or provide to the Executive, the following:

(i) the Accrued Obligations; and

(ii) subject to Section 4.5 and Section 4.6:

(A) the following payments (the "Enhanced Severance Payments") (i) a lump sum payment on the sixtieth (60th) day following the Termination Date (or the next business day thereafter, but in no event later that March 15th of the calendar year immediately

following the Termination Date) in an amount equal to eight (8) months of the Executive's monthly Base Salary at the rate in effect immediately prior to the Termination Date (less applicable withholdings and authorized deductions) and (ii) payments equal to ten (10) months of the Executive's monthly Base Salary at the rate in effect immediately prior to the Termination Date (less applicable withholdings and authorized deductions), to be paid on the first regular payroll date following the date that is two hundred and seventy (270) days following the Termination Date. Notwithstanding the foregoing, in no event shall the portion of the Enhanced Severance Payments described in clause (ii) above exceed two times the lesser of (x) the sum of the Executive's annualized compensation based upon the Executive's annual salary in the year preceding the year in which the Executive's employment is terminated (adjusted for any increase during that year that was expected to continue indefinitely if the Executive's employment had not terminated) or (y) the applicable dollar limit under Section 401(a)(17) of the Internal Revenue Code for the calendar year in which the Executive's employment is terminated; and

(B) Unless the award agreement specifically provides otherwise, all stock options and other awards that the Executive has been granted under the Plan as of the date of this Agreement shall vest and, in the case of stock options or like awards, become exercisable, to the extent not already vested and (if applicable) exercisable, on the Termination Date, and (if applicable) shall remain exercisable following termination to the extent provided in the award agreement for such award.

For purposes of clarity, it is understood and agreed that the Enhanced Severance Payments set forth in this Section 4.2 shall be in lieu of (and not in addition to) the Severance Payments set forth in Section 4.1.

Section 4.3 Termination for Cause; Voluntary Termination.

(a) The Company may terminate the Executive's employment hereunder at any time for Cause upon written notice to the Executive. The Executive may voluntarily terminate the Executive's employment hereunder at any time for any reason or no reason as well, but is requested to provide ninety (90) days' prior written notice to the Company, if possible; provided, however, the Company reserves the right, upon written notice to the Executive, to accept the Executive's notice of resignation and to accelerate such notice and make the Executive's resignation effective immediately, or on such other date prior to the Executive's intended last day of work as the Company deems appropriate. It is understood and agreed that

the Company's election to accelerate the Executive's notice of resignation shall not be deemed a termination by the Company without Cause for purposes of Section 4.1 or 4.2 of this Agreement or otherwise or constitute Good Reason for purposes of Section 4.2 of this Agreement or otherwise.

(b) If the Executive's employment is terminated pursuant to Section 4.3(a), the Executive shall, in full discharge of all of the Company's obligations to the Executive, be entitled to receive, and the Company's sole obligation under this Agreement or otherwise shall be to pay or provide to the Executive, the following (collectively, the "Accrued Obligations"):

(i) the Executive's accrued but unpaid Base Salary through the final date of the Executive's employment by the Company (the "Termination Date"), payable in accordance with the Company's standard payroll practices;

(ii) the Executive's unused vacation as accrued in accordance with the Company's policies, if any);

(iii) expenses reimbursable under Section 3.2 above incurred on or prior to the Termination Date but not yet reimbursed; and

(iv) any amounts or benefits that are vested amounts or vested benefits or that the Executive is otherwise entitled to receive under any plan, program, policy or practice (with the exception of those, if any, relating to severance) on the Termination Date, in accordance with such plan, program, policy, or practice.

Section 4.4 Termination Resulting from Death or Disability.

(a) As the result of any Disability suffered by the Executive, the Company, upon five (5) days' prior notice to the Executive, may terminate the Executive's employment under this Agreement. The Executive's employment shall automatically terminate upon the Executive's death.

(b) "Disability" means a determination by the Company in accordance with applicable law that as a result of a physical or mental injury or illness, the Executive is unable to perform the essential functions of the Executive's job with or without reasonable accommodation for a period of (i) ninety (90) consecutive days; or (ii) one hundred twenty (120) days during any twelve (12) month period.

(c) If the Executive's employment is terminated pursuant to Section 4.4(a), the Executive or the Executive's estate, as the case may be, shall be entitled to receive, and the Company's sole obligation under this Agreement or otherwise shall be to pay or provide to the Executive or the Executive's estate, as the case may be, the Accrued Obligations.

Section 4.5 Release Agreement. In order to receive the Severance Payments set forth inSection 4.1 or to receive the Enhanced Severance Payments set forth in Section 4.2 (as applicable, and, in each case, if eligible), the Executive must timely execute (and not revoke) a separation agreement and general release (the "Release Agreement") in a customary form as is determined to be reasonably necessary by the Company in its good faith and reasonable discretion; provided, that the Company shall endeavor to provide the Executive with the form of Release Agreement within three (3) days following the Termination Date. The Severance Payments or the Enhanced Severance Payments, as applicable, are subject to the Executive's execution of such Release Agreement within twenty-one (21) days of the Executive's receipt of the Release Agreement and the Executive'snon-revocation of such Release Agreement, if applicable.

Section 4.6 Post-Termination Breach. Notwithstanding anything to the contrary contained in this Agreement, the Company's obligations to provide the Severance Payments or the Enhanced Severance Payments, as applicable, will immediately cease if the Executive breaches any of the provisions of the Covenants Agreement, the Release Agreement or any other agreement the Executive has with the Company, or if any provision of those agreements is determined to be unenforceable, to any extent, by a court or arbitration panel, whether by preliminary or final adjudication.

Section 4.7 Removal from any Boards and Position. If the Executive's employment is terminated for any reason under this Agreement, the Executive shall be deemed (without further action, deed or notice) to resign (i) if a member, from the Board or board of directors (or similar governing body) of the Company, any Affiliate of the Company or any other board to which the Executive has been appointed or nominated by or on behalf of the Company and (ii) from all other positions with the Company or any subsidiary or other Affiliate of the Company, including, but not limited to, as an officer of the Company and any of its subsidiaries or other Affiliates.

ARTICLE 5

GENERAL PROVISIONS

Section 5.1 Employee Inventions Assignment and Non-Disclosure Agreement. The Executive acknowledges and confirms that the Employee Inventions Assignment and Non-

Disclosure Agreement executed by the Executive on April 15, 2020 (the "Covenants Agreement"), the terms of which are incorporated herein by reference, remains in full force and effect and binding on the Executive. The Covenants Agreement shall survive the termination of this Agreement and the Executive's employment by the Company for the applicable period(s) set forth therein.

Section 5.2 Expenses. Each of the Company and the Executive shall bear its/the Executive's own costs, fees and expenses in connection with the negotiation, preparation and execution of this Agreement.

Section 5.3 Key-Person Insurance. Upon the Company's request, the Executive shall cooperate (including, without limitation, taking any required physical examinations) in all respects in obtaining a key-person life insurance policy on the life of the Executive in which the Company is named as the beneficiary.

Section 5.4 Entire Agreement. This Agreement, the Indemnification Agreement between the Executive and the Company effective April 10, 2017, as it may be amended from time to time (the "Indemnification Agreement"), and the Covenants Agreement contain the entire agreement of the parties hereto with respect to the terms and conditions of the Executive's employment during the Term and activities following termination of this Agreement and the Executive's employment with the Company and supersede any and all prior agreements and understandings, whether written or oral, between the parties hereto with respect to the subject matter of this Agreement, the Indemnification Agreement, or the Covenants Agreement. Each party hereto acknowledges that no representations, inducements, promises or agreements, whether oral or in writing, have been made by any party, or on behalf of any party, which are not embodied herein, or in the Covenants Agreement. The Executive acknowledges and agrees that the Company has fully satisfied, and has no further obligations to the Executive arising under, or relating to, any prior employment or consulting arrangement or understanding (including, without limitation, any claims for compensation or benefits of any kind) or otherwise. No agreement, promise or statement not contained in this Agreement, the Indemnification Agreement, or the Covenants Agreement shall be valid and binding, unless agreed to in writing and signed by the parties sought to be bound thereby.

Section 5.5 No Other Contracts. The Executive represents and warrants to the Company that neither the execution and delivery of this Agreement by the Executive nor the performance by the Executive of the Executive's obligations hereunder, shall constitute a default under or a breach of the terms of any other agreement, contract or other arrangement, whether written or oral, to which the Executive is a party or by which the Executive is bound, nor shall the execution and delivery of this Agreement by the Executive nor the performance by the Executive of the Executive's duties and obligations hereunder give rise to any claim or charge against either the Executive, the Company or any Affiliate, based upon any other contract or other arrangement, whether written or oral, to which the Executive is a party or by which the Executive is bound. The Executive further represents and warrants to the Company that the Executive is not a party to or subject to any restrictive covenants, legal restrictions or other agreement, contract or arrangement, whether written or oral, in favor of any entity or person that would in any way preclude, inhibit, impair or limit the Executive's ability to perform the Executive's obligations under this Agreement, including, but not limited to, non-competition agreements, non-solicitation agreements or confidentiality agreements. The Executive shall defend, indemnify and hold the Company harmless from and against all claims, actions, losses, liabilities, damages, costs and expenses (including reasonable attorney's fees and amounts paid in settlement in good faith) arising from or relating to any breach of the representations and warranties made by the Executive in this Section 5.5.

Section 5.6 Notices. Any notice or other communication required or permitted hereunder shall be in writing and shall be delivered personally or sent by nationally recognized overnight courier service (with next business day delivery requested). Any such notice or communication shall be deemed given and effective, in the case of personal delivery, upon receipt by the other party, and in the case of a courier service, upon the next business day, after dispatch of the notice or communication. Any such notice or communication shall be addressed as follows:

If to the Company, to:

CytoDyn Inc.
1111 Main Street, Suite 660
Vancouver, Washington 98660
Attn: Chief Executive Officer

If to the Executive, to the address provided on Executive's current Form W-4 on file with the Company.

Section 5.7 Governing Law; Jurisdiction. This Agreement shall be governed by, and construed in accordance with, the laws of the state of Washington, without regard to principles of conflicts of law. Any and all actions arising out of this Agreement or Executive's employment by the Company or termination therefrom shall be brought and heard in the state and federal courts of the state of Washington and the parties hereto hereby irrevocably submit to the exclusive jurisdiction of any such courts.

Section 5.8 Waiver. Either party hereto may waive compliance by the other party with any provision of this Agreement. The failure of a party to insist on strict adherence to any term of this Agreement on any occasion shall not be considered a waiver or deprive that party of the right thereafter to insist upon strict adherence to that term or any other term of this Agreement. No waiver of any provision shall be construed as a waiver of any other provision. Any waiver must be in writing.

Section 5.9 Severability. If any one or more of the terms, provisions, covenants and restrictions of this Agreement shall be determined by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the terms, provisions, covenants and restrictions of this Agreement shall remain in full force and effect and shall in no way be affected, impaired or invalidated and the parties will attempt to agree upon a valid and enforceable provision which shall be a reasonable substitute for such invalid and unenforceable provision in light of the tenor of this Agreement, and, upon so agreeing, shall incorporate such substitute provision in this Agreement. In addition, if any one or more of the provisions contained in this Agreement shall for any reason be determined by a court of competent jurisdiction to be excessively broad as to duration, geographical scope, activity or subject, it shall be construed, by limiting or reducing it, so as to be enforceable to the extent compatible with then applicable law.

Section 5.10 Counterparts. This Agreement may be executed in any number of counterparts and each such duplicate counterpart shall constitute an original, any one of which may be introduced in evidence or used for any other purpose without the production of its duplicate counterpart. Moreover, notwithstanding that any of the parties did not execute the same counterpart, each counterpart shall be deemed for all purposes to be an original, and all such counterparts shall constitute one and the same instrument, binding on all of the parties hereto.

Section 5.11 Advice of Counsel. Both parties hereto acknowledge that they have had the opportunity to seek and obtain the advice of counsel before entering into this Agreement and have done so to the extent desired, and have fully read the Agreement and understand the meaning and import of all the terms hereof.

Section 5.12 Assignment. This Agreement shall inure to the benefit of the Company and its successors and assigns (including, without limitation, the purchaser of all or substantially all of its assets) and shall be binding upon the Company and its successors and assigns. This Agreement is personal to the Executive, and the Executive shall not assign or delegate the Executive's rights or duties under this Agreement, and any such assignment or delegation shall be null and void.

Section 5.13 Agreement to Take Actions. Each party to this Agreement shall execute and deliver such documents, certificates, agreements and other instruments, and shall take all other actions, as may be reasonably necessary or desirable in order to perform the Executive's or its obligations under this Agreement.

Section 5.14 No Attachment. Except as required by law, no right to receive payments under this Agreement shall be subject to anticipation, commutation, alienation, sale, assignment, encumbrance, charge, pledge, or hypothecation or to execution, attachment, levy or similar process or assignment by operation of law, and any attempt, voluntary or involuntary, to effect any such action shall be null, void and of no effect; provided, however, that nothing in this Section 5.14 shall preclude the assumption of such rights by executors, administrators or other legal representatives of the Executive or the Executive's estate and their assigning any rights hereunder to the person or persons entitled thereto.

Section 5.15 Source of Payment. Except as otherwise provided under the terms of any applicable Executive benefit plan, all payments provided for under this Agreement shall be paid in cash from the general funds of the Company. The Company shall not be required to establish a special or separate fund or other segregation of assets to assure such payments, and, if the Company shall make any investments to aid it in meeting its obligations hereunder, the Executive shall have no right, title or interest whatever in or to any such investments except as may otherwise be expressly provided in a separate written instrument relating to such investments. Nothing contained in this Agreement, and no action taken pursuant to its provisions, shall create or be construed to create a trust of any kind, or a fiduciary relationship, between the Company and the Executive or any other person. To the extent that any person acquires a right to receive payments from the Company hereunder, such right, without prejudice

to rights which employees may have, shall be no greater than the right of an unsecured creditor of the Company. The Executive shall not look to the owners of the Company for the satisfaction of any obligations of the Company under this Agreement.

Section 5.16 Tax Withholding. The Company or other payor is authorized to withhold from any benefit provided or payment due hereunder, the amount of withholding taxes due any federal, state or local authority in respect of such benefit or payment and to take such other action as may be necessary in the opinion of the Compensation Committee to satisfy all obligations for the payment of such withholding taxes. The Executive will be solely responsible for all taxes assessed against the Executive with respect to the compensation and benefits described in this Agreement, other than typical employer-paid taxes such as FICA, and the Company makes no representations as to the tax treatment of such compensation and benefits.

Section 5.17 409A Compliance. All payments under this Agreement are intended to comply with or be exempt from the requirements of Section 409A of the Code and regulations promulgated thereunder ("Section 409A"). As used in this Agreement, the "Code" means the Internal Revenue Code of 1986, as amended. To the extent permitted under applicable regulations and/or other guidance of general applicability issued pursuant to Section 409A, the Company reserves the right to modify this Agreement to conform with any or all relevant provisions regarding compensation and/or benefits so that such compensation and benefits are exempt from the provisions of Section 409A and/or otherwise comply with such provisions so as to avoid the tax consequences set forth in Section 409A and to assure that no payment or benefit shall be subject to an "additional tax" under Section 409A. To the extent that any provision in this Agreement is ambiguous as to its compliance with Section 409A, or to the extent any provision in this Agreement must be modified to comply with Section 409A, such provision shall be read in such a manner so that no payment due to the Executive shall be subject to an "additional tax" within the meaning of Section 409A(a)(1)(B) of the Code. If necessary to comply with the restriction in Section 409A(a)(2)(B) of the Code concerning payments to "specified employees," any payment on account of the Executive's separation from service that would otherwise be due hereunder within six (6) months after such separation shall be delayed until the first business day of the seventh month following the Termination Date, and the first such payment shall include the cumulative amount of any payments (without interest) that would have been paid prior to such date if not for such restriction. Each payment in a series of

payments hereunder shall be deemed to be a separate payment for purposes of Section 409A. In no event may the Executive, directly or indirectly, designate the calendar year of payment. All reimbursements provided under this Agreement shall be made or provided in accordance with the requirements of Section 409A, including, where applicable, the requirement that (i) any reimbursement is for expenses incurred during the Executive's lifetime (or during a shorter period of time specified in this Agreement), (ii) the amount of expenses eligible for reimbursement during a calendar year may not affect the expenses eligible for reimbursement in any other calendar year, (iii) the reimbursement of an eligible expense will be made on or before the last day of the calendar year following the year in which the expense is incurred, and (iv) the right to reimbursement is not subject to liquidation or exchange for another benefit. Notwithstanding anything contained herein to the contrary, the Executive shall not be considered to have terminated employment with the Company for purposes of Section 4.1 or 4.2 unless the Executive would be considered to have incurred a "separation from service" from the Company within the meaning of Treasury Regulation §1.409A-1(h). In no event whatsoever shall the Company be liable for any additional tax, interest or penalty that may be imposed on the Executive by Section 409A or damages for failing to comply with Section 409A.

Section 5.18 280G Modified Cutback.

(a) If any payment, benefit or distribution of any type to or for the benefit of the Executive, whether paid or payable, provided or to be provided, or distributed or distributable pursuant to the terms of this Agreement or otherwise (collectively, the "Parachute Payments") would subject the Executive to the excise tax imposed under Section 4999 of the Code (the "Excise Tax"), the Parachute Payments shall be reduced so that the maximum amount of the Parachute Payments (after reduction) shall be one dollar ($1.00) less than the amount which would cause the Parachute Payments to be subject to the Excise Tax; provided that the Parachute Payments shall only be reduced to the extent the after-tax value of amounts received by the Executive after application of the above reduction would exceed the after-tax value of the amounts received without application of such reduction. For this purpose, the after-tax value of an amount shall be determined taking into account all federal, state, and local income, employment and excise taxes applicable to such amount. Unless the Executive shall have given prior written notice to the Company to effectuate a reduction in the Parachute Payments if such a reduction is required, which notice shall be consistent with the requirements of Section 409A to

avoid the imputation of any tax, penalty or interest thereunder, then the Company shall reduce or eliminate the Parachute Payments by first reducing or eliminating any cash payments (with the payments to be made furthest in the future being reduced first), then reducing or eliminating accelerated vesting of stock options or similar awards, then by reducing or eliminating any other remaining Parachute Payments; provided, that no such reduction or elimination shall apply to any non-qualified deferred compensation amounts (within the meaning of Section 409A) to the extent such reduction or elimination would accelerate or defer the timing of such payment in manner that does not comply with Section 409A.

(b) An initial determination as to whether (x) any of the Parachute Payments received by the Executive in connection with the occurrence of a change in the ownership or control of the Company or in the ownership of a substantial portion of the assets of the Company shall be subject to the Excise Tax, and (y) the amount of any reduction, if any, that may be required pursuant to the previous paragraph, shall be made by an independent accounting firm selected by the Company (the "Accounting Firm") prior to the consummation of such change in the ownership or effective control of the Company or in the ownership of a substantial portion of the assets of the Company. The Executive shall be furnished with notice of all determinations made as to the Excise Tax payable with respect to the Executive's Parachute Payments, together with the related calculations of the Accounting Firm, promptly after such determinations and calculations have been received by the Company.

(c) For purposes of this Section 5.18, (i) no portion of the Parachute Payments the receipt or enjoyment of which the Executive shall have effectively waived in writing prior to the date of payment of the Parachute Payments shall be taken into account; (ii) no portion of the Parachute Payments shall be taken into account which in the opinion of the Accounting Firm does not constitute a "parachute payment" within the meaning of Section 280G(b)(2) of the Code; (iii) the Parachute Payments shall be reduced only to the extent necessary so that the Parachute Payments (other than those referred to in the immediately preceding clause (i) or (ii)) in their entirety constitute reasonable compensation for services actually rendered within the meaning of Section 280G(b)(4) of the Code or are otherwise not subject to disallowance as deductions, in the opinion of the auditor or tax counsel referred to in such clause (ii); and (iv) the value of any non-cash benefit or any deferred payment or benefit included in the Parachute Payments shall be determined by the Company's independent auditors based on Sections 280G and 4999 of the Code and the regulations for applying those sections of the Code, or on substantial authority within the meaning of Section 6662 of the Code.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement effective as of the day and year first above written.

EXECUTIVE:

By:/s/ Scott A. Kelly
Name: Scott A. Kelly
Title: Chief Medical Officer & Head of Business Development

COMPANY:

CytoDyn Inc.

By: /s/ Nader Pourhassan
Name: Nader Pourhassan, Ph. D.
Title: President & CEO

Exhibit 21

SUBSIDIARIES

Name	Jurisdiction of Incorporation or Organization
Cytodyn Operations Inc.	Delaware
Advanced Genetic Technologies, Inc.	Florida
CytoDyn Veterinary Medicine LLC	Florida

Exhibit 23

CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

We hereby consent to the incorporation by reference in the Registration Statements on Form S-8 (333-206813 and 333-223884 and 333-237490) and Registration Statements Form S-3 (Nos. 333-213866 and 333-228991 and 333-223195 and 333-223563 and 333-233526 and 333-236198) of our report dated August 14, 2020, with respect to the consolidated financial statements of CytoDyn Inc., included in this Annual Report on Form 10-K for the year ended May 31, 2020. Our report on the consolidated financial statements contains an explanatory paragraph regarding CytoDyn Inc.'s ability to continue as a going concern.

/s/ Warren Averett, LLC

Birmingham, Alabama
August 14, 2020

Exhibit 24

POWER OF ATTORNEY

WHEREAS, the undersigned officers and directors of CytoDyn Inc. desire to authorize Nader Z. Pourhassan and Michael D. Mulholland to act as their attorneys-in-fact and agents, for the purpose of executing and filing the registrant's Annual Report on Form10-K for the year ended May 31, 2020, including all amendments and supplements thereto,

NOW, THEREFORE,

KNOW ALL MEN BY THESE PRESENTS, that each person whose signature appears below constitutes and appoints Nader Z. Pourhassan and Michael D. Mulholland, and each of them, his or her true and lawful attorney-in-fact and agent, with full power of substitution and resubstitution, to sign the registrant's Annual Report on Form 10-K for the year ended May 31, 2020, including any and all amendments and supplements thereto, and to file the same, with all exhibits thereto, and other documents in connection therewith, with the Securities and Exchange Commission, granting unto said attorneys-in-fact and agents, and each of them, full power and authority to do and perform each and every act and thing requisite and necessary to be done in and about the premises, as fully and to all intents and purposes as he might or could do in person, hereby ratifying and confirming all that said attorneys-in-fact and agents, or any of them, or their or his substitute or substitutes, may lawfully do or cause to be done by virtue hereof.

IN WITNESS WHEREOF, the undersigned have executed this power of attorney in the following capacities as of August 14, 2020.

Signatures	Title
/s/ Scott A. Kelly, M.D. Scott A. Kelly, M.D.	Director, Chairman
/s/ Jordan G. Naydenov Jordan G. Naydenov	Director
/s/ Samir R. Patel, M.D. Samir R. Patel, M.D.	Director
/s/ Alan P. Timmins Alan P. Timmins	Director
/s/ David F. Welch, Ph.D. David F. Welch, Ph.D.	Director
/s/ Nader Z. Pourhassan, Ph.D. Nader Z. Pourhassan, Ph.D.	Director, President and Chief Executive Officer (Principal Executive Officer)
/s/ Michael D. Mulholland Michael D. Mulholland	Chief Financial Officer and Treasurer (Principal Financial Officer and Principal Accounting Officer)

Exhibit 31.1

Certification of Chief Executive Officer

I, Nader Z. Pourhassan, certify that:

1. I have reviewed this Annual Report on Form 10-K of CytoDyn Inc.;

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

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

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

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

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

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

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

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

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

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

Date: August 14, 2020

/s/ Nader Z. Pourhassan
Nader Z. Pourhassan, Ph. D.
President and Chief Executive Officer

Exhibit 31.2

Certification of Chief Financial Officer

I, Michael D. Mulholland, certify that:

1. I have reviewed this Annual Report on Form 10-K of CytoDyn Inc.;

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

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

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

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

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

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

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

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

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

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

Date: August 14, 2020

/s/ Michael D. Mulholland
Michael D. Mulholland
Chief Financial Officer

Exhibit 32

CERTIFICATION PURSUANT TO
18 U.S.C. SECTION 1350

In connection with the Annual Report of CytoDyn Inc. (the "Company") on Form10-K for the year ended May 31, 2020 as filed with the Securities and Exchange Commission on the date hereof (the "Report"), the undersigned certify, pursuant to 18 U.S.C. § 1350, that:

(1) The Report fully complies with the requirements of section 13(a) or 15(d) of the Securities Exchange Act of 1934; and

(2) The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

/s/ Nader Z. Pourhassan	/s/ Michael D. Mulholland
Nader Z. Pourhassan, Ph. D.	Michael D. Mulholland
President and Chief Executive Officer	Chief Financial Officer
August 14, 2020	August 14, 2020

A signed original of this written statement required by Section 906 has been provided to CytoDyn Inc. and will be retained by CytoDyn Inc. and furnished to the Securities and Exchange Commission or its staff upon request.