UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, DC 20549

FORM 8-K

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

Date of Report (Date of earliest event reported): November 16, 2018

CytoDyn Inc.
(Exact name of registrant as specified in its charter)

Delaware	**000-49908**	**83-1887078**
(State or other jurisdiction of incorporation)	**(SEC File Number)**	**(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

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions (see General Instruction A.2. below):

☐ Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)

☐ Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)

☐ Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))

☐ Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

Indicate by check mark whether the registrant is an emerging growth company as defined in as defined in Rule 405 of the Securities Act of 1933 (§230.405 of this chapter) or Rule 12b-2 of the Securities Exchange Act of 1934 (§240.12b-2 of this chapter).

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. ☐

Explanatory Note

CytoDyn Inc. (formerly Point NewCo Inc.), a Delaware corporation ("New CytoDyn" and, together with CytoDyn Operations Inc. (formerly CytoDyn Inc.), a Delaware corporation ("Old CytoDyn"), as the context may require, the "Company"), is providing the disclosure contained in this Form 8-K in connection with the November 16, 2018 closing of the previously reported ProstaGene Transaction (as defined in Item 2.01), including the Holding Company Reorganization (as defined in Item 2.01) and the ProstaGene Asset Acquisition (as defined in Item 2.01), under the following items: Item 1.01, Item 2.01, Item 3.02, Item 3.03, Item 5.02, Item 5.03, Item 7.01 Item 8.01 and Item 9.01.

Certain additional recent transactions by the Company, which are unrelated to the ProstaGene Transaction, are reported under the headings "Private Placement of Securities" and "Convertible Note Amendment" in Item 1.01 and Item 3.02.

Item 1.01. Entry into a Material Definitive Agreement.

Private Placement of Securities

Between October 30, 2018 and November 16, 2018, the Company issued in private placements to accredited investors an aggregate of 1,729,000 shares of common stock, par value $0.001 per share, together with warrants to purchase an aggregate of 864,500 shares of common stock at an exercise price of $0.75 per share. The closing on November 16, 2018 occurred following the closing of the ProstaGene Transaction. The securities were issued at a combined purchase price of $0.50 per fixed combination of one share of common stock and one half of one warrant to purchase one share of common stock, for aggregate gross proceeds of approximately $0.9 million. The warrants have a five-year term and are immediately exercisable. Pursuant to the subscription agreements, the Company has agreed to use commercially reasonable efforts to prepare and file with the United States Securities and Exchange Commission (the "Commission") within ninety days following the final closing of the offering to which this Form 8-K relates, but not later than December 31, 2018, a registration statement under the Securities Act of 1933, as amended, covering the resale of all of the shares of common stock sold in the private placements. Copies of the forms of warrant and subscription agreement are filed as Exhibits 4.1 and 10.1, respectively, to the Form 8-K filed by Old CytoDyn with the Commission on September 4, 2018 and are incorporated by reference into this Item 1.01.

The representations, warranties and covenants contained in the subscription agreements were made solely for the benefit of the parties to the subscription agreements. In addition, such representations, warranties and covenants (i) are intended as a way of allocating the risk between the parties to the subscription agreements and not as statements of fact, and (ii) may apply standards of materiality in a way that is different from what may be viewed as material by stockholders of, or other investors in, the Company. Accordingly, the form of the subscription agreement is incorporated by reference into this filing only to provide investors with information regarding the terms of the private placement, and not to provide investors with any other factual information regarding the Company. Stockholders should not rely on the representations, warranties and covenants or any descriptions thereof as characterizations of the actual state of facts or condition of the Company or any of its subsidiaries or affiliates. Moreover, information concerning the subject matter of the representations and warranties may change after the date of the subscription agreements, which subsequent information may or may not be fully reflected in public disclosures.

As a fee to the placement agent, the Company has agreed to pay a cash fee equal to 12% of the gross proceeds received from qualified investors first introduced to the Company in the offering by the placement agent, or $75,000, as well as a one-time non-accountable expense fee of $25,000 in the aggregate for all closings in this offering, which has been previously paid. The Company also agreed to grant the placement agent or its designees warrants to purchase up to 10% of the number of shares of common stock sold to qualified investors in the offering, or 124,300 shares for the private placement closings to which this Form 8-K relates, on terms similar to the investor warrants described above. The placement agent warrants provide for cashless exercise.

The Company relied on the exemption provided by Rule 506 of Regulation D and Section 4(a)(2) of the Securities Act of 1933, as amended, in connection with the foregoing transactions.

After giving effect to the foregoing transactions and the ProstaGene Transaction described below, the number of shares of common stock outstanding as of November 16, 2018 was 288,221,949. As of November 16, 2018, there were warrants outstanding to purchase up to 138,902,363 shares of common stock, with a weighted average exercise price of $0.77 per share.

Convertible Note Amendment

On November 15, 2018, the Company entered into a Convertible Promissory Note Amendment and Restatement (the "Convertible Note Amendment"), to amend the convertible note issued to an institutional accredited investor on June 26, 2018 in the initial principal amount of $5.7 million (as so amended, the "Convertible Note"). The Convertible Note Amendment allows the Company to satisfy its redemption obligations under the Convertible Note in shares of common stock, in addition to in cash, with the shares of common stock valued at a 15% discount to the lowest bid price within the 20 trading days immediately preceding any redemption notice to the Company. The other material terms of the Convertible Note were previously reported in the Form 8-K filed by Old CytoDyn with the Commission on June 27, 2018, which is incorporated by reference into this Item 1.01. The Company relied upon the exemption provide by Section 4(a)(2) of the Securities Act of 1933, as amended, in connection with the foregoing transactions.

The foregoing description of the Convertible Note Amendment and the Convertible Note is qualified in its entirety by reference to the full text of each document, copies of which are filed as Exhibits 4.1 and 10.1, respectively, to this Form 8-K and are incorporated by reference into this Item 1.01.

ProstaGene Transaction Agreements

The information set forth in Item 2.01, with respect to the Stock Restriction Agreement, the Escrow Agreement and the Covenants Agreement, and in Item 5.02, with respect to the Employment Agreement of Dr. Pestell, is incorporated by reference into this Item 1.01.

Item 2.01 Completion of Acquisition or Disposition of Assets.

ProstaGene Transaction Closing

On November 16, 2018, Old CytoDyn, New CytoDyn, ProstaGene, LLC, a Delaware limited liability company ("ProstaGene") and Dr. Pestell consummated the previously reported ProstaGene Transaction, including the Holding Company Reorganization and the ProstaGene Asset Acquisition described below.

The ProstaGene Transaction was consummated pursuant to the Transaction Agreement (the "Transaction Agreement"), dated as of August 27, 2018, among Old CytoDyn, New CytoDyn (then a wholly owned subsidiary of Old CytoDyn), Point Merger Sub Inc., a Delaware corporation and a wholly owned subsidiary of New CytoDyn ("Merger Sub"), ProstaGene, and, solely with respect to certain provisions thereof, Dr. Richard G. Pestell, which provided for the purchase of substantially all of the assets and rights, and the assumption of certain liabilities and obligations, associated with ProstaGene. The transactions contemplated by the Transaction Agreement, including the Holding Company Reorganization and the ProstaGene Asset Acquisition, are collectively referred to in this Form 8-K as the "ProstaGene Transaction." The terms of the Transaction Agreement were previously reported in the in the Form 8-K filed by Old CytoDyn with the Commission on August 28, 2018 (the "Prior Form 8-K"), which is incorporated by reference herein.

In order to achieve certain tax efficiencies for the members of ProstaGene, as an initial step in the ProstaGene Transaction pursuant to the Transaction Agreement, on November 16, 2018, Old CytoDyn effected a holding company reorganization under Section 251(g) of the Delaware General Corporation Law (the "Holding Company Reorganization"). In the Holding Company Reorganization, Merger Sub was merged with and into Old CytoDyn, with Old CytoDyn surviving as a wholly owned subsidiary of New CytoDyn. New CytoDyn changed its name from "Point NewCo Inc." to "CytoDyn Inc." and Old CytoDyn changed its name from "CytoDyn Inc." to "CytoDyn Operations Inc."

As a result of the Holding Company Reorganization, each share of Old CytoDyn common stock, par value $0.001 per share, outstanding immediately prior to consummation of the Holding Company Reorganization was converted automatically into the right to receive one share of New CytoDyn common stock, par value $0.001 per share, and each share of Old CytoDyn Series B Convertible Preferred Stock, par value $0.001 per share, was converted automatically

into the right to receive one share of New CytoDyn Series B Convertible Preferred Stock, par value $0.001 per share. In addition, upon consummation of the Holding Company Reorganization:

- each unexercised and unexpired stock option then outstanding under any equity compensation plan of Old CytoDyn, whether or not then exercisable, ceased to represent a right to acquire Old CytoDyn common stock and was converted automatically into a right to purchase an identical number of shares of New CytoDyn common stock, on the same terms and conditions as applied to such stock option immediately prior to the effective time of the Holding Company Reorganization; and
- each Old CytoDyn warrant that was not exercised prior to the effective time of the Holding Company Reorganization ceased to represent a right to acquire Old CytoDyn common stock and was converted automatically into a right to purchase an identical number of shares of New CytoDyn common stock, on the same terms and conditions as applied to such warrant immediately prior to the effective time of the Holding Company Reorganization.

Pursuant to Section 251(g) of the Delaware General Corporation Law and the provisions of the Transaction Agreement, no exchange of stock certificates or other evidence of ownership of securities is required to effect the Holding Company Reorganization. The shares of capital stock of New CytoDyn shall continue to be represented by the stock certificates and book entry records that previously represented shares of capital stock of Old CytoDyn.

Promptly following the effective time of the Holding Company Reorganization, Old CytoDyn assigned to New CytoDyn all obligations of Old CytoDyn under Old CytoDyn's equity compensation plans and each stock option agreement and any similar agreement entered into pursuant to such equity compensation plans.

Immediately following the effective time of the Holding Company Reorganization, (i) New CytoDyn issued to ProstaGene, for distribution to its members, 27,000,000 newly issued New CytoDyn common shares (the "New Issuance"), (ii) ProstaGene sold to New CytoDyn substantially all of ProstaGene's assets identified in the schedules to the Transaction Agreement, consisting primarily of intellectual property and intellectual property rights, free and clear of all liens, claims, charges, mortgages, pledges, security interests, equities, restrictions or other encumbrances, (iii) ProstaGene assigned to New CytoDyn, and New CytoDyn assumed from ProstaGene, the liabilities and obligations expressly set forth in the schedules to the Transaction Agreement, and (iv) the Company transferred to Old CytoDyn the acquired assets of ProstaGene, and the Company assigned to Old CytoDyn all of the assumed liabilities and obligations of ProstaGene, in exchange for additional stock of Old CytoDyn (with (ii) through (iv) above constituting the "ProstaGene Asset Acquisition").

The ProstaGene Transaction, including the Holding Company Reorganization and the ProstaGene Asset Acquisition, did not require the approval of the Old CytoDyn stockholders. The Company relied upon the exemption provided by Section 4(a)(2) of the Securities Act of 1933, as amended, in connection with the issuance of shares of common stock in the ProstaGene Asset Acquisition.

The foregoing is only a brief description of the Transaction Agreement, the ProstaGene Transaction, the Holding Company Reorganization and the ProstaGene Asset Acquisition and is qualified in its entirety by reference to the Transaction Agreement, a copy of which is filed as Exhibit 2.1 to this Current Report on Form 8-K and incorporated by reference herein.

Escrow Agreement

In connection with the ProstaGene Transaction, on November 16, 2018, New CytoDyn and ProstaGene entered into an Escrow Agreement (the "Escrow Agreement") with the Company's transfer agent, pursuant to which 5,400,000 shares of common stock (the "Stock Holdback Shares") will be held by the Company's transfer agent as the sole source of recovery for the Company against any indemnification claims against ProstaGene or Dr. Pestell. The Escrow Agreement provides for release of the Stock Holdback Shares in three equal installments, on each date that is 6, 12 and 18 months following the closing date of the ProstaGene Transaction, subject to any indemnity claims that may exist.

Stock Restriction Agreement

In connection with the ProstaGene Transaction, on November 16, 2018, New CytoDyn entered into a Stock Restriction Agreement (the "Stock Restriction Agreement") restricting the transfer of 8,342,000 shares of the common stock payable to Dr. Pestell in the ProstaGene Transaction (the "Restricted Shares") for a three-year period from the closing date of the ProstaGene Transaction. In the event Dr. Pestell's employment with the Company is terminated other than by the Company without Cause (as defined in the Employment Agreement (as defined below)) or by Dr. Pestell for Good Reason (as defined in the Employment Agreement), 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 ProstaGene Transaction.

Covenants Agreement

In connection with the ProstaGene Transaction, on November 16, 2018, Dr. Pestell entered into a Confidential Information, Inventions and Noncompetition Agreement (the "Covenants Agreement") with the Company whereby the Company will have the opportunity to participate, if the Company so chooses, in the development of and license to any inventions or licensable intellectual property created by Dr. Pestell in fulfillment of his duties at outside academic institutions while an employee of the Company, as well as a conflict of interest policy under which the Company will manage Dr. Pestell's ongoing research activities at outside academic institutions.

The foregoing descriptions of the Stock Restriction Agreement, the Escrow Agreement and the Covenants Agreement are qualified in their entirety by reference to the full text of each agreement, copies of which are filed as Exhibits 10.1, 10.2, 10.3, and 10.4, respectively, to this Form 8-K and are incorporated by reference into this Item 1.01.

Item 3.02 Unregistered Sales of Equity Securities.

The information set forth under the headings "Private Placement of Securities" and "Convertible Notes Amendment" in Item 1.01, and with respect to the ProstaGene Asset Acquisition in Item 2.01 above, is incorporated by reference into this Item 3.02.

Item 3.03 Material Modification of Rights of Security Holders.

At the effective time of the Holding Company Reorganization, each share of Old CytoDyn common stock automatically converted into the right to receive one share of New CytoDyn common stock, and each share of Old CytoDyn Series B Convertible Preferred Stock automatically converted into the right to receive one share of New CytoDyn Series B Convertible Preferred Stock.

The information set forth in Item 2.01 with respect to the Holding Company Reorganization is incorporated by reference in this Item 3.03.

Item 5.02 Departure of Directors or Certain Officers; Election of Directors; Appointment of Certain Officers; Compensatory Arrangements of Certain Officers.

Director and Officer Appointments

The directors of New CytoDyn are the same as the directors of Old CytoDyn immediately prior to the closing of the Holding Company Reorganization, except that the size of New CytoDyn's board of directors (the "Board") has been increased by one director, and New CytoDyn has appointed Dr. Richard G. Pestell to the Board, pursuant to the ProstaGene Transaction Agreement described in Item 2.01. The officers of New CytoDyn are the same as the officers of Old CytoDyn immediately prior to the closing of the ProstaGene Transaction.

The chart below lists New CytoDyn's directors and named executive officers, effective as of November 16, 2018.

Name	Age	Position
Nader Z. Pourhassan, Ph.D.	55	Director, President and Chief Executive Officer
Richard G. Pestell, M.D., Ph.D.	60	Director, Chief Medical Officer
Michael D. Mulholland	66	Chief Financial Officer
Anthony D. Caracciolo	63	Director
Carl C. Dockery (1)	56	Director
Michael A. Klump	53	Director
Gregory A. Gould (2)	52	Director
Scott A. Kelly, M.D. (3)	49	Director
Jordan Naydenov (4)	58	Director

(1) Mr. Dockery is the Chairman of the Company's Nominating and Governance Committee , and a member of the Company's Audit Committee and Compensation Committee.
(2) Mr. Gould is the Chairman of the Company's Audit Committee, and a member of the Company's Compensation Committee and Nominating and Governance Committee.
(3) Dr. Kelly is the Chairman of the Company's Compensation Committee, and a member of the Company's Audit Committee and the Nominating and Governance Committee.
(4) Mr. Naydenov is a member of the Company's Compensation Committee and the Nominating and Governance Committee.

Biographical information about New CytoDyn directors and named , other than Dr. Pestell, is included in Old CytoDyn's Amendment No. 1 to Form 10-K for the fiscal year ended May 31, 2018 under "Item 10. Directors, Executive Officers and Corporate Governance" and is incorporated by reference herein.

Biographical information about Dr. Pestell is set forth below:

Richard G. Pestell, M.D., Ph.D.—Director and Chief Medical Officer. Dr. Pestell has received significant national and international awards for both clinical care and cancer research. He has directed two National Cancer Institute (NCI)-Designated Cancer Centers, and has served on the advisory board of seven NCI cancer centers and several international research centers. Dr. Pestell will continue to serve as President of the Pennsylvania Cancer and Regenerative Medicine Research Center, part of the Baruch S. Blumberg Institute, a position he has held since January 2017. From 2005 to December 2016, he held several positions at Thomas Jefferson University in Philadelphia, including Director of the Sidney Kimmel Cancer Center, Executive Vice President, Special Advisor to President for Innovation and Professor with tenure. He previously served as Chairman of the Department of Oncology, Director of the Lombardi Comprehensive Cancer Center and tenured Professor at Georgetown University in Washington, D.C. Dr. Pestell received his M.B.B.S. from the University of Western Australia, his M.D. and Ph.D. from the University of Melbourne and completed postdoctoral clinical and research fellowships at the Massachusetts General Hospital and Harvard Medical School. He received his Executive MBA from the Stern School of Business of New York University.

The Board has established the same Board committees for New CytoDyn, with the same committee appointments, as for Old CytoDyn. The Board has determined that Mr. Dockery, Mr. Gould, Dr. Kelly, Mr. Klump and Mr. Naydenov are independent under the definition of independence in Rule 5605(a)(2) of the listing standards of The Nasdaq Stock Market (the "NASDAQ Rules"), in that each is not, and has not been, an executive officer or employee and does not otherwise have a relationship which, in the opinion of the Board, would interfere with his exercise of independent judgment in carrying out the responsibilities of a director. The Board has not yet determined the Board committees to which Dr. Pestell will be appointed.

Pursuant to the Transaction Agreement, New CytoDyn has assumed each of the "CytoDyn Inc. 2012 Equity Incentive Plan" and the "CytoDyn Inc. 2004 Stock Incentive Plan" of Old CytoDyn. Each of the officers and directors of the Company will be entitled to participate in such plans, as applicable, on the same terms and conditions as the officers and directors of Old CytoDyn immediately prior to the closing of the Holding Company Reorganization. The compensation policy for non-employee directors of New CytoDyn will be the same as for Old CytoDyn immediately prior to the closing of the Holding Company Reorganization. The employment agreements of the executive officers of the Company other than Dr. Pestell have not been modified as a result of the Holding Company Reorganization.

Employment Agreement of Dr. Pestell

On November 16, 2018, in connection with the ProstaGene Transaction and the appointment of Dr. Pestell as Chief Medical Officer of the Company, Dr. Pestell entered into an employment agreement (the "Employment Agreement") with the Company. The Employment Agreement provides for a three year term of employment, unless terminated by either party pursuant to the terms of the Employment Agreement. The Employment Agreement also provides for, among other things, (i) an annual base salary of $400,000, (ii) a target annual bonus equal to 50% of Dr. Pestell's base salary, (iii) an annual supplemental bonus in an amount to be determined at the sole discretion of the Company's Board, and (iv) other customary benefits described in the Employment Agreement.

The foregoing description of the Employment Agreement is qualified in its entirety by reference to the full text of such agreement, a copy of which is filed as Exhibit 10.5 to this Form 8-K and is incorporated by reference into this Item 5.02.

Option Grant to Dr. Pestell

On November 16, 2018, in connection with the ProstaGene Transaction and the appointment of Dr. Pestell as Chief Medical Officer of the Company, New CytoDyn granted to Dr. Pestell a non-qualified stock option to purchase up to 350,000 shares of common stock, par value $0.001 per share. The option grant was made pursuant to the Company's 2012 Equity Incentive Plan. The option has a per share exercise price of $0.551 (which was the closing sale price of the Common Stock on the grant date) and a ten-year term and will vest in three equal annual installments commencing on November 16, 2019.

Item 5.03 Amendments to Articles of Incorporation or Bylaws; Change in Fiscal Year.

In connection with the Holding Company Reorganization, immediately prior to the consummation thereof, the board of directors of New CytoDyn adopted an Amended and Restated Certificate of Incorporation (the "Amended and Restated Certificate of Incorporation") and Amended and Restated Bylaws (the "Amended and Restated Bylaws"). Upon consummation of the Holding Company Reorganization, the Amended and Restated Certificate of Incorporation and the Amended and Restated Bylaws of New CytoDyn were the same as the certificate of incorporation and bylaws of Old CytoDyn immediately prior to consummation of the Holding Company Reorganization.

The Amended and Restated Certificate of Incorporation was filed with the Secretary of State of the State of Delaware on November 16, 2018, and is filed as Exhibit 3.1 to this Current Report on Form 8-K and incorporated by reference in this Item 5.03. The Amended and Restated Bylaws of the Company are filed as Exhibit 3.2 to this Current Report on Form 8-K and incorporated by reference in this Item 5.03.

Item 7.01 Regulation FD Disclosure.

On November 19, 2018, the Company issued a press release to announce the consummation of the ProstaGene Transaction, which is furnished as Exhibit 99.1 to this Form 8-K.

Item 8.01 Other Events.

Successor Issuer

In connection with the Holding Company Reorganization and by operation of Rule 12g-3(a) promulgated under the Exchange Act, New CytoDyn is the successor issuer to Old CytoDyn and has succeeded to the attributes of Old CytoDyn as the registrant, including Old CytoDyn's file number and CIK number. The shares of common stock, par value $0.001 per share, of New CytoDyn are deemed to be registered under Section 12(g) of the Exchange Act, and New CytoDyn is subject to the informational requirements of the Exchange Act, and the rules and regulations promulgated thereunder, and will hereafter file reports and other information with the Commission using Old CytoDyn's Commission file number (000-49908). New CytoDyn hereby reports this succession in accordance with Rule 12g-3(f) promulgated under the Exchange Act.

Old CytoDyn intends to file with the Commission a certificate on Form 15 requesting that the Old CytoDyn common shares be deregistered under the Securities Exchange Act of 1934, as amended (the "Exchange Act"), and that Old CytoDyn's reporting obligations under Section 15(d) of the Exchange Act be suspended (except to the extent of the succession of the Company to the Exchange Act Section 12(g) registration and reporting obligations of Old CytoDyn as described under the heading "Successor Issuer" in Item 8.01.

Description of Capital Stock

The Amended and Restated Certificate of Incorporation of New CytoDyn authorizes New CytoDyn to issue up to 600,000,000 shares of common stock, par value $0.001 per share, and up to 5,000,000 shares of preferred stock, par value $0.001 per share, in one or more series, 400,000 of which have been designated as Series B Convertible Preferred Stock, and 4,600,000 of which remain undesignated.

Common Stock

Each share of the 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 the Board 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 the Amended and Restated Certificate of Incorporation, holders of the common stock are not entitled to vote on certain amendments to the Certificate of Incorporation related solely to the preferred stock.

Subject to preferences which may be applicable to any outstanding shares of preferred stock from time to time, holders of the common stock have equal ratable rights to such dividends as may be declared from time to time by the Board out of funds legally available therefor. In the event of any liquidation, dissolution or winding-up of the affairs of New CytoDyn, holders of common stock will be entitled to share ratably in the remaining assets of New CytoDyn after provision for payment of amounts owed to creditors and preferences applicable to any outstanding shares of preferred stock. All outstanding shares of the common stock are fully paid and non-assessable. 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.

Preferred Stock

Pursuant to the Amended and Restated Certificate of Incorporation, the Board 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 the certificate of incorporation to the Secretary of State of the State of Delaware pursuant to 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 common stock.

Series B Preferred Stock

Pursuant to the Amended and Restated Certificate of Incorporation, 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. In the event the New CytoDyn elects 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 New CytoDyn has 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.

Warrants

Each warrant may entitle the holder to purchase for cash, or, in limited circumstances, by effecting a cashless exercise for, the number of shares of common stock at exercise prices set forth in the warrant agreement for the applicable series of warrants. After the expiration date set forth in the applicable warrant agreement, unexercised warrants will be void. Warrants may be exercised in the manner described in the applicable warrant agreement.

Unless the applicable warrant agreement expressly provides otherwise, in no event will we be required to “net cash” settle any warrant exercise.

A holder of a warrant does not have any of the rights of a holder of common stock before the stock is purchased upon exercise of the warrant. Therefore, before a warrant is exercised, the holder of the warrant will not be entitled to receive any dividend payments or exercise any voting or other rights associated with shares of common which may be purchased when the warrant is exercised.

As of November 16, 2018, there were warrants outstanding to purchase up to 138,902,363 shares of common stock, with a weighted average exercise price of $0.77 per share.

Stock Options

As of November 16, 2018, there were options outstanding to purchase up to 14,877,513 shares of common stock, with a weighted average exercise price of $0.77 per share.

Trading

The New CytoDyn common stock is quoted on the OTCQB under the symbol “CYDY,” the same symbol under which the Old CytoDyn common stock was quoted. The CUSIP number for the New CytoDyn common stock remains unchanged from the CUSIP number for the Old CytoDyn common stock.

The transfer agent and registrar for the common stock and preferred stock is Computershare. The transfer agent’s address is 211 Quality Circle, Suite 210, College Station, TX 77845, and its telephone number is 1-800-962-4284.

Section 16 Reporting

Each director and officer (for purposes of Section 16 of the Exchange Act) of the Company is required to file a Form 4 evidencing the disposition of Old CytoDyn common stock, a Form 3 evidencing his or her status as a new director or officer of New CytoDyn and a Form 4 evidencing his or her acquisition of New CytoDyn common stock. No shares were sold into or purchased from the market in connection with the dispositions and acquisitions reflected on these Form 4s. Each such disposition and acquisition in connection with the ProstaGene Transaction, including the Holding Company Reorganization and the ProstaGene Asset Acquisition, was approved by the board of directors of Old CytoDyn and New CytoDyn, as the case may be, pursuant to Rule 16b-3 under the Securities Exchange Act of 1934, as amended.

The foregoing is only a brief description of the Amended and Restated Certificate of Incorporation and the Amended and Restated Bylaws and is qualified in its entirety by reference to the full text of the Amended and Restated Certificate of Incorporation and the Amended and Restated Bylaws, copies of which are filed as Exhibits 3.1 and 3.2, respectively, to this Current Report on Form 8-K and are incorporated by reference into this Item 8.01.

Item 9.01. Financial Statements and Exhibits.

No historical or pro forma financial information is required to be reported with respect to ProstaGene or the ProstaGene Asset Acquisition, pursuant to Regulation S-X under the Securities Exchange Act of 1934, as amended.

(d) *Exhibits*

Exhibit No.	Description
2.1	Transaction Agreement, dated as of August 27, 2018, by and among CytoDyn Inc., Point NewCo Inc., Point Merger Sub Inc., ProstaGene, LLC and Richard G. Pestell, M.D., Ph.D. (incorporated by reference to Exhibit 2.1 to the Form 8-K filed on August 28, 2018)
3.1	Amended and Restated Certificate of Incorporation of CytoDyn Inc.
3.2	Amended and Restated Bylaws of CytoDyn Inc.
4.1	Amended and Restated Convertible Promissory Note.
10.1	Convertible Promissory Note Amendment and Restatement, dated November 15, 2018.
10.2	Escrow Agreement, dated as of November 16, 2018, by and among ProstaGene, LLC, CytoDyn Inc., and Computershare Trust Company, N.A.
10.3	Stock Restriction Agreement, dated as of November 16, 2018, by and among CytoDyn Inc., ProstaGene, LLC and Dr. Richard G. Pestell.
10.4	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.
10.5	Employment Agreement, dated as of November 16, 2018, by and among CytoDyn, Inc., CytoDyn Operations Inc. and Dr. Richard G. Pestell.
99.1	Press Release dated November 19, 2018.

Signature

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

CytoDyn Inc.

Date: November 19, 2018

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

Exhibit 3.1

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 Incorporation 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 Incorporation 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

1. 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 Incorporation 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 DGCL 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.

Exhibit 3.2

AMENDED AND RESTATED BY-LAWS

OF

CYTODYN INC.

(the "Corporation")

ARTICLE I
Stockholders

SECTION 1. Annual Meeting. The annual meeting of stockholders (any such meeting being referred to in these By-laws as an "Annual Meeting") shall be held at the hour, date and place, if any, within or without the United States which is fixed by the Board of Directors, which time, date and place may subsequently be changed at any time by vote of the Board of Directors.

SECTION 2. Notice of Stockholder Business and Nominations.

(a) Annual Meetings of Stockholders.

(1) Nominations of persons for election to the Board of Directors and the proposal of other business to be considered by the stockholders may be brought before an Annual Meeting only (i) pursuant to the Corporation's notice of meeting (or any supplement thereto), (ii) by or at the direction of the Board of Directors or (iii) by any stockholder of the Corporation who was a stockholder of record at the time of giving of notice provided for in this By-law, who is entitled to vote at the meeting, and who complies with the notice procedures set forth in this By-law as to such nomination or business. For the avoidance of doubt, the foregoing clause (iii) shall be the exclusive means for a stockholder to bring nominations or business properly before an Annual Meeting (other than matters properly brought under Rule 14a-8 (or any successor rule) under the Securities Exchange Act of 1934, as amended (with the rules and regulations promulgated thereunder, the "Exchange Act")), and such stockholder must comply with the notice and other procedures set forth in Article I, Section 2 of this By-law to bring such nominations or business properly before an Annual Meeting. In addition to the other requirements set forth in this By-law, for any proposal of business (other than the nomination of persons for election to the Board of Directors) to be considered at an Annual Meeting, it must be a proper subject for action by stockholders of the Corporation under Delaware law.

(2) For nominations or other business to be properly brought before an Annual Meeting by a stockholder pursuant to clause (iii) of Article I, Section 2(a)(1) of this By-law, the stockholder must (i) have given Timely Notice (as defined below) thereof in writing to the Secretary of the Corporation, (ii) have provided any updates or supplements to such notice at the times and in the forms required by this By-law and (iii) together with the beneficial owner(s), if any, on whose behalf the nomination or business proposal is made, have acted in accordance with the representations set forth in the Solicitation Statement (as defined below) required by this By-law. To be timely, a stockholder's written notice shall be received by the Secretary at the principal executive offices of the Corporation not later than the close of business on the ninetieth (90th) day nor earlier than the close of business on the one hundred twentieth (120th) day prior to the one-year anniversary of the preceding year's Annual Meeting; provided, however, that in the event the Annual Meeting is first convened more than thirty (30) days before or more than sixty (60) days after such anniversary date, or if no Annual Meeting were held in the preceding year, notice by the stockholder to be timely must be received by the Secretary of the Corporation not later than the close of business on the later of the ninetieth (90th) day prior to the scheduled date of such Annual Meeting or the tenth (10th) day following the day on which public announcement of the date of such meeting is first made (such notice within such time periods shall be referred to as "Timely Notice"). Notwithstanding anything to the contrary provided herein, for the first Annual Meeting following the initial public offering of common stock of the Corporation, a stockholder's notice shall be timely if received by the Secretary at the principal executive offices of the Corporation not later than the close of business on the later of the ninetieth (90th) day prior to the scheduled date of such Annual Meeting or the tenth (10th) day following the day on which public announcement of the date of such Annual Meeting is first made or sent by the Corporation. In no event shall the public announcement of an adjournment or postponement of an annual meeting commence a new time period (or extend any time period) for the giving of a stockholder's notice as described above. Such stockholder's Timely Notice shall set forth:

(A) as to each person whom the stockholder proposes to nominate for election or reelection as a director, all information relating to such person that is required to be disclosed in solicitations of proxies for election of directors in an election contest, or is otherwise required, in each case pursuant to Regulation 14A under the Exchange Act (including such person's written consent to being named in the proxy statement as a nominee and to serving as a director if elected) provided, further, that the Corporation may require any proposed nominee to furnish such other information as the Corporation may reasonably require to determine the eligibility of such proposed nominee to serve as a director of the Corporation;

(B) as to any other business that the stockholder proposes to bring before the meeting, a brief description of the business desired to be brought before the meeting, the text of the proposal or business (including the text of any resolutions proposed for consideration and in the event that such business includes a proposal to amend the By-laws, the language of the proposed amendment), the reasons for conducting such business at the meeting, and any material interest in such business of each Proposing Person (as defined below);

(C) (i) the name and address of the stockholder giving the notice, as they appear on the Corporation's books, and the names and addresses of the other Proposing Persons (if any) and (ii) as to each Proposing Person, the following

information: (a) the class or series and number of all shares of capital stock of the Corporation which are, directly or indirectly, owned beneficially or of record by such Proposing Person or any of its affiliates or associates (as such terms are defined in Rule 12b-2 promulgated under the Exchange Act), including any shares of any class or series of capital stock of the Corporation as to which such Proposing Person or any of its affiliates or associates has a right to acquire beneficial ownership at any time in the future, (b) all Synthetic Equity Interests (as defined below) in which such Proposing Person or any of its affiliates or associates, directly or indirectly, holds an interest including a description of the material terms of each such Synthetic Equity Interest, including without limitation, identification of the counterparty to each such Synthetic Equity Interest and disclosure, for each such Synthetic Equity Interest, as to (x) whether or not such Synthetic Equity Interest conveys any voting rights, directly or indirectly, in such shares to such Proposing Person, (y) whether or not such Synthetic Equity Interest is required to be, or is capable of being, settled through delivery of such shares and (z) whether or not such Proposing Person and/or, to the extent known, the counterparty to such Synthetic Equity Interest has entered into other transactions that hedge or mitigate the economic effect of such Synthetic Equity Interest, (c) any proxy (other than a revocable proxy given in response to a public proxy solicitation made pursuant to, and in accordance with, the Exchange Act), agreement, arrangement, understanding or relationship pursuant to which such Proposing Person has or shares a right to, directly or indirectly, vote any shares of any class or series of capital stock of the Corporation, (d) any rights to dividends or other distributions on the shares of any class or series of capital stock of the Corporation, directly or indirectly, owned beneficially by such Proposing Person that are separated or separable from the underlying shares of the Corporation, and (e) any performance-related fees (other than an asset based fee) that such Proposing Person, directly or indirectly, is entitled to based on any increase or decrease in the value of shares of any class or series of capital stock of the Corporation or any Synthetic Equity Interests (the disclosures to be made pursuant to the foregoing clauses (a) through (e) are referred to, collectively, as "Material Ownership Interests"), (iii) a description of the material terms of all agreements, arrangements or understandings (whether or not in writing) entered into by any Proposing Person or any of its affiliates or associates with any other person for the purpose of acquiring, holding, disposing or voting of any shares of any class or series of capital stock of the Corporation and (iv) any other information relating to such stockholder and beneficial owner, if any, required to be disclosed in a proxy statement or other filings required to be made in connection with the solicitation of proxies for, as applicable, the proposal and/or for the election of directors in an election contest pursuant to and in accordance with Section 14(a) of the Exchange Act and the rules and regulations promulgated thereunder;

(D) (i) a description of all agreements, arrangements or understandings by and among any of the Proposing Persons, or by and among any Proposing Persons and any other person (including with any proposed nominee(s), including any agreements, arrangements or understandings relating to any compensation or payments to be paid to any such proposed nominee(s)), pertaining to the nomination(s) or other business proposed to be brought before the meeting of stockholders (which description shall identify the name of each other person who is party to such an agreement, arrangement or understanding), and (ii) identification of the names and addresses of other stockholders (including beneficial owners) known by any of the Proposing Persons to support such nominations or other business proposal(s), and to the extent known the class and number of all shares of the Corporation's capital stock owned beneficially or of record by such other stockholder(s) or other beneficial owner(s); and

(E) a statement whether or not the stockholder giving the notice and/or the other Proposing Person(s), if any, will (i) deliver a proxy statement and form of proxy to holders of, in the case of a business proposal, at least the percentage of voting power of all of the shares of capital stock of the Corporation required under applicable law to approve the proposal or, in the case of a nomination or nominations, at least the percentage of voting power of all of the shares of capital stock of the Corporation reasonably believed by such Proposing Person to be sufficient to elect the nominee or nominees proposed to be nominated by such stockholder and/or (ii) otherwise solicit proxies or votes from stockholders in support of such proposal or nomination (such statement, the "Solicitation Statement").

For purposes of this Article I of these By-laws, the term "Proposing Person" shall mean the following persons: (i) the stockholder of record providing the notice of nominations or business proposed to be brought before a stockholders' meeting, and (ii) the beneficial owner(s), if different, on whose behalf the nominations or business proposed to be brought before a stockholders' meeting is made. For purposes of this Section 2 of Article I of these By-laws, the term "Synthetic Equity Interest" shall mean any transaction, agreement or arrangement (or series of transactions, agreements or arrangements), including, without limitation, any derivative, swap, hedge, repurchase or so-called "stock borrowing" agreement or arrangement, the purpose or effect of which is to, directly or indirectly: (a) give a person or entity economic benefit and/or risk similar to ownership of shares of any class or series of capital stock of the Corporation, in whole or in part, including due to the fact that such transaction, agreement or arrangement provides, directly or indirectly, the opportunity to profit or avoid a loss from any increase or decrease in the value of any shares of any class or series of capital stock of the Corporation, (b) mitigate loss to, reduce the economic risk of or manage the risk of share price changes for, any person or entity with respect to any shares of any class or series of capital stock of the Corporation, (c) otherwise provide in any manner the opportunity to profit or avoid a loss from any decrease in the value of any shares of any class or series of capital stock of the Corporation, or (d) increase or decrease the voting power of any person or entity with respect to any shares of any class or series of capital stock of the Corporation.

(3) A stockholder providing Timely Notice of nominations or business proposed to be brought before an Annual Meeting shall further update and supplement such notice, if necessary, so that the information (including, without limitation, the Material Ownership Interests information) provided or required to be provided in such notice pursuant to this By-law shall be true and correct as of the record date for the meeting and as of the date that is ten (10) business days prior to such Annual Meeting, and such update and supplement shall be received by the Secretary at the principal executive offices of the Corporation not later than the close of business on the fifth (5th) business day after the record date for the Annual Meeting (in the case of the update and supplement required to be made as of the record date), and not later than the close of business on the eighth (8th) business day prior to the date of the Annual Meeting (in the case of the update and supplement required to be made as of ten (10) business days prior to the meeting).

(4) Notwithstanding anything in the second sentence of Article I, Section 2(a)(2) of this By-law to the contrary, in the event that the number of directors to be elected to the Board of Directors of the Corporation is increased and there is no public announcement naming all of the nominees for director or specifying the size of the increased Board of Directors made by the Corporation at least ten (10) days before the last day a stockholder may deliver a notice of nomination in accordance with the second sentence of Article I, Section 2(a)(2), a stockholder's notice required by this By-law shall also be considered timely, but only with respect to nominees for any new positions created by such increase, if it shall be received by the Secretary of the Corporation not later than the close of business on the tenth (10th) day following the day on which such public announcement is first made by the Corporation.

(5) Only such business shall be conducted at a special meeting of stockholders as shall have been brought before the meeting pursuant to the Corporation's notice of meeting. Nominations for persons for election to the Board of Directors may be made at a special meeting of stockholders at which directors are to be elected pursuant to the Corporation's notice of meeting (i) by or at the direction of the Board of Directors or any committee thereof or (ii) provided that the Board of Directors has determined that directors shall be elected at such meeting, by any stockholder of the Corporation who is a stockholder of record at the time the notice provided for in this Section 2 is delivered to the Secretary of the Corporation, who is entitled to vote at the meeting and upon such election and who complies with the notice procedures set forth in this Section 2. In the event the Corporation calls a special meeting of stockholders for the purpose of electing one or more directors to the Board of Directors, any such stockholder entitled to vote in such election of directors may nominate a person or persons (as the case may be) for election to such position(s) as specified in the Corporation's notice of meeting, if the stockholder's notice required by paragraph (a)(2) of this Section 2 shall be delivered to the Secretary at the principal executive offices of the Corporation not earlier than the close of business on the one hundred twentieth (120th) day prior to such special meeting and not later than the close of business on the later of the ninetieth (90th) day prior to such special meeting or the tenth (10th) day following the day on which public announcement is first made of the date of the special meeting and of the nominees proposed by the Board of Directors to be elected at such meeting. In no event shall the public announcement of an adjournment or postponement of a special meeting commence a new time period (or extend any time period) for the giving of a stockholder's notice as described above.

(b) General.

(1) Except as otherwise expressly provided in any applicable rule or regulation promulgated under the Exchange Act, only such persons who are nominated in accordance with the provisions of this By-law shall be eligible for election and to serve as directors and only such business shall be conducted at a meeting as shall have been brought before the meeting in accordance with the provisions of this By-law. The Board of Directors or a designated committee thereof shall have the power to determine whether a nomination or any business proposed to be brought before the meeting was made in accordance with the provisions of this By-law. If prior to the meeting neither the Board of Directors nor such designated committee makes a determination as to whether any stockholder proposal or nomination was made in accordance with the provisions of this By-law, the presiding officer of the meeting shall have the power and duty to determine whether the stockholder proposal or nomination was made in accordance with the provisions of this By-law. If the Board of Directors or a designated committee thereof or the presiding officer, as applicable, determines that any stockholder proposal or nomination was not made in accordance with the provisions of this By-law, such proposal or nomination shall be disregarded and shall not be presented for action at the meeting.

(2) Except as otherwise required by any applicable law or rule or regulation promulgated under the Exchange Act, nothing in this Article I, Section 2 shall obligate the Corporation or the Board of Directors to include in any proxy statement or other stockholder communication distributed on behalf of the Corporation or the Board of Directors information with respect to any nominee for director or any other matter of business submitted by a stockholder.

(3) Notwithstanding the foregoing provisions of this Article I, Section 2, if the proposing stockholder (or a qualified representative of the stockholder) does not appear at the meeting to present a nomination or any business, such nomination or business shall be disregarded, notwithstanding that proxies in respect of such vote may have been received by the Corporation. For purposes of this Article I, Section 2, to be considered a qualified representative of the proposing stockholder, a person must be authorized by a written instrument executed by such stockholder or an electronic transmission delivered by such stockholder to act for such stockholder as proxy at the meeting of stockholders and such person must produce such written instrument or electronic transmission, or a reliable reproduction of the written instrument or electronic transmission, to the presiding officer at the meeting of stockholders.

(4) For purposes of this By-law, "public announcement" shall mean disclosure in a press release reported by the Dow Jones News Service, Associated Press or comparable national news service or in a document publicly filed by the Corporation with the Securities and Exchange Commission pursuant to Section 13, 14 or 15(d) of the Exchange Act.

(5) Notwithstanding the foregoing provisions of this By-law, a stockholder shall also comply with all applicable requirements of the Exchange Act and the rules and regulations thereunder with respect to the matters set forth in this By-law. Nothing in this By-law shall be deemed to affect any rights of (i) stockholders to have proposals included in the Corporation's proxy statement pursuant to Rule 14a-8 (or any successor rule) under the Exchange Act and, to the extent required by such rule, have such proposals considered and voted on at an Annual Meeting or (ii) the holders of any series of Preferred Stock as specified in the Certificate of Incorporation of the Corporation (as the same may hereafter be amended and/or restated, the "Certificate") (including any certificate of designation relating to any series of Preferred Stock).

(6) In addition to the requirements set forth elsewhere in these By-laws, to be eligible to be a nominee for election or re-election as a director of the Corporation pursuant to a nomination under clause (iii) of Article I, Section 2(a)(1) and under clause (ii) of Article I, Section 2(a)(5) of this By-law, such proposed nominee or a person on such proposed nominee's behalf must deliver, in accordance with the time periods for delivery of Timely Notice under Section 2(a)(2) of Article 1 and under clause (ii) of Article I, Section 2(a)(5) of this By-law, to the Secretary of the Corporation at the principal executive offices of the Corporation a completed and signed questionnaire with respect to the background and qualification of such proposed nominee and the background of any other person or entity on whose behalf the nomination is being made (which questionnaire shall be provided by the Secretary upon written request) and a written representation and agreement (in the form provided by the Secretary upon written request) that such proposed nominee (i) is not and will not become a party to (A) any agreement, arrangement or understanding with, and has not given any commitment or assurance to, any person or entity as to how such proposed nominee, if elected as a director of the Corporation, will act or vote on any issue or question (a "Voting Commitment") that has not been disclosed to the Corporation or (B) any Voting Commitment that could limit or interfere with such proposed nominee's fiduciary duties under applicable law, (ii) is not and will not become a party to any agreement, arrangement or understanding with any person or entity other than the Corporation with respect to any direct or indirect compensation, reimbursement or indemnification in connection with service or action as a director that has not been disclosed to the Corporation, and (iii) in such proposed nominee's individual capacity and on behalf of any person or entity on whose behalf the nomination is being made, would be in compliance, if elected as a director of the Corporation, and will comply with, all applicable publicly disclosed corporate governance, code of conduct and ethics, conflict of interest, confidentiality, corporate opportunities, trading and any other policies and guidelines of the Corporation applicable to directors.

SECTION 3. 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 Corporation 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 these By-laws, the term "Whole Board" shall mean the total number of authorized Directors whether or not there exist any vacancies in previously authorized directorships. The Board of Directors may postpone or reschedule any previously scheduled special meeting of stockholders. 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 Corporation.

SECTION 4. Notice of Meetings; Adjournments.

(a) A notice of each Annual Meeting stating the hour, date and place, if any, of such Annual Meeting, the means of remote communication, if any, by which stockholders and proxy holders may be deemed to be present in person and vote at such meeting, and the record date for determining the stockholders entitled to vote at the meeting (if such date is different from the record date for stockholders entitled to notice of the meeting) shall be given not less than ten (10) days nor more than sixty (60) days before the Annual Meeting, to each stockholder entitled to vote thereat as of the record date for determining the stockholders entitled to notice of the meeting by delivering such notice to such stockholder or by mailing it, postage prepaid, addressed to such stockholder at the address of such stockholder as it appears on the Corporation's stock transfer books. Without limiting the manner by which notice may otherwise be given to stockholders, any notice to stockholders may be given by electronic transmission in the manner provided in Section 232 of the General Corporation Law of the State of Delaware ("DGCL").

(b) Notice of all special meetings of stockholders shall be given in the same manner as provided for Annual Meetings, except that the notice of all special meetings shall state the purpose or purposes for which the meeting has been called.

(c) Notice of an Annual Meeting or special meeting of stockholders need not be given to a stockholder if a waiver of notice is executed, or waiver of notice by electronic transmission is provided, before or after such meeting by such stockholder or if such stockholder attends such meeting, unless such attendance is for the express purpose of objecting at the beginning of the meeting to the transaction of any business because the meeting was not lawfully called or convened.

(d) The Board of Directors may postpone and reschedule any previously scheduled Annual Meeting or special meeting of stockholders , regardless of whether any notice or public disclosure with respect to any such meeting has been sent or made pursuant to Section 2 of this Article I of these By-laws or otherwise.

(e) When any meeting is convened, the presiding officer may adjourn the meeting. When any Annual Meeting or special meeting of stockholders is adjourned to another hour, date or place, notice need not be given of the adjourned meeting other than an announcement at the meeting at which the adjournment is taken of the hour, date and place, if any, to which the meeting is adjourned and the means of remote communications, if any, by which stockholders and proxy holders may be deemed to be present in person and vote at such adjourned meeting; provided, however, that if the adjournment is for more than thirty (30) days, a notice of the adjourned meeting shall be given to each stockholder of record entitled to vote at the meeting, or, if after the adjournment a new record date is fixed for the adjourned meeting, the Board of Directors shall fix as the record date for determining stockholders entitled to notice of such adjourned meeting the same or an earlier date as that fixed for determination of stockholders entitled to vote at the adjourned meeting, and shall give notice of the adjourned meeting to each stockholder of record as of the record date so fixed for notice of such adjourned meeting.

SECTION 5. Quorum. A majority in voting power of the shares entitled to vote at the meeting, present in person or represented by proxy, shall constitute a quorum at any meeting of stockholders. If less than a quorum is present at a meeting, the holders of voting stock representing a majority of the voting power present at the meeting or the presiding officer may adjourn the meeting from time to time, and the meeting may be held as adjourned without

further notice, except as provided in Section 4 of this Article I. At such adjourned meeting at which a quorum is present, any business may be transacted which might have been transacted at the meeting as originally noticed. The stockholders present at a duly constituted meeting may continue to transact business until adjournment, notwithstanding the withdrawal of enough stockholders to leave less than a quorum.

SECTION 6. Voting and Proxies. Stockholders shall have one vote for each share of stock entitled to vote owned by them of record according to the stock ledger of the Corporation as of the record date, unless otherwise provided by law or by the Certificate. Stockholders may vote either (i) in person, (ii) by written proxy or (iii) by a transmission permitted by Section 212(c) of the DGCL. Any copy, facsimile telecommunication or other reliable reproduction of the writing or transmission permitted by Section 212(c) of the DGCL may be substituted for or used in lieu of the original writing or transmission for any and all purposes for which the original writing or transmission could be used, provided that such copy, facsimile telecommunication or other reproduction shall be a complete reproduction of the entire original writing or transmission. Proxies shall be filed in accordance with the procedures established for the meeting of stockholders. Except as otherwise limited therein or as otherwise provided by law, proxies authorizing a person to vote at a specific meeting shall entitle the persons authorized thereby to vote at any adjournment or postponement of such meeting, but they shall not be valid after final adjournment of such meeting.

SECTION 7. Action at Meeting. When a quorum is present at any meeting of stockholders, any matter before any such meeting (other than an election of a director or directors) shall be decided by a majority of the votes properly cast on such matter, except where a different vote is required by law, by the Certificate, by these By-laws, by the rules or regulations of any stock exchange applicable to the Corporation, or pursuant to any regulation applicable to the Corporation or its securities, in which case, such different vote shall apply. For purposes of this Section 7, a majority of votes cast shall mean that the number of votes cast “for” a matter exceeds the number of votes cast “against” the matter (with “abstentions” and “broker nonvotes” not counted as a vote cast either “for” or “against” the matter). Any election of directors by stockholders shall be determined by a plurality of the votes properly cast on the election of directors.

SECTION 8. Stockholder Lists. The officer who has charge of the stock ledger shall prepare and make, at least ten (10) days before every Annual Meeting or special meeting of stockholders, a complete list of the stockholders entitled to vote at the meeting (provided, however, if the record date for determining the stockholders entitled to vote is less than ten (10) days before the date of the meeting, the list shall reflect the stockholders entitled to vote as of the tenth day before the meeting date), arranged in alphabetical order, and showing the address of each stockholder and the number of shares registered in the name of each stockholder. Such list shall be open to the examination of any stockholder, for any purpose germane to the meeting at least ten (10) days prior to the meeting (i) on a reasonably accessible electronic network, provided that the information required to gain access to such list is provided with the notice of meeting or (ii) during ordinary business hours at the principal place of business of the Corporation. If the meeting is to be held at a place, then a list of stockholders entitled to vote at the meeting shall be produced and kept at the time and place of the meeting during the whole time thereof and may be examined by any stockholder who is present. If the meeting is to be held solely by means of remote communication, then the list shall also be open to the examination of any stockholder during the whole time of the meeting on a reasonably accessible electronic network, and the information required to access such list shall be provided with the notice of the meeting. Except as otherwise provided by law, the stock ledger shall be the only evidence as to who are the stockholders entitled to examine the list of stockholders required by this Section 8 or to vote in person or by proxy at any meeting of stockholders.

SECTION 9. Conduct of Meeting. The date and time of the opening and the closing of the polls for each matter upon which the stockholders will vote at a meeting shall be announced at the meeting by the person presiding over the meeting. The Board of Directors may adopt by resolution such rules and regulations for the conduct of the meeting of stockholders as it shall deem appropriate. Except to the extent inconsistent with such rules and regulations as adopted by the Board of Directors, the person presiding over any meeting of stockholders (referred to herein as the “presiding officer”) shall have the right and authority to convene and (for any or no reason) to recess and/or adjourn the meeting, to prescribe such rules, regulations and procedures and to do all such acts as, in the judgment of the presiding officer, are appropriate for the proper conduct of the meeting. Such rules, regulations or procedures, whether adopted by the Board of Directors or prescribed by the presiding officer, may include, without limitation, the following: (i) the establishment of an agenda or order of business for the meeting; (ii) rules and procedures for maintaining order at the meeting and the safety of those present; (iii) limitations on attendance at or participation in the meeting to stockholders entitled to vote at the meeting, their duly authorized and constituted proxies or such other persons as the presiding officer shall determine; (iv) restrictions on entry to the meeting after the time fixed for the commencement thereof; and (v) limitations on the time allotted to questions or comments by participants. The presiding officer at any meeting of stockholders, in addition to making any other determinations that may be appropriate to the conduct of the meeting, shall, if the facts warrant, determine and declare to the meeting that a matter or business was not properly brought before the meeting and if the presiding officer should so determine, the presiding officer shall so declare to the meeting and any such matter or business not properly brought before the meeting shall not be transacted or considered. Unless and to the extent determined by the Board of Directors or the presiding officer, meetings of stockholders shall not be required to be held in accordance with the rules of parliamentary procedure.

SECTION 10. Inspectors of Elections. The Corporation shall, in advance of any meeting of stockholders, appoint one or more inspectors to act at the meeting and make a written report thereof. The Corporation may designate one or more persons as alternate inspectors to replace any inspector who fails to act. If no inspector or alternate is able to act at a meeting of stockholders, the presiding officer shall appoint one or more inspectors to act at the meeting. Any inspector may, but need not, be an officer, employee or agent of the Corporation. Each inspector, before entering upon the discharge of his or her duties, shall take and sign an oath faithfully to execute the duties of inspector with strict impartiality and according to the best of his or her ability. The inspectors shall perform such duties as are

required by the DGCL, including the counting of all votes and ballots. The inspectors may appoint or retain other persons or entities to assist the inspectors in the performance of the duties of the inspectors. The presiding officer may review all determinations made by the inspectors, and in so doing the presiding officer shall be entitled to exercise his or her sole judgment and discretion and he or she shall not be bound by any determinations made by the inspectors. All determinations by the inspectors and, if applicable, the presiding officer, shall be subject to further review by any court of competent jurisdiction.

SECTION 11. Action Without Meeting. Except as otherwise provided in the Certificate, any action required or permitted to be taken by the stockholders of the Corporation must be effected only at a duly called Annual Meeting or special meeting of stockholders of the Corporation and may not be effected by written consent.

ARTICLE II
Directors

SECTION 1. Powers. The business and affairs of the Corporation shall be managed by or under the direction of the Board of Directors except as otherwise provided by the Certificate or required by law.

SECTION 2. Number and Terms. The number of directors of the Corporation shall be fixed solely and exclusively by resolution duly adopted from time to time by the Board of Directors. The directors shall hold office in the manner provided in the Certificate.

SECTION 3. Qualification. No director need be a stockholder of the Corporation.

SECTION 4. Vacancies. Vacancies in the Board of Directors shall be filled in the manner provided in the Certificate.

SECTION 5. Removal. Directors may be removed from office only in the manner provided in the Certificate.

SECTION 6. Resignation. A director may resign at any time by giving written notice, or notice by electronic transmission, to the Chairman of the Board, if one is elected, the President or the Secretary. A resignation shall be effective upon receipt, unless the resignation otherwise provides.

SECTION 7. Regular Meetings. The regular annual meeting of the Board of Directors shall be held, without notice other than this Section 7, on the same date and at the same place as the Annual Meeting following the close of such meeting of stockholders. Other regular meetings of the Board of Directors may be held at such hour, date and place as the Board of Directors may by resolution from time to time determine and publicized among all directors.

SECTION 8. Special Meetings. Special meetings of the Board of Directors may be called, orally or in writing or by electronic transmission, by or at the request of a majority of the directors, the Chairman of the Board, if one is elected, or the President. The person calling any such special meeting of the Board of Directors may fix the hour, date and place thereof.

SECTION 9. Notice of Meetings. Notice of the hour, date and place of all special meetings of the Board of Directors shall be given to each director by the Secretary or an Assistant Secretary, or by the Chairman of the Board, if one is elected, or the President or such other officer designated by the Chairman of the Board, if one is elected, or the President. Notice of any special meeting of the Board of Directors shall be given to each director in person, by telephone, or by facsimile, electronic mail or other form of electronic communication, sent to his or her business or home address, at least twenty-four (24) hours in advance of the meeting, or by written notice mailed to his or her business or home address, at least three (3) business days in advance of the meeting. Such notice shall be deemed to be delivered when hand-delivered to such address, read to such director by telephone, deposited in the mail so addressed, with postage thereon prepaid if mailed, dispatched or transmitted if sent by facsimile transmission or by electronic mail or other form of electronic communications. A written waiver of notice signed, or an electronic waiver given, before or after a meeting by a director and filed with the records of the meeting shall be deemed to be equivalent to notice of the meeting. The attendance of a director at a meeting shall constitute a waiver of notice of such meeting, except where a director attends a meeting for the express purpose of objecting at the beginning of the meeting to the transaction of any business because such meeting is not lawfully called or convened. Except as otherwise required by law, by the Certificate or by these By-laws, neither the business to be transacted at, nor the purpose of, any meeting of the Board of Directors need be specified in the notice or waiver of notice of such meeting.

SECTION 10. Quorum. At any meeting of the Board of Directors, a majority of the Whole Board shall constitute a quorum for the transaction of business, but if less than a quorum is present at a meeting, a majority of the directors present may adjourn the meeting from time to time, and the meeting may be held as adjourned without further notice. Any business which might have been transacted at the meeting as originally noticed may be transacted at such adjourned meeting at which a quorum is present.

SECTION 11. Action at Meeting. At any meeting of the Board of Directors at which a quorum is present, the vote of a majority of the directors present shall constitute action by the Board of Directors, unless otherwise required by law, by the Certificate or by these By-laws.

SECTION 12. Action by Consent. Any action required or permitted to be taken at any meeting of the Board of Directors may be taken without a meeting if all members of the Board of Directors consent thereto in writing or by electronic transmission and the writing or writings or electronic transmission or transmissions are filed with the

records of the meetings of the Board of Directors. Such filing shall be in paper form if the minutes are maintained in paper form and shall be in electronic form if the minutes are maintained in electronic form. Such consent shall be treated as a resolution of the Board of Directors for all purposes.

SECTION 13. Manner of Participation. Directors may participate in meetings of the Board of Directors by means of conference telephone or other communications equipment by means of which all directors participating in the meeting can hear each other, and participation in a meeting in accordance herewith shall constitute presence in person at such meeting for purposes of these By-laws.

SECTION 14. Presiding Director. The Board of Directors shall designate a representative to preside over all meetings of the Board of Directors, provided that if the Board of Directors does not so designate such a presiding director or such designated presiding director is unable to so preside or is absent, then the Chairman of the Board, if one is elected, shall preside over all meetings of the Board of Directors. If both the designated presiding director, if one is so designated, and the Chairman of the Board, if one is elected, are unable to preside or are absent, the Board of Directors shall designate an alternate representative to preside over a meeting of the Board of Directors.

SECTION 15. Committees. The Board of Directors may designate one or more committees, including, without limitation, a Compensation Committee, a Nominating & Corporate Governance Committee and an Audit Committee, and may delegate thereto some or all of its powers except those which by law, by the Certificate or by these By-laws may not be delegated. Except as the Board of Directors may otherwise determine, any such committee may make rules for the conduct of its business, but unless otherwise provided by the Board of Directors or in such rules, its business shall be conducted so far as possible in the same manner as is provided by these By-laws for the Board of Directors. All members of such committees shall hold such offices at the pleasure of the Board of Directors. The Board of Directors may abolish any such committee at any time. Any committee to which the Board of Directors delegates any of its powers or duties shall keep records of its meetings and shall report its action to the Board of Directors. The Board of Directors may designate one or more directors as alternate members of any committee, who may replace any absent or disqualified member at any meeting of the committee. In the absence or disqualification of a member of the committee, the member or members thereof present at any meeting and not disqualified from voting, whether or not he, she or they constitute a quorum, may unanimously appoint another member of the Board of Directors to act at the meeting in place of any such absent or disqualified member.

SECTION 16. Compensation of Directors. Directors shall receive such compensation for their services as shall be determined by the Board of Directors, or a designated committee thereof, provided that directors who are serving the Corporation as employees and who receive compensation for their services as such, shall not receive any salary or other compensation for their services as directors of the Corporation.

ARTICLE III
Officers

SECTION 1. Enumeration. The officers of the Corporation shall consist of a President, a Chief Executive Officer, a Secretary, a Treasurer and such other officers, including, without limitation, a Chairman of the Board of Directors, a Chief Financial Officer, and one or more Vice Presidents (including Executive Vice Presidents or Senior Vice Presidents), Assistant Vice Presidents and Assistant Secretaries, as the Board of Directors may determine.

SECTION 2. Election. At the regular annual meeting of the Board of Directors following the Annual Meeting, the Board of Directors shall elect the President, the Chief Executive Officer, the Secretary and the Treasurer. Other officers may be elected by the Board of Directors at such regular annual meeting of the Board of Directors or at any other regular or special meeting.

SECTION 3. Qualification. No officer need be a stockholder or a director. Any person may occupy more than one office of the Corporation at any time.

SECTION 4. Tenure. Except as otherwise provided by the Certificate or by these By-laws, each of the officers of the Corporation shall hold office until the regular annual meeting of the Board of Directors following the next Annual Meeting and until his or her successor is elected and qualified or until his or her earlier resignation or removal.

SECTION 5. Resignation. Any officer may resign by delivering his or her written resignation to the Corporation addressed to the President or the Secretary, and such resignation shall be effective upon receipt, unless the resignation otherwise provides.

SECTION 6. Removal. Except as otherwise provided by law, the Board of Directors may remove any officer with or without cause by the affirmative vote of a majority of the directors then in office.

SECTION 7. Absence or Disability. In the event of the absence or disability of any officer, the Board of Directors may designate another officer to act temporarily in place of such absent or disabled officer.

SECTION 8. Vacancies. Any vacancy in any office may be filled for the unexpired portion of the term by the Board of Directors.

SECTION 9. Chairman of the Board. The Chairman of the Board, if one is elected, shall have such powers and shall perform such duties as the Board of Directors may from time to time designate.

SECTION 10. Chief Executive Officer. The Chief Executive Officer shall have such powers and shall perform such duties as the Board of Directors may from time to time designate.

SECTION 11. President. The President shall, subject to the direction of the Board of Directors, have such powers and shall perform such duties as the Board of Directors may from time to time designate.

SECTION 12. Vice Presidents and Assistant Vice Presidents. Any Vice President (including any Executive Vice President or Senior Vice President) and any Assistant Vice President shall have such powers and shall perform such duties as the Board of Directors or the Chief Executive Officer may from time to time designate.

SECTION 13. Chief Financial Officer. The Chief Financial Officer, if one is elected, shall, subject to the direction of the Board of Directors and except as the Board of Directors or the Chief Executive Officer may otherwise provide, have general charge of the financial affairs of the Corporation and shall cause to be kept accurate books of account. He or she shall have such other duties and powers as may be designated from time to time by the Board of Directors or the Chief Executive Officer.

SECTION 14. Secretary and Assistant Secretaries. The Secretary shall record all the proceedings of the meetings of the stockholders and the Board of Directors (including committees of the Board of Directors) in books kept for that purpose. In his or her absence from any such meeting, a temporary secretary chosen at the meeting shall record the proceedings thereof. The Secretary shall have charge of the stock ledger (which may, however, be kept by any transfer or other agent of the Corporation). The Secretary shall have custody of the seal of the Corporation, and the Secretary, or an Assistant Secretary, shall have authority to affix it to any instrument requiring it, and, when so affixed, the seal may be attested by his or her signature or that of an Assistant Secretary. The Secretary shall have such other duties and powers as may be designated from time to time by the Board of Directors or the Chief Executive Officer. In the absence of the Secretary, any Assistant Secretary may perform his or her duties and responsibilities. Any Assistant Secretary shall have such powers and perform such duties as the Board of Directors or the Chief Executive Officer may from time to time designate.

SECTION 15. Treasurer and Assistant Treasurers. The Treasurer shall have custody of all moneys and securities of the Corporation as are authorized and shall render from time to time an account of all such transactions. The Treasurer shall also perform such other duties and have such other powers as are commonly incident to the officer of Treasurer, or as may be designated from time to time by the Board of Directors or the Chief Executive Officer. In the absence of the Treasurer, any Assistant Treasurer may perform his or her duties and responsibilities. Any Assistant Treasurer shall have such powers and perform such duties as the Board of Directors or the Chief Executive Officer may from time to time designate.

SECTION 16. Other Powers and Duties. Subject to these By-laws and to such limitations as the Board of Directors may from time to time prescribe, the officers of the Corporation shall each have such powers and duties as generally pertain to their respective offices, as well as such powers and duties as from time to time may be conferred by the Board of Directors or the Chief Executive Officer.

ARTICLE IV
Capital Stock

SECTION 1. Certificates of Stock. The shares of the Corporation shall be represented by certificates in such form as may from time to time be prescribed by the Board of Directors. Such certificate shall be signed by the Chairman of the Board, the Vice Chairman of the Board, the President or a Vice President and by the Treasurer, Assistant Treasurer, the Secretary or an Assistant Secretary. The Corporation seal and the signatures by the Corporation's officers, the transfer agent or the registrar may be facsimiles. In case any officer, transfer agent or registrar who has signed or whose facsimile signature has been placed on such certificate shall have ceased to be such officer, transfer agent or registrar before such certificate is issued, it may be issued by the Corporation with the same effect as if he or she were such officer, transfer agent or registrar at the time of its issue. Every certificate for shares of stock which are subject to any restriction on transfer and every certificate issued when the Corporation is authorized to issue more than one class or series of stock shall contain such legend with respect thereto as is required by law. Notwithstanding anything to the contrary provided in these By-laws, the Board of Directors of the Corporation may provide by resolution or resolutions that some or all of any or all classes or series of its stock shall be uncertificated shares (except that the foregoing shall not apply to shares represented by a certificate until such certificate is surrendered to the Corporation), and by the approval and adoption of these By-laws the Board of Directors has determined that all classes or series of the Corporation's stock may be uncertificated, whether upon original issuance, re-issuance, or subsequent transfer.

SECTION 2. Transfers. Subject to any restrictions on transfer and unless otherwise provided by the Board of Directors, shares of stock that are represented by a certificate may be transferred on the books of the Corporation by the surrender to the Corporation or its transfer agent of the certificate theretofore properly endorsed or accompanied by a written assignment or power of attorney properly executed, with transfer stamps (if necessary) affixed, and with such proof of the authenticity of signature as the Corporation or its transfer agent may reasonably require. Shares of stock that are not represented by a certificate may be transferred on the books of the Corporation by submitting to the Corporation or its transfer agent such evidence of transfer and following such other procedures as the Corporation or its transfer agent may require.

SECTION 3. Record Holders. Except as may otherwise be required by law, by the Certificate or by these By-laws, the Corporation shall be entitled to treat the record holder of stock as shown on its books as the owner of such stock for all purposes, including the payment of dividends and the right to vote with respect thereto, regardless of any transfer, pledge or other disposition of such stock, until the shares have been transferred on the books of the Corporation in accordance with the requirements of these By-laws.

SECTION 4. Record Date.

(a) In order that the Corporation may determine the stockholders entitled to notice of any meeting of stockholders or any adjournment thereof, the Board of Directors may fix a record date, which record date shall not precede the date upon which the resolution fixing the record date is adopted by the Board of Directors, and which record date shall, unless otherwise required by law, not be more than sixty (60) nor less than ten (10) days before the date of such meeting. If the Board of Directors so fixes a date, such date shall also be the record date for determining the stockholders entitled to vote at such meeting unless the Board of Directors determines, at the time it fixes such record date, that a later date on or before the date of the meeting shall be the date for making such determination. If no record date is fixed by the Board of Directors, the record date for determining stockholders entitled to notice of or to vote at a meeting of stockholders shall be at the close of business on the day next preceding the day on which notice is given, or, if notice is waived, at the close of business on the day next preceding the day on which the meeting is held. A determination of stockholders of record entitled to notice of or to vote at a meeting of stockholders shall apply to any adjournment of the meeting; provided, however, that the Board of Directors may fix a new record date for determination of stockholders entitled to vote at the adjourned meeting, and in such case shall also fix as the record date for stockholders entitled to notice of such adjourned meeting the same or an earlier date as that fixed for determination of stockholders entitled to vote in accordance herewith at the adjourned meeting.

(b) In order that the Corporation may determine the stockholders entitled to receive payment of any dividend or other distribution or allotment of any rights, or entitled to exercise any rights in respect of any change, conversion or exchange of stock or for the purpose of any other lawful action, the Board of Directors may fix a record date, which record date shall not precede the date upon which the resolution fixing the record date is adopted, and which record date shall not be more than sixty (60) days prior to such action. If no such record date is fixed, the record date for determining stockholders for any such purpose shall be at the close of business on the day on which the Board of Directors adopts the resolution relating thereto.

SECTION 5. Replacement of Certificates. In case of the alleged loss, destruction or mutilation of a certificate of stock of the Corporation, a duplicate certificate may be issued in place thereof, upon such terms as the Corporation may prescribe.

ARTICLE V
Indemnification and Advancement

SECTION 1. Right to Indemnification. Each person who was or is made a party or is threatened to be made a party to or is otherwise involved (including, without limitation, as a witness) in any action, suit or proceeding, whether civil, criminal, administrative or investigative, by reason of the fact that he or she is or was a director or an executive officer of the Corporation or, while a director or executive officer of the Corporation, is or was serving at the request of the Corporation as a director, executive officer, or trustee of another corporation, or of a partnership, joint venture, trust or other enterprise, including service with respect to an employee benefit plan (hereinafter an "Indemnitee"), whether the basis of such proceeding is alleged action in an official capacity as a director, executive officer or trustee or in any other capacity while serving as a director, executive officer or trustee, shall be indemnified and held harmless by the Corporation to the fullest extent authorized by the DGCL, as the same exists or may hereafter be amended (but, in the case of any such amendment, only to the extent that such amendment permits the Corporation to provide broader indemnification rights than such law permitted the Corporation to provide prior to such amendment), against all expense, liability and loss (including attorneys' fees, judgments, fines, ERISA excise taxes or penalties and amounts paid in settlement) reasonably incurred or suffered by such Indemnitee in connection therewith; provided, however, that, except with respect to proceedings to enforce rights to indemnification or an advancement of expenses or as otherwise required by law, the Corporation shall not be required to indemnify or advance expenses to any such Indemnitee in connection with a proceeding (or part thereof) initiated by such Indemnitee unless such proceeding (or part thereof) was authorized by the Board of Directors.

SECTION 2. Right to Advancement of Expenses. In addition to the right to indemnification conferred in Article V, Section 1 of this By-law, an Indemnitee shall also have the right to be paid by the Corporation the expenses (including attorney's fees) incurred in defending any such proceeding in advance of its final disposition (an "advancement of expenses"); provided, however, that, if the DGCL requires, an advancement of expenses incurred by an Indemnitee in his or her capacity as a director or executive officer (and not in any other capacity in which service was or is rendered by such Indemnitee, including, without limitation, service to an employee benefit plan) shall be made only upon delivery to the Corporation of an undertaking (hereinafter an "undertaking"), by or on behalf of such Indemnitee, to repay all amounts so advanced if it shall ultimately be determined by final judicial decision from which there is no further right to appeal (hereinafter a "final adjudication") that such Indemnitee is not entitled to be indemnified for such expenses under this Section 2 or otherwise.

SECTION 3. Right of Indemnitees to Bring Suit. If a claim under Article V, Section 1 or 2 of this By-law is not paid in full by the Corporation within sixty (60) days after a written claim has been received by the Corporation, or if a claim for an advancement of expense is not paid in full within thirty (30) days after a statement or statements requesting such amounts to be advanced has been received by the Corporation, the Indemnitee may at any time thereafter bring suit against the Corporation to recover the unpaid amount of the claim. To the fullest extent permitted by law, if successful in whole or in part in any such suit, or in a suit brought by the Corporation to recover an advancement of expenses pursuant to the terms of an undertaking, the Indemnitee shall also be entitled to be paid the expenses of prosecuting or defending such suit. In (i) any suit brought by the Indemnitee to enforce a right to indemnification hereunder (but not in a suit brought by the Indemnitee to enforce a right to an advancement of

expenses) it shall be a defense that, and (ii) in any suit brought by the Corporation to recover an advancement of expenses pursuant to the terms of an undertaking, the Corporation shall be entitled to recover such expenses upon a final adjudication that, the Indemnitee has not met any applicable standard for indemnification set forth in the DGCL. Neither the failure of the Corporation (including its directors who are not parties to such action, a committee of such directors, independent legal counsel, or its stockholders) to have made a determination prior to the commencement of such suit that indemnification of the Indemnitee is proper in the circumstances because the Indemnitee has met the applicable standard of conduct set forth in the DGCL, nor an actual determination by the Corporation (including its directors who are not parties to such action, a committee of such directors, independent legal counsel, or its stockholders) that the Indemnitee has not met such applicable standard of conduct, shall create a presumption that the Indemnitee has not met the applicable standard of conduct or, in the case of such a suit brought by the Indemnitee, be a defense to such suit. In any suit brought by the Indemnitee to enforce a right to indemnification or to an advancement of expenses hereunder, or brought by the Corporation to recover an advancement of expenses pursuant to the terms of an undertaking, the burden of proving that the Indemnitee is not entitled to be indemnified, or to such advancement of expenses, under this Article V or otherwise shall be on the Corporation.

SECTION 4. Indemnification of Employees and Agents of the Corporation. The Corporation may, to the extent authorized from time to time by the Board of Directors, grant rights to indemnification and to the advancement of expenses to any employee or agent of the Corporation to the fullest extent of the provisions of this Article V with respect to the indemnification and advancement of expenses of directors and executive officers of the Corporation.

SECTION 5. Non-Exclusivity of Rights. The rights to indemnification and to the advancement of expenses conferred in this Article V shall not be exclusive of any other right which any person may have or hereafter acquire under any statute, the Certificate as amended from time to time, these By-laws, any agreement, any vote of stockholders or disinterested directors or otherwise.

SECTION 6. Insurance. The Corporation may maintain insurance, at its expense, to protect itself and any director, officer, employee or agent of the Corporation or another corporation, partnership, joint venture, trust or other enterprise against any expense, liability or loss, whether or not the Corporation would have the power to indemnify such person against such expense, liability or loss under the DGCL.

SECTION 7. Indemnity Agreements. The Corporation may enter into indemnity agreements with any director or officer of the Corporation, with any employee or agent of the Corporation as the Board of Directors may designate and with any officer, director, employee or agent of subsidiaries as the Board of Directors may designate, such indemnity agreements to provide in substance that the Corporation will indemnify such persons as contemplated by this Article V, and to include any other substantive or procedural provisions regarding indemnification as are not inconsistent with the DGCL.

SECTION 8. Nature of Rights. The rights conferred upon Indemnitees in this Article V shall be contract rights and such rights shall continue as to an Indemnitee who has ceased to be a director, officer, employee, agent or trustee and shall inure to the benefit of the Indemnitee's heirs, executors and administrators. Any amendment, alteration or repeal of this Article V that adversely affects any right of an Indemnitee or its successors shall be prospective only and shall not limit, eliminate, or impair any such right with respect to any proceeding involving any occurrence or alleged occurrence of any action or omission to act that took place prior to such amendment, alteration or repeal. The Corporation's obligation, if any, to indemnify or to advance expenses to any Indemnitee who was or is serving at its request as a director, officer, employee or agent of another corporation, partnership, joint venture, trust, enterprise or nonprofit entity shall be reduced by any amount such Indemnitee may collect as indemnification or advancement of expenses from such other corporation, partnership, joint venture, trust, enterprise or non-profit enterprise.

SECTION 9. Severability. If any word, clause, provision or provisions of this Article V shall be held to be invalid, illegal or unenforceable for any reason whatsoever: (i) the validity, legality and enforceability of the remaining provisions of this Article V (including, without limitation, each portion of any section of this Article V containing any such provision held to be invalid, illegal or unenforceable, that is not itself held to be invalid, illegal or unenforceable) shall not in any way be affected or impaired thereby; and (ii) to the fullest extent possible, the provisions of this Article V (including, without limitation, each such portion of any section of this Article V containing any such provision held to be invalid, illegal or unenforceable) shall be construed so as to give effect to the intent manifested by the provision held invalid, illegal or unenforceable.

ARTICLE VI
Miscellaneous Provisions

SECTION 1. Fiscal Year. The fiscal year of the Corporation shall be determined by the Board of Directors.

SECTION 2. Seal. The Board of Directors shall have power to adopt and alter the seal of the Corporation.

SECTION 3. Execution of Instruments. All deeds, leases, transfers, contracts, bonds, notes and other obligations to be entered into by the Corporation in the ordinary course of its business without director action may be executed on behalf of the Corporation by the Chairman of the Board, if one is elected, the President, the Chief Executive Officer, the Chief Financial Officer, if one is elected, the Secretary, the Treasurer or any other officer, employee or agent of the Corporation as the Board of Directors or appropriate committee of the Board may authorize.

SECTION 4. Voting of Securities. Unless the Board of Directors otherwise provides, Chairman of the Board, if one is elected, the President, the Chief Executive Officer, the Chief Financial Officer, if one is elected, the Secretary or the Treasurer may waive notice of and act on behalf of the Corporation, or appoint another person or persons to act as proxy or attorney in fact for the Corporation with or without discretionary power and/or power of substitution, at any meeting of stockholders or shareholders of any other corporation or organization, any of whose securities are held by the Corporation. The power so conferred upon such officers or other persons shall include, without limitation, the voting of any securities of any other entity held by the Corporation, including executing and delivery written consents with respect to such securities.

SECTION 5. Corporate Records. The original or attested copies of the Certificate, By-laws and records of all meetings of the incorporators, stockholders and the Board of Directors and the stock transfer books, which shall contain the names of all stockholders, their record addresses and the amount of stock held by each, may be kept outside the State of Delaware and shall be kept at the principal office of the Corporation, at an office of its counsel, at an office of its transfer agent or at such other place or places as may be designated from time to time by the Board of Directors.

SECTION 6. Amendment of By-laws.

(a) Amendment by Directors. Except as provided otherwise by law, these By-laws may be amended or repealed by the affirmative vote of the majority of the Board of Directors.

(b) Amendment by Stockholders. These By-laws may be amended or repealed at any Annual Meeting, or special meeting of stockholders called for such purpose in accordance with these By-Laws, by the affirmative vote of holders of at a majority in voting power of the outstanding shares entitled to vote on such amendment or repeal, voting together as a single class. Notwithstanding the foregoing, stockholder approval shall not be required unless mandated by the Certificate or other applicable law.

SECTION 7. Notices. If mailed, notice to stockholders shall be deemed given when deposited in the mail, postage prepaid, directed to the stockholder at such stockholder’s address as it appears on the records of the Corporation.

Adopted November 16, 2018 and effective as of November 16, 2018.

Exhibit 4.1

NEITHER THIS NOTE NOR THE SECURITIES ISSUABLE UPON THE CONVERSION HEREOF HAVE BEEN REGISTERED UNDER THE UNITED STATES SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), OR ANY STATE SECURITIES LAWS AND MAY NOT BE OFFERED, SOLD, PLEDGED, ASSIGNED, OR OTHERWISE TRANSFERRED UNLESS (1) A REGISTRATION STATEMENT WITH RESPECT THERETO IS EFFECTIVE UNDER THE SECURITIES ACT AND ANY APPLICABLE STATE SECURITIES LAWS OR (2) THE COMPANY RECEIVES AN OPINION OF COUNSEL TO THE HOLDER OF THIS NOTE OR SUCH SECURITIES, WHICH COUNSEL AND OPINION ARE REASONABLY SATISFACTORY TO THE COMPANY, THAT THIS NOTE OR SUCH SECURITIES, AS APPLICABLE, MAY BE OFFERED, SOLD, PLEDGED, ASSIGNED, OR OTHERWISE TRANSFERRED IN THE MANNER CONTEMPLATED WITHOUT AN EFFECTIVE REGISTRATION STATEMENT UNDER THE SECURITIES ACT OR APPLICABLE STATE SECURITIES LAWS.

CONVERTIBLE PROMISSORY NOTE

Effective Date: June 26, 2018 U.S. $5,700,000.00

FOR VALUE RECEIVED, CYTODYN INC., a Delaware corporation ("**Borrower**"), promises to pay to ILIAD RESEARCH AND TRADING, L.P., a Utah limited partnership, or its successors or assigns ("**Lender**"), $5,700,000.00 and any interest, fees, charges, and late fees on the date that is twenty-four (24) months after the Purchase Price Date (the "**Maturity Date**") in accordance with the terms set forth herein and to pay interest on the Outstanding Balance at the rate of ten percent (10%) per annum from the Purchase Price Date until the same is paid in full. This Convertible Promissory Note (this "**Note**") is issued and made effective as of June 26, 2018 (the "**Effective Date**"). This Note is issued pursuant to that certain Securities Purchase Agreement dated June 26, 2018, as the same may be amended from time to time, by and between Borrower and Lender (the "**Purchase Agreement**"). Certain capitalized terms used herein are defined in Attachment 1 attached hereto and incorporated herein by this reference.

This Note carries an OID of $600,000.00. In addition, Borrower agrees to pay $100,000.00 to Lender to cover Lender's legal fees, accounting costs, due diligence, monitoring and other transaction costs incurred in connection with the purchase and sale of this Note (the "**Transaction Expense Amount**"), all of which amount is included in the initial principal balance of this Note. The purchase price for this Note shall be $5,000,000.00 (the "**Purchase Price**"), computed as follows: $5,700,000.00 original principal balance, less the OID, less the Transaction Expense Amount. The Purchase Price shall be payable by Lender to the Borrower by wire transfer of immediately available funds.

1. Payment; Prepayment.

1.1. Payment. Provided there is an Outstanding Balance, on each Redemption Date (as defined below), Borrower shall pay to Lender an amount equal to the Redemption Amount (as defined below) due on such Redemption Date in accordance with Section 8. All payments owing hereunder shall be in lawful money of the United States of America or Conversion Shares (as defined below), as provided for herein, and delivered to Lender at the address or bank account furnished to Borrower for that purpose. All payments shall be applied first to (a) costs of collection, if any, then to (b) fees and charges, if any, then to (c) accrued and unpaid interest, and thereafter, to (d) principal.

1.2. Prepayment. Notwithstanding the foregoing, so long as Borrower has not received a Lender Conversion Notice (as defined below) or a Redemption Notice (as defined below) from Lender where the applicable Conversion Shares have not yet been delivered and so long as no Event of Default (as defined below) has occurred and is continuing, then Borrower shall have the right, exercisable on not less than five (5) Trading Days prior written notice to Lender to prepay the Outstanding Balance of this Note, in part or in full, in accordance with this Section 1. Any notice of prepayment hereunder (an "**Optional Prepayment Notice**") shall be delivered to Lender at its registered address and shall state: (i) that Borrower is exercising its right to prepay this Note, and (ii) the date of prepayment, which shall be not less than five (5) Trading Days from the date of the Optional Prepayment Notice. On the date fixed for prepayment (the "**Optional Prepayment Date**"), Borrower shall make payment of the Optional Prepayment Amount (as defined below) to or upon the order of Lender as may be specified by Lender in writing to Borrower. If Borrower exercises its right to prepay this Note, Borrower shall make payment to Lender of an amount in cash equal to 115% multiplied by the then Outstanding Balance of this Note being repaid (the "**Optional Prepayment Amount**"). In the event Borrower delivers the Optional Prepayment Amount to Lender prior to the Optional Prepayment Date or without delivering an Optional Prepayment Notice to Lender as set forth herein without Lender's prior written consent, the Optional Prepayment Amount shall not be deemed to have been paid to Lender until the Optional Prepayment Date. In the event Borrower delivers the Optional Prepayment Amount without an Optional Prepayment Notice, then the Optional Prepayment Date will be deemed to be the date that is five (5) Trading Days from the date that the Optional Prepayment Amount was delivered to Lender and Lender shall be entitled to exercise its conversion rights set forth herein during such five (5) day period. In addition, if Borrower delivers an Optional Prepayment Notice and fails to pay the Optional Prepayment Amount due to Lender within two (2) Trading Days following the Optional Prepayment Date, Borrower shall forever forfeit its right to prepay this Note.

2. Security. This Note is not secured.

3. Lender Optional Conversion.

3.1. Lender Conversions. Lender has the right at any time after the date that is six (6) months from the Purchase Price Date until the Outstanding Balance has been paid in full, including without limitation until any Optional Prepayment Date (even if Lender has received an Optional Prepayment Notice) or at any time thereafter with respect to any amount that is not prepaid, at its election, to convert (each instance of conversion is referred to herein as a "**Lender Conversion**") all or any part of the Outstanding Balance into shares ("**Lender Conversion Shares**") of fully paid and non-assessable common stock, $0.001 par value per share ("**Common Stock**"), of Borrower as per the following conversion formula: the number of Lender Conversion Shares equals the amount being converted (the "**Conversion Amount**") divided by the Lender Conversion Price (as defined below). Conversion notices in the form attached hereto as Exhibit A (each, a "**Lender Conversion Notice**") may be effectively delivered to Borrower by facsimile, email, mail, overnight courier, or personal delivery and all Lender Conversions shall be cashless and not require further payment from Lender. Borrower shall deliver the Lender Conversion Shares from any Lender Conversion to Lender in accordance with Section 9 below.

3.2. Lender Conversion Price. Subject to adjustment as set forth in this Note, the price at which Lender has the right to convert all or any portion of the Outstanding Balance into Common Stock is $0.55 per share (the "**Lender Conversion Price**").

4. Defaults and Remedies.

4.1. Defaults. The following are events of default under this Note (each, an "**Event of Default**"): (a) Borrower fails to pay any principal, interest, fees, charges, or any other amount when due and payable hereunder; (b) Borrower fails to deliver any Lender Conversion Shares in accordance with the terms hereof; (c) Borrower fails to deliver any Redemption Conversion Shares (as defined below) in accordance with the terms hereof; (d) a receiver, trustee or other similar official shall be appointed over Borrower or a material part of its assets and such appointment shall remain uncontested for twenty (20) days or shall not be dismissed or discharged within sixty (60) days; (e) Borrower generally fails to pay, or admits in writing its inability to pay, its debts as they become due, subject to applicable grace periods, if any; (f) Borrower makes a general assignment for the benefit of creditors; (g) Borrower files a petition for relief under any bankruptcy, insolvency or similar law (domestic or foreign); (h) an involuntary bankruptcy proceeding is commenced or filed against Borrower; (i) Borrower or any pledgor, trustor, or guarantor of this Note defaults or otherwise fails to observe or perform any covenant, obligation, condition or agreement of Borrower or such pledgor, trustor, or guarantor contained herein or in any other Transaction Document (as defined in the Purchase Agreement), other than those specifically set forth in this Section 4.1 and Section 4 of the Purchase Agreement; (j) any representation, warranty or other statement made or furnished by or on behalf of Borrower or any pledgor, trustor, or guarantor of this Note to Lender herein, in any Transaction Document, or otherwise in connection with the issuance of this Note is false, incorrect, incomplete or misleading in any material respect when made or furnished; (k) the closing of a Fundamental Transaction without Lender's prior written consent; provided, that such consent shall not be required in connection with the closing of a Fundamental Transaction where the Note is repaid in full at or prior to the closing of such Fundamental Transaction; (l) Borrower fails in any material respect to maintain the Share Reserve as required under the Purchase Agreement; (m) Borrower effectuates a reverse split of its Common Stock without ten (10) Trading Days prior written notice to Lender; (n) any money judgment, writ or similar process is entered or filed against Borrower or any subsidiary of Borrower or any of its property or other assets for more than $500,000.00, and shall remain unvacated, unbonded or unstayed for a period of twenty (20) calendar days unless otherwise consented to by Lender; (o) Borrower fails to observe or perform, in any material respect, any covenant set forth in Section 4 of the Purchase Agreement; or (p) Borrower, any affiliate of Borrower, or any pledgor, trustor, or guarantor of this Note breaches, in any material respect, any covenant or other term or condition contained in any Other Agreements. Notwithstanding the foregoing, the occurrence of any event specified in Section 4.1(i) – (p) shall not be considered an Event of Default hereunder if such event is cured within forty-five (45) days of the occurrence of such event.

4.2. Remedies. At any time and from time to time after Lender becomes aware of the occurrence of any Event of Default that is continuing, Lender may accelerate this Note by written notice to Borrower, with the Outstanding Balance becoming immediately due and payable in cash at the Mandatory Default Amount. Notwithstanding the foregoing, at any time following the occurrence of any Event of Default, Lender may, at its option, elect to increase the Outstanding Balance by applying the Default Effect (subject to the limitation set forth below) via written notice to Borrower without accelerating the Outstanding Balance, in which event the Outstanding Balance shall be increased as of the date of the occurrence of the applicable Event of Default pursuant to the Default Effect, but the Outstanding Balance shall not be immediately due and payable unless so declared by Lender (for the avoidance of doubt, if Lender elects to apply the Default Effect pursuant to this sentence, it shall reserve the right to declare the Outstanding Balance immediately due and payable at any time and no such election by Lender shall be deemed to be a waiver of its right to declare the Outstanding Balance immediately due and payable as set forth herein unless otherwise agreed to by Lender in writing). Notwithstanding the foregoing, upon the occurrence of any Event of Default described in clauses (c), (d), (e), (f), or (g) of Section 4.1, the Outstanding Balance as of the date of acceleration shall become immediately and automatically due and payable in cash at the Mandatory Default Amount, without any written notice required by Lender. At any time following the occurrence of any Event of Default, upon written notice given by Lender to Borrower, interest shall accrue on the Outstanding Balance beginning on the date the applicable Event of Default occurred at an interest rate equal to the lesser of 22% per annum or the maximum rate permitted under applicable law ("**Default Interest**"). For the avoidance of

doubt, Lender may continue making Lender Conversions and Redemption Conversions (as defined below) at any time following an Event of Default until such time as the Outstanding Balance is paid in full. Borrower further acknowledges and agrees that Lender may continue making Conversions following the entry of any judgment or arbitration award in favor of Lender until such time that the entire judgment amount or arbitration award is paid in full. Borrower agrees that any judgment or arbitration award will, by its terms, be made convertible into Common Stock. Borrower and Lender agree and stipulate that any judgment or arbitration award entered against Borrower shall be reduced by $1,000.00 and such $1,000.00 shall become the new Outstanding Balance of this Note and this Note shall expressly survive such judgment or arbitration award. Additionally, following the occurrence of any Event of Default, Borrower may, at its option, pay any Lender Conversion in cash instead of Lender Conversion Shares by paying to Lender on or before the applicable Delivery Date (as defined below) a cash amount equal to the number of Lender Conversion Shares set forth in the applicable Lender Conversion Notice multiplied by the highest intra-day trading price of the Common Stock that occurs during the period beginning on the date the applicable Event of Default occurred and ending on the date of the applicable Lender Conversion Notice. In connection with acceleration described herein, Lender need not provide, and Borrower hereby waives, any presentment, demand, protest or other notice of any kind, and Lender may immediately and without expiration of any grace period enforce any and all of its rights and remedies hereunder and all other remedies available to it under applicable law. Such acceleration may be rescinded and annulled by Lender at any time prior to payment hereunder and Lender shall have all rights as a holder of the Note until such time, if any, as Lender receives full payment pursuant to this Section 4.2. No such rescission or annulment shall affect any subsequent Event of Default or impair any right consequent thereon. Nothing herein shall limit Lender's right to pursue any other remedies available to it at law or in equity including, without limitation, a decree of specific performance and/or injunctive relief with respect to Borrower's failure to timely deliver Conversion Shares upon Conversion of the Note as required pursuant to the terms hereof.

5. Unconditional Obligation; No Offset. Borrower acknowledges that this Note is an unconditional, valid, binding and enforceable obligation of Borrower not subject to offset, deduction or counterclaim of any kind. Borrower hereby waives any rights of offset it now has or may have hereafter against Lender, its successors and assigns, and agrees to make the payments or Conversions called for herein in accordance with the terms of this Note.

6. Waiver. No waiver of any provision of this Note shall be effective unless it is in the form of a writing signed by the party granting the waiver. No waiver of any provision or consent to any prohibited action shall constitute a waiver of any other provision or consent to any other prohibited action, whether or not similar. No waiver or consent shall constitute a continuing waiver or consent or commit a party to provide a waiver or consent in the future except to the extent specifically set forth in writing.

7. Adjustment of Lender Conversion Price upon Subdivision or Combination of Common Stock. Without limiting any provision hereof, if Borrower at any time on or after the Effective Date subdivides (by any stock split, stock dividend, recapitalization or otherwise) one or more classes of its outstanding shares of Common Stock into a greater number of shares, the Lender Conversion Price in effect immediately prior to such subdivision will be proportionately reduced. Without limiting any provision hereof, if Borrower at any time on or after the Effective Date combines (by combination, reverse stock split or otherwise) one or more classes of its outstanding shares of Common Stock into a smaller number of shares, the Lender Conversion Price in effect immediately prior to such combination will be proportionately increased. Any adjustment pursuant to this Section 7 shall become effective immediately after the effective date of such subdivision or combination. If any event requiring an adjustment under this Section 7 occurs during the period that a Lender Conversion Price is calculated hereunder, then the calculation of such Lender Conversion Price shall be adjusted appropriately to reflect such event.

8. Borrower Redemptions.

8.1. Redemption Conversion Price. Subject to the adjustments set forth herein, the conversion price for each Redemption Conversion (as defined below) (the "**Redemption Conversion Price**") shall be the lesser of (a) the Lender Conversion Price, and (b) the Market Price.

8.2. Redemption Conversions. Beginning on the date that is six (6) months after the Purchase Price Date, Lender shall have the right, exercisable at any time in its sole and absolute discretion, to redeem any portion of the Note up to the Maximum Monthly Redemption Amount (such amount, the "**Redemption Amount**") by providing Borrower with a notice substantially in the form attached hereto as Exhibit B (each, a "**Redemption Notice**", and each date on which Lender delivers a Redemption Notice, a "**Redemption Date**"). For the avoidance of doubt, Lender may submit to Borrower one (1) or more Redemption Notices in any given calendar month so long as the aggregate Redemption Amounts do not exceed the Maximum Monthly Redemption Amount. Payments of each Redemption Amount may be made (a) in cash, or (b) by converting such Redemption Amount into shares of Common Stock ("**Redemption Conversion Shares**", and together with the Lender Conversion Shares, the "**Conversion Shares**") in accordance with this Section 8 (each, a "**Redemption Conversion**") per the following formula: the number of Redemption Conversion Shares equals the portion of the applicable Redemption Amount being converted divided by the Redemption Conversion Price, or (c) by any combination of the foregoing, so long as the cash is delivered to Lender on the fifth (5th) Trading Day immediately following the applicable Redemption Date and the Redemption Conversion Shares are delivered to Lender on or before the applicable Delivery Date.

8.3. Allocation of Redemption Amounts. Following its receipt of a Redemption Notice, Borrower may either ratify Lender's proposed allocation in the applicable Redemption Notice or elect to change the allocation by written notice to Lender by email or fax within twenty-four (24) hours of its receipt of such Redemption Notice, so long as the sum of the cash payments and the amount of Redemption Conversions (calculated according to the applicable Redemption Conversion Price) equal the applicable Redemption Amount. If Borrower fails to notify Lender of its election to change the allocation prior to the deadline set forth in the previous sentence, it shall be deemed to have ratified and accepted the allocation set forth in the applicable Redemption Notice prepared by Lender. Borrower acknowledges and agrees that the amounts and calculations set forth thereon are subject to correction or adjustment because of error, mistake, or any adjustment resulting from an Event of Default or other adjustment permitted under the Transaction Documents (an "**Adjustment**"). Furthermore, no error or mistake in the preparation of such notices, or failure to apply any Adjustment that could have been applied prior to the preparation of a Redemption Notice may be deemed a waiver of Lender's right to enforce the terms of any Note, even if such error, mistake, or failure to include an Adjustment arises from Lender's own calculation. Borrower shall deliver the Redemption Conversion Shares from any Redemption Conversion to Lender in accordance with Section 9 below on or before each applicable Delivery Date. If Borrower elects to pay a Redemption Amount in cash, such payment must be delivered on the second Trading Day immediately following the Redemption Date.

9. Method of Conversion Share Delivery. On or before the close of business on the fifth (5 th) Trading Day following each Redemption Date or the fifth (5th) Trading Day following the date of delivery of a Lender Conversion Notice, as applicable (the "**Delivery Date**"), Borrower shall, provided it is DWAC Eligible at such time, deliver or cause its transfer agent to deliver the applicable Conversion Shares electronically via DWAC to the account designated by Lender in the applicable Lender Conversion Notice or Redemption Notice. If Borrower is not DWAC Eligible, it shall deliver to Lender or

its broker (as designated in the Lender Conversion Notice or Redemption Notice, as applicable), via reputable overnight courier, a certificate representing the number of shares of Common Stock equal to the number of Conversion Shares to which Lender shall be entitled, registered in the name of Lender or its designee. For the avoidance of doubt, Borrower has not met its obligation to deliver Conversion Shares by the Delivery Date unless Lender or its broker, as applicable, has actually received the certificate representing the applicable Conversion Shares no later than the close of business on the relevant Delivery Date pursuant to the terms set forth above. Moreover, and notwithstanding anything to the contrary herein or in any other Transaction Document, in the event Borrower or its transfer agent refuses to deliver any Conversion Shares to Lender on grounds that such issuance is in violation of Rule 144 under the Securities Act of 1933, as amended ("**Rule 144**"), Borrower shall deliver or cause its transfer agent to deliver the applicable Conversion Shares to Lender with a restricted securities legend, but otherwise in accordance with the provisions of this Section 9. In conjunction therewith, Borrower will also deliver to Lender a written explanation from its counsel or its transfer agent's counsel explaining why the issuance of the applicable Conversion Shares violates Rule 144.

10. Conversion Delays. If Borrower fails to deliver Conversion Shares in accordance with the timeframes stated in Section 9, Lender, at any time prior to selling all of those Conversion Shares may rescind in whole or in part that particular Conversion attributable to the unsold Conversion Shares, with a corresponding increase to the Outstanding Balance (any returned amount will tack back to the Purchase Price Date for purposes of determining the holding period under Rule 144). In addition, for each Conversion, in the event that Conversion Shares are not delivered by the sixth (6^{th}) Trading Day (inclusive of the day of the Conversion), a late fee equal to 1.5% of the applicable Conversion Share Value rounded to the nearest multiple of $100.00 (but in any event the cumulative amount of such late fees for each Conversion shall not exceed 200% of the applicable Conversion Share Value) will be assessed for each day beginning on the sixth (6^{th}) Trading Day (inclusive of the day of the Conversion) until Conversion Share delivery is made; and such late fee will be added to the Outstanding Balance (such fees, the "**Conversion Delay Late Fees**"). For illustration purposes only, if Lender delivers a Conversion Notice to Borrower pursuant to which Borrower is required to deliver 100,000 Conversion Shares to Lender and on the Delivery Date such Conversion Shares have a Conversion Share Value of $20,000.00 (assuming a Closing Trade Price on the Delivery Date of $0.20 per share of Common Stock), then in such event a Conversion Delay Late Fee in the amount of $300.00 per day ($20,000.00 multiplied by 1.5%, which is $300.00) would be added to the Outstanding Balance of the Note until such Conversion Shares are delivered to Lender. For purposes of this example, if the Conversion Shares are delivered to Lender twenty (20) days after the applicable Delivery Date, the total Conversion Delay Late Fees that would be added to the Outstanding Balance would be $6,000.00 (20 days multiplied by $300.00 per day). If the Conversion Shares are delivered to Lender one hundred and fifty (150) days after the applicable Delivery Date, the total Conversion Delay Late Fees that would be added to the Outstanding Balance would be $40,000.00 (150 days multiplied by $300.00 per day, but capped at 200% of the Conversion Share Value).

11. Ownership Limitation. Notwithstanding anything to the contrary contained in this Note or the other Transaction Documents, if at any time Lender shall or would be issued shares of Common Stock under any of the Transaction Documents, but such issuance would cause Lender (together with its affiliates) to beneficially own a number of shares exceeding 4.99% of the number of shares of Common Stock outstanding on such date (including for such purpose the shares of Common Stock issuable upon such issuance) (the "**Maximum Percentage**"), then Borrower shall not issue to Lender shares of Common Stock which would exceed the Maximum Percentage. Lender agrees, upon request, to provide Borrower with the number of shares of Common Stock it owns at the time of any proposed Conversion hereunder. For purposes of this section, beneficial ownership of Common Stock will be determined pursuant to Section 13(d) of the 1934 Act. The shares of Common Stock issuable to Lender that would cause the Maximum Percentage to be exceeded are referred to herein as the "**Ownership Limitation**

Shares". Borrower will reserve the Ownership Limitation Shares for the exclusive benefit of Lender. Lender shall notify Borrower in writing of the number of the Ownership Limitation Shares that may be issued to Lender without causing Lender to exceed the Maximum Percentage. Upon receipt of such notice, Borrower shall be unconditionally obligated to immediately issue such designated shares to Lender, with a corresponding reduction in the number of the Ownership Limitation Shares. Upon notice to Borrower from Lender the term "4.99%" above shall be replaced with "9.99%". Notwithstanding any other provision contained herein, if the term "4.99%" is replaced with "9.99%" pursuant to the preceding sentence, such increase to "9.99%" shall remain at 9.99% until increased, decreased or waived by Lender as set forth below. By written notice to Borrower, Lender may increase, decrease or waive the Maximum Percentage as to itself but any such waiver will not be effective until the 61st day after delivery thereof. The foregoing 61-day notice requirement is enforceable, unconditional and non-waivable and shall apply to all affiliates and assigns of Lender.

12. Payment of Collection Costs. If this Note is placed in the hands of an attorney for collection or enforcement prior to commencing arbitration or legal proceedings, or is collected or enforced through any arbitration or legal proceeding, or Lender otherwise takes action to collect amounts due under this Note or to enforce the provisions of this Note, then Borrower shall pay the costs incurred by Lender for such collection, enforcement or action including, without limitation, attorneys' fees and disbursements. Borrower also agrees to pay for any costs, fees or charges of its transfer agent that are charged to Lender pursuant to any Conversion or issuance of shares pursuant to this Note.

13. Opinion of Counsel. In the event that an opinion of counsel is needed for any matter related to this Note, Lender has the right to have any such opinion provided by its counsel; provided that such opinion shall be reasonably acceptable to Borrower.

14. Governing Law; Venue. This Note shall be construed and enforced in accordance with, and all questions concerning the construction, validity, interpretation and performance of this Note shall be governed by, the internal laws of the State of Utah, without giving effect to any choice of law or conflict of law provision or rule (whether of the State of Utah or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than the State of Utah. The provisions set forth in the Purchase Agreement to determine the proper venue for any disputes are incorporated herein by this reference.

15. Resolution of Disputes.

15.1. Arbitration of Disputes. By its acceptance of this Note, each party agrees to be bound by the Arbitration Provisions (as defined in the Purchase Agreement) set forth as an exhibit to the Purchase Agreement.

15.2. Calculation Disputes. Notwithstanding the Arbitration Provisions, in the case of a dispute as to any Calculation (as defined in the Purchase Agreement), such dispute will be resolved in the manner set forth in the Purchase Agreement.

16. Cancellation. After repayment or conversion of the entire Outstanding Balance, this Note shall be deemed paid in full, shall automatically be deemed canceled, and shall not be reissued.

17. Amendments. The prior written consent of both parties hereto shall be required for any change or amendment to this Note.

18. Assignments. Borrower may not assign this Note without the prior written consent of Lender. This Note and any shares of Common Stock issued upon conversion of this Note may be offered, sold, assigned or transferred by Lender without the consent of Borrower.

19. Time is of the Essence. Time is expressly made of the essence with respect to each and every provision of this Note and the documents and instruments entered into in connection herewith.

20. Notices. Whenever notice is required to be given under this Note, unless otherwise provided herein, such notice shall be given in accordance with the subsection of the Purchase Agreement titled "Notices."

21. Liquidated Damages. Lender and Borrower agree that in the event Borrower fails to comply with any of the terms or provisions of this Note, Lender's damages would be uncertain and difficult (if not impossible) to accurately estimate because of the parties' inability to predict future interest rates, future share prices, future trading volumes and other relevant factors. Accordingly, Lender and Borrower agree that any fees, balance adjustments, Default Interest or other charges assessed under this Note are not penalties but instead are intended by the parties to be, and shall be deemed, liquidated damages (under Lender's and Borrower's expectations that any such liquidated damages will, if allowed under applicable law, tack back to the Purchase Price Date for purposes of determining the holding period under Rule 144).

22. Waiver of Jury Trial. EACH OF LENDER AND BORROWER IRREVOCABLY WAIVES ANY AND ALL RIGHTS SUCH PARTY MAY HAVE TO DEMAND THAT ANY ACTION, PROCEEDING OR COUNTERCLAIM ARISING OUT OF OR IN ANY WAY RELATED TO THIS NOTE OR THE RELATIONSHIPS OF THE PARTIES HERETO BE TRIED BY JURY. THIS WAIVER EXTENDS TO ANY AND ALL RIGHTS TO DEMAND A TRIAL BY JURY ARISING UNDER COMMON LAW OR ANY APPLICABLE STATUTE, LAW, RULE OR REGULATION. FURTHER, EACH PARTY HERETO ACKNOWLEDGES THAT SUCH PARTY IS KNOWINGLY AND VOLUNTARILY WAIVING SUCH PARTY'S RIGHT TO DEMAND TRIAL BY JURY.

23. Voluntary Agreement. Borrower has carefully read this Note and has asked any questions needed for Borrower to understand the terms, consequences and binding effect of this Note and fully understand them. Borrower has had the opportunity to seek the advice of an attorney of Borrower's choosing, or has waived the right to do so, and is executing this Note voluntarily and without any duress or undue influence by Lender or anyone else.

24. Severability. If any part of this Note is construed to be in violation of any law, such part shall be modified to achieve the objective of Borrower and Lender to the fullest extent permitted by law and the balance of this Note shall remain in full force and effect.

[*Remainder of page intentionally left blank; signature page follows*]

IN WITNESS WHEREOF, Borrower has caused this Note to be duly executed as of the Effective Date and as amended on November 15, 2018.

BORROWER:

CYTODYN INC.

By: /s/ Michael Mulholland
Name: Michael Mulholland
Title: Chief Financial Officer

ACKNOWLEDGED, ACCEPTED AND AGREED:

LENDER:

ILIAD RESEARCH AND TRADING, L.P.

By: Iliad Management, LLC, its General Partner

By: Fife Trading, Inc., its Manager

By: /s/ John M. Fife
John M. Fife, President

[*Signature Page to Convertible Promissory Note*]

ATTACHMENT 1
DEFINITIONS

For purposes of this Note, the following terms shall have the following meanings:

A1. "**Conversion Share Value**" means the product of the number of Conversion Shares deliverable pursuant to any Conversion multiplied by the closing trade price of the Common Stock on the Delivery Date for such Conversion, in connection with the determination of Conversion Delay Late Fees.

A2. "**Conversion**" means a Lender Conversion under Section 3 or a Redemption Conversion under Section 8.

A3. "**Conversion Factor**" means 85%.

A4. "**Default Effect**" means multiplying the Outstanding Balance as of the date the applicable Event of Default occurred by 15% for the first Event of Default, and then adding the resulting product to the Outstanding Balance as of the date the applicable Event of Default occurred, with the sum of the foregoing then becoming the Outstanding Balance under this Note as of the date the applicable Event of Default occurred.

A5. "**DTC**" means the Depository Trust Company or any successor thereto.

A6. "**DTC Eligible**" means, with respect to the Common Stock, that such Common Stock is eligible to be deposited in certificate form at the DTC, cleared and converted into electronic shares by the DTC and held in the name of the clearing firm servicing Lender's brokerage firm for the benefit of Lender.

A7. "**DTC/FAST Program**" means the DTC's Fast Automated Securities Transfer program.

A8. "**DWAC**" means the DTC's Deposit/Withdrawal at Custodian system.

A9. "**DWAC Eligible**" means that (a) Borrower's Common Stock is eligible at DTC for full services pursuant to DTC's operational arrangements, including without limitation transfer through DTC's DWAC system; (b) Borrower has been approved (without revocation) by DTC's underwriting department; (c) Borrower's transfer agent is approved as an agent in the DTC/FAST Program; (d) the Conversion Shares are otherwise eligible for delivery via DWAC; (e) Borrower has previously delivered all Conversion Shares to Lender via DWAC; and (f) Borrower's transfer agent does not have a policy prohibiting or limiting delivery of the Conversion Shares via DWAC.

A10. "**Fundamental Transaction**" means that (a) (i) Borrower or any of its subsidiaries shall, directly or indirectly, in one or more related transactions, consolidate or merge with or into (whether or not Borrower or any of its subsidiaries is the surviving corporation) any other person or entity, or (ii) Borrower or any of its subsidiaries shall, directly or indirectly, in one or more related transactions, sell, lease, license, assign, transfer, convey or otherwise dispose of all or substantially all of its respective properties or assets to any other person or entity, or (iii) Borrower or any of its subsidiaries shall, directly or indirectly, in one or more related transactions, allow any other person or entity to make a purchase, tender or exchange offer that is accepted by the holders of more than 50% of the outstanding shares of voting stock of Borrower (not including any shares of voting stock of Borrower held by the person or persons making or party to, or associated or affiliated with the persons or entities making or party to, such purchase, tender or exchange offer), or (iv) Borrower or any of its subsidiaries shall, directly or indirectly, in one or more related transactions, consummate a stock or share purchase agreement or other business combination (including, without limitation, a reorganization, recapitalization, spin-off or scheme of arrangement) with any other person or entity whereby such other person or entity acquires more than 50% of the outstanding shares of voting stock of Borrower (not including any shares of voting stock of Borrower held by the other persons or entities making or party to, or associated or affiliated with the other persons or entities making or party to, such stock or share purchase agreement or other business combination), or (v) Borrower or any of its subsidiaries shall, directly or indirectly, in one or more related transactions, reorganize, recapitalize or reclassify the Common Stock, other than an increase in the number of authorized shares of Borrower's Common Stock or pursuant to a reverse stock split approved by its stockholders, or (b) any "person" or "group" (as these terms are used for purposes of Sections 13(d) and 14(d) of the 1934 Act and the rules and regulations promulgated thereunder) is or shall become the "beneficial owner" (as defined in Rule 13d-3 under the 1934 Act), directly or indirectly, of 50% of the aggregate ordinary voting power represented by issued and outstanding voting stock of Borrower.

A11. "**Mandatory Default Amount**" means the Outstanding Balance following the application of the Default Effect.

A12. "**Market Price**" means the Conversion Factor multiplied by the lowest closing bid price of the Common Stock during the twenty (20) Trading Days immediately preceding the applicable Conversion.

A13. "**Maximum Monthly Redemption Amount**" means $350,000.00, which is the maximum aggregate Redemption Amount that may be redeemed in any calendar month.

A14. "**OID**" means an original issue discount.

A15. "**Other Agreements**" means, collectively, (a) all existing and future agreements and instruments between, among or by Borrower (or an affiliate), on the one hand, and Lender (or an affiliate), on the other hand, and (b) any financing agreement or a material agreement that affects Borrower's ongoing business operations.

A16. "**Outstanding Balance**" means as of any date of determination, the Purchase Price, as reduced or increased, as the case may be, pursuant to the terms hereof for payment, Conversion, offset, or otherwise, plus the OID, the Transaction Expense Amount, accrued but unpaid interest, collection and enforcements costs (including attorneys' fees) incurred by Lender, transfer, stamp, issuance and similar taxes and fees related to Conversions, and any other fees or charges (including without limitation Conversion Delay Late Fees) incurred under this Note.

A17. "**Purchase Price Date**" means the date the Purchase Price is delivered by Lender to Borrower.

A18. "**Trading Day**" means any day on which the New York Stock Exchange is open for trading.

EXHIBIT A

Iliad Research and Trading, L.P.
303 East Wacker Drive, Suite 1040
Chicago, Illinois 60601

CytoDyn Inc.
Attn: Nader Z. Pourhassan, CEO
1111 Main Street, Suite 660
Vancouver, Washington 98660

Date:

LENDER CONVERSION NOTICE

The above-captioned Lender hereby gives notice to CytoDyn Inc., a Delaware corporation (the "**Borrower**"), pursuant to that certain Convertible Promissory Note made by Borrower in favor of Lender on June 26, 2018 (the "**Note**"), that Lender elects to convert the portion of the Note balance set forth below into fully paid and non-assessable shares of Common Stock of Borrower as of the date of conversion specified below. Said conversion shall be based on the Lender Conversion Price set forth below. In the event of a conflict between this Lender Conversion Notice and the Note, the Note shall govern, or, in the alternative, at the election of Lender in its sole discretion, Lender may provide a new form of Lender Conversion Notice to conform to the Note. Capitalized terms used in this notice without definition shall have the meanings given to them in the Note.

A. Date of Conversion: _____

B. Lender Conversion #: _____

C. Conversion Amount: _____

D. Lender Conversion Price: _____

E. Lender Conversion Shares: _____ (C divided by D)

F. Remaining Outstanding Balance of Note: _____*

* Subject to adjustments for corrections, defaults, interest and other adjustments permitted by the Transaction Documents (as defined in the Purchase Agreement), the terms of which shall control in the event of any dispute between the terms of this Lender Conversion Notice and such Transaction Documents.

Please transfer the Lender Conversion Shares electronically (via DWAC) to the following account:

Broker: _____
DTC#: _____
Account #: _____
Account Name: _____

Address: _____
_____
_____

To the extent the Lender Conversion Shares are not able to be delivered to Lender electronically via the DWAC system, deliver all such certificated shares to Lender via reputable overnight courier after receipt of this Lender Conversion Notice (by facsimile transmission or otherwise) to:

_____
_____
_____

Sincerely,

Lender:

ILIAD RESEARCH AND TRADING, L.P.

By: Iliad Management, LLC, its General Partner

By: Fife Trading, Inc., its Manager

By: _____
John M. Fife, President

EXHIBIT B

Iliad Research and Trading, L.P.
303 East Wacker Drive, Suite 1040
Chicago, Illinois 60601

CytoDyn Inc.
Attn: Nader Z. Pourhassan, CEO
1111 Main Street, Suite 660
Vancouver, Washington 98660

Date:

REDEMPTION NOTICE

The above-captioned Lender hereby gives notice to CytoDyn Inc., a Delaware corporation (the "**Borrower**"), pursuant to that certain Convertible Promissory Note made by Borrower in favor of Lender on June 26, 2018 (the "**Note**"), that Lender elects to redeem a portion of the Note in Redemption Conversion Shares or in cash as set forth below. In the event of a conflict between this Redemption Notice and the Note, the Note shall govern, or, in the alternative, at the election of Lender in its sole discretion, Lender may provide a new form of Redemption Notice to conform to the Note. Capitalized terms used in this notice without definition shall have the meanings given to them in the Note.

REDEMPTION INFORMATION

A. Redemption Date: _____, 201__

B. Redemption Amount: _____

C. Portion of Redemption Amount to be Paid in Cash: _____

D. Portion of Redemption Amount to be Converted into Common Stock: _____ (B minus C)

E. Redemption Conversion Price: _____ (lower of (i) Lender Conversion Price in effect and (ii) Market Price as of Redemption Date)

F. Redemption Conversion Shares: _____ (D divided by E)

G. Remaining Outstanding Balance of Note: _____ *

* Subject to adjustments for corrections, defaults, interest and other adjustments permitted by the Transaction Documents (as defined in the Purchase Agreement), the terms of which shall control in the event of any dispute between the terms of this Redemption Notice and such Transaction Documents.

Sincerely,

Lender:

ILIAD RESEARCH AND TRADING, L.P.

By: Iliad Management, LLC, its General Partner

By: Fife Trading, Inc., its Manager

By: _____
John M. Fife, President

Exhibit 10.1

CONVERTIBLE PROMISSORY NOTE AMENDMENT AND RESTATEMENT

This Convertible Promissory Note Amendment and Restatement (this "**Amendment and Restatement")** is entered into as of November 15, 2018, by and between ILIAD RESEARCH AND TRADING, L.P., a Utah limited partnership ("**Lender**"), and CYTODYN INC., a Delaware corporation ("**Borrower**"). Capitalized terms used in this Amendment and Restatement without definition shall have the meanings given to them in the Note (as defined below).

A. Borrower previously issued to Lender a Convertible Promissory Note dated June 26, 2018 in the principal amount of $5,700,000.00 (the "**Note**," and all other documents entered into in conjunction therewith, the "**Transaction Documents")**.

B. Borrower has requested and Lender has agreed to allow Borrower to pay Redemption Amounts in Common Stock instead of cash.

C. Borrower and Lender have agreed, subject to the terms, amendments, conditions and understandings expressed in this Amendment and Restatement, to amend and restate the Note in its entirety.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. Recitals. Each of the parties hereto acknowledges and agrees that the recitals set forth above in this Amendment and Restatement are true and accurate and are hereby incorporated into and made a part of this Amendment and Restatement.

2. Amended and Restated Note. Borrower and Lender agree that the Note is hereby amended and restated in its entirety and replaced with the Convertible Promissory Note attached hereto as **Exhibit A.**

3. Representations and Warranties. In order to induce Lender to enter into this Amendment and Restatement, Borrower, for itself, and for its affiliates, successors and assigns, hereby acknowledges, represents, warrants and agrees as follows:

a. Borrower has full power and authority to enter into this Amendment and Restatement and to incur and perform all obligations and covenants contained herein, all of which have been duly authorized by all proper and necessary action. No consent, approval, filing or registration with or notice to any governmental authority is required as a condition to the validity of this Amendment and Restatement or the performance of any of the obligations of Borrower hereunder.

b. There is no fact known to Borrower or which should be known to Borrower which Borrower has not disclosed to Lender on or prior to the date of this Amendment and Restatement which would or could materially and adversely affect the understanding of Lender expressed in this Amendment and Restatement or any representation, warranty, or recital contained in this Amendment and Restatement.

c. Except as expressly set forth in this Amendment and Restatement, Borrower acknowledges and agrees that neither the execution and delivery of this Amendment and Restatement nor any of the terms, provisions, covenants, or agreements contained in this Amendment and Restatement shall in any manner release, impair, lessen, modify, waive, or otherwise affect the liability and obligations of Borrower under the terms of the Transaction Documents.

d. Borrower has no defenses, affirmative or otherwise, rights of setoff, rights of recoupment, claims, counterclaims, actions or causes of action of any kind or nature whatsoever against Lender, directly or indirectly, arising out of, based upon, or in any manner connected with, the transactions contemplated hereby, whether known or unknown, which occurred, existed, was taken, permitted, or begun prior to the execution of this Amendment and Restatement and occurred, existed, was taken, permitted or begun in accordance with, pursuant to, or by virtue of any of the terms or conditions of the Transaction Documents. To the extent any such defenses, affirmative or otherwise, rights of setoff, rights of recoupment, claims, counterclaims, actions or causes of action exist or existed, such defenses, rights, claims, counterclaims, actions and causes of action are hereby waived, discharged and released. Borrower hereby acknowledges and agrees that the execution of this Amendment and Restatement by Lender shall not constitute an acknowledgment of or admission by Lender of the existence of any claims or of liability for any matter or precedent upon which any claim or liability may be asserted.

e. Borrower represents and warrants that as of the date hereof no Events of Default or other material breaches exist under the Transaction Documents or have occurred prior to the date hereof.

4. Certain Acknowledgments. Each of the parties acknowledges and agrees that no property or cash consideration of any kind whatsoever has been or shall be given by Lender to Borrower in connection with this Amendment and Restatement.

5. Other Terms Unchanged. The Note, as amended and restated by this Amendment and Restatement, remains and continues in full force and effect, constitutes legal, valid, and binding obligations of each of the parties, and is in all respects agreed to, ratified, and confirmed. Any reference to the Note after the date of this Amendment and Restatement is deemed to be a reference to the Note as amended by this Amendment and Restatement. If there is a conflict between the terms of this Amendment and Restatement and the Note, the terms of this Amendment and Restatement shall control. No forbearance or waiver may be implied by this Amendment and Restatement. Except as expressly set forth herein, the execution, delivery, and performance of this Amendment and Restatement shall not operate as a waiver of, or as an amendment to, any right, power, or remedy of Lender under the Note, as in effect prior to the date hereof.

6. No Reliance. Borrower acknowledges and agrees that neither Lender nor any of its officers, directors, members, managers, equity holders, representatives or agents has made any representations or warranties to Borrower or any of its agents, representatives, officers,

directors, or employees except as expressly set forth in this Amendment and Restatement and the Transaction Documents and, in making its decision to enter into the transactions contemplated by this Amendment and Restatement, Borrower is not relying on any representation, warranty, covenant or promise of Lender or its officers, directors, members, managers, equity holders, agents or representatives other than as set forth in this Amendment and Restatement.

7. Counterparts. This Amendment and Restatement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one instrument. The parties hereto confirm that any electronic copy of another party's executed counterpart of this Amendment and Restatement (or such party's signature page thereof) will be deemed to be an executed original thereof.

8. Further Assurances. Each party shall do and perform or cause to be done and performed, all such further acts and things, and shall execute and deliver all such other agreements, certificates, instruments and documents, as the other party may reasonably request in order to carry out the intent and accomplish the purposes of this Amendment and Restatement and the consummation of the transactions contemplated hereby.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, the undersigned have executed this Amendment and Restatement as of the date set forth above.

BORROWER:

CYTODYN INC.

By: /s/ Michael Mulholland
Name: Michael Mulholland
Title: Chief Financial Officer

LENDER:

ILIAD RESEARCH AND TRADING, L.P.

By: Iliad Management, LLC, its General Partner

By: Fife Trading, Inc., its Manager

By: /s/ John M. Fife
John M. Fife, President

[Signature page to Amendment and Restatement to Convertible Promissory Note]

Exhibit A

AMENDED AND RESTATED CONVERITBLE PROMISSORY NOTE

Exhibit 10.2

Execution

ESCROW AGREEMENT

This ESCROW AGREEMENT (as the same may be amended or modified from time to time pursuant hereto, this "Agreement") is made and entered into as of November 16, 2018, by and among ProstaGene, LLC, a Delaware corporation ("Seller"), CytoDyn Inc. (f/k/a Point NewCo Inc.), a Delaware corporation ("Purchaser", and together with Seller, sometimes referred to individually as "Party" or collectively as the "Parties"), and Computershare Trust Company, N.A. (the "Escrow Agent").

WHEREAS, the Parties have agreed to deposit in escrow certain securities and wish such deposit to be subject to the terms and conditions set forth herein.

NOW THEREFORE, in consideration of the foregoing and of the mutual covenants hereinafter set forth, the parties hereto agree as follows:

1. **Appointment.** The Parties hereby appoint the Escrow Agent as their escrow agent for the purposes set forth herein, and the Escrow Agent hereby accepts such appointment under the terms and conditions set forth herein.

2. **Escrow Asset.**

(a) Purchaser agrees to deposit with the Escrow Agent 5,400,000 shares of Purchaser's Common Stock (Purchaser's Common Stock, along with any dividends with respect thereto the "Escrow Asset") on the date hereof. The Escrow Agent shall hold the Escrow Asset as a book position registered in the name of Computershare Trust Company, N.A. as Escrow Agent.

(b) The Escrow Agent does not own or have any interest in the Escrow Asset but is serving as escrow holder, having only possession thereof and agreeing to hold and distribute the Escrow Asset in accordance with the terms and conditions set forth herein.

(c) **Escrow Shares.**

i. During the term of this Agreement, Seller shall have the right to exercise any voting rights with respect to any of the Escrow Shares attributable to Seller pursuant to the terms of the Underlying Agreement (as defined below). Seller shall direct the Escrow Agent in writing as to the exercise of any such voting rights, and the Escrow Agent shall comply, to the extent it is able to do so, with any such directions of Seller. In the absence of such directions, the Escrow Agent shall not vote any of the shares comprising the Escrow Shares.

ii. In the event of any stock split, reverse stock split, stock dividend, recapitalization, reorganization, merger, consolidation, combination, exchange of shares, liquidation, spin-off or other similar change in capitalization or event, or any distribution to holders of the common stock of Purchaser, other than a regular cash dividend, the Escrow Asset under Section 2(a) above shall be appropriately adjusted on a pro rata basis.

(d) **Dividends and Investment of Dividend Proceeds.**

i. Any dividends paid and the interest earned thereon with respect to the Escrow Asset shall be deemed part of the Escrow Asset and be delivered to the Escrow Agent to be deposited in a bank account and be deposited in one or more interest-bearing accounts to be maintained by the Escrow Agent in the name of the Escrow Agent as agent for the Parties as more fully described in Section 2(d)(ii) herein. Escrow Agent shall have no responsibility or liability for any diminution of the funds that may result from any deposit made by Escrow Agent in accordance with this paragraph, including any losses resulting from a default by any bank, financial institution or other third party.

ii. Escrow Agent offers the custody of dividend funds placed, at the direction of the Parties, in bank account deposits. Escrow Agent will not provide any investment advice in connection with this service. During the term of this Agreement, the dividend funds shall be held in a bank account, and shall be deposited in one or more interest-bearing accounts (which shall not be time deposits) to be maintained by Escrow Agent in the name

of Escrow Agent at one or more of the banks listed in Schedule 3 to this Agreement, each of which shall be a commercial bank with capital exceeding $500,000,000 (each such bank an "Approved Bank"). The deposit of the dividend funds in any of the Approved Banks shall be deemed to be at the direction of the Parties. At any time and from time to time, the Parties may direct Escrow Agent by joint written notice from Buyer and Seller (i) to deposit the dividend funds with a specific Approved Bank, (ii) not to deposit any new amounts in any Approved Bank specified in the notice and/or (iii) to withdraw all or any of the dividend funds that may then be deposited with any Approved Bank specified in the notice. With respect to any withdrawal notice, Escrow Agent will endeavor to withdraw such amount specified in the notice as soon as reasonably practicable and the Parties acknowledge and agree that such specified amount remains at the sole risk of the Parties prior to and after such withdrawal. Such withdrawn amounts shall be deposited with any other Approved Bank or any Approved Bank specified by the Parties in the notice.

iii. Escrow Agent shall pay interest on the dividend funds at a rate equal to 50% of the then current 1-month U.S. Treasury Bill rate. Such interest shall accrue to the Escrow Asset within three (3) Business Days (as defined in Section 10 hereof) of each month end. Escrow Agent shall be entitled to retain for its own benefit, as partial compensation for its services hereunder, any amount of interest earned on the dividend funds that is not payable pursuant to this Section 2(d)(iii).

3. **Disposition and Termination.** (a) As soon as practicable (but no later than three Business Days) after the date that is (i) 180 days following the date of this Agreement (the "Escrow Release No. 1"), (ii) 365 days following the date of this Agreement (the "Escrow Release No. 2"), and (iii) 540 days following the date of this Agreement (the "Final Escrow Release" and together with Escrow Release No. 1 and Escrow Release No. 2, the "Escrow Releases"), the Escrow Agent shall disburse, with respect to each Escrow Release, one-third of the Escrow Asset less any Reserved Portion (as defined herein), as provided in a joint written instruction, to the Escrow Agent from the Parties, in substantially the form attached hereto as Exhibit A (the "Joint Written Instruction"). Notwithstanding any pending Claim Notice or Contest Notice (as such terms are defined herein), the Parties shall be obligated to execute and submit to the Escrow Agent the Joint Written Instruction within three Business Days of the date of each of the Escrow Releases. Any Reserved Portion shall continue to be held in escrow under this Agreement by the Escrow Agent until the claims contained in any Claim Notice(s) described in Section 3(b) below become resolved, even if such claims have not been finally resolved prior to the Final Escrow Release. After the Final Escrow Release, the Escrow Agent shall only disburse all or any amount of the Reserved Portion to Purchaser or Seller from the Escrow Asset pursuant to a Final Order or written instruction delivered in accordance with Section 3(f) hereof.

(b) Notwithstanding anything in this Agreement to the contrary, if on or before each of the Escrow Releases, the Escrow Agent has received from Purchaser a notice (a "Claim Notice") specifying (i) a description of the amount, also expressed as a number of shares of Purchaser common stock included in the Escrow Asset calculated by dividing such dollar amount by $0.5696, of the Damages (as defined in the Underlying Agreement) incurred by the Indemnified Party (the "Claimed Amount"), (ii) a statement that Purchaser is entitled to indemnification under Article XIV of the Underlying Agreement and a reasonable explanation of the basis therefor (including an explanation of the nature of the claim, the section(s) of the Underlying Agreement supporting its claim, and facts and circumstances supporting its claim) and (iii) a demand for payment in the amount of such Claimed Amount. Within thirty (30) days after delivery of a Claim Notice, Seller shall deliver to Purchaser and the Escrow Agent a written response in which Seller shall: (A) agree that Purchaser is entitled to receive all of the Claimed Amount, (B) agree that Purchaser is entitled to receive part, but not all, of the Claimed Amount (the "Agreed Amount"), or (C) contest that Purchaser is entitled to receive any of the Claimed Amount. Any notice of Seller objecting in accordance with the foregoing clauses (B) or (C) to all or any portion of the Claimed Amount is a "Contest Notice." The Escrow Agent shall continue to keep in escrow an amount of shares equal to the Claimed Amount, or to the extent a Contest Notice has previously been delivered, the portion of the Claimed Amount that has been contested by Seller in accordance with the foregoing clauses (B) or (C) (the "Reserved Portion") until such Reserved Portion is resolved as provided herein. For the avoidance of doubt, the preceding sentence shall survive the Final Escrow Release.

(c) At the time of delivery of any Claim Notice or Contest Notice, a duplicate copy of such Claim Notice or Contest Notice shall be delivered by Purchaser or Seller, as applicable, to the other Party and the Escrow Agent in accordance with the notice provisions contained in this Agreement.

(d) The Escrow Agent shall, without further instructions, promptly disburse to Purchaser: that portion of the Escrow Asset equal to the Agreed Amount (calculated by dividing the Agreed Amount by $0.5696) or, if Seller agrees in writing in accordance with Section 3(b) above that Purchaser is entitled to receive all of the Claimed Amount or Seller fails to provide a Contest Notice within the time required by Section 3(b) above, the Escrow Agent shall, without further instructions, promptly disburse to Purchaser that portion of the Escrow Asset equal to the Claimed Amount (calculated by dividing the Claimed Amount by $0.5696). The Escrow Agent shall continue to hold in escrow any Reserved Portion until disbursement is otherwise authorized pursuant to Section 3(e) hereof.

(e) In the event that Seller shall deliver a Contest Notice in accordance with Section 3(b) hereof, Purchaser and Seller shall use good faith efforts to resolve such dispute. If such dispute is not resolved within sixty (60) days following the delivery by Seller of a Contest Notice, such dispute shall be finally resolved by arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association then in effect. The Escrow Agent shall disburse any Reserved Portion only in accordance with: (i) any joint written instructions executed by both Seller and Purchaser (which shall be executed by the Parties and submitted to the Escrow Agent within three Business Days of the resolution of any dispute); or (ii) a written notification from Purchaser of a final and non-appealable decision, order, judgment or decree of a court of competition jurisdiction or an arbitrator, which notification shall attach a copy of such final and non-appealable decision, order, judgment or decree (a "Final Order"). The Escrow Agent shall be entitled to rely on any such joint written instructions or Final Order and upon receipt thereof shall promptly disburse that portion of the remaining Escrow Asset as instructed in such joint written instructions or Final Order.

(f) Notwithstanding anything to the contrary in this Agreement, if the Escrow Agent receives joint written instructions from Seller and Purchaser, or their respective successors or assigns, as to the disbursement of the Escrow Asset, the Escrow Agent shall disburse the Escrow Asset pursuant to such joint written instructions. The Escrow Agent shall have no obligation to follow any directions set forth in any joint written instructions unless and until the Escrow Agent is satisfied, in its reasonable discretion, that the persons executing said joint written instructions are authorized to do so.

(g) Upon delivery of any and all remaining Escrow Asset by the Escrow Agent, this Agreement shall terminate, subject to the provisions of Section 6 and Section 7.

4. **Escrow Agent**. (a) The Escrow Agent shall have only those duties as are specifically and expressly set forth in this agreement on its part to be performed, which shall be deemed purely ministerial in nature, and no other duties or obligations of any kind shall be implied nor read into this Agreement against or on the part of the Escrow Agent. The Escrow Agent accepts the duties and responsibilities under this Agreement as agent only, and no trust is intended to be, or is or will be, created hereby and the Escrow Agent shall owe no duties hereunder as trustee. The Escrow Agent shall neither be responsible for, nor chargeable with, knowledge of, nor have any requirements to comply with, the terms and conditions of any other agreement, instrument or document between the Parties, in connection herewith, if any, including without limitation the Transaction Agreement, dated as of the date hereof, by and among CytoDyn Inc., a Delaware corporation, Point Merger Sub Inc. a Delaware corporation, Seller, Purchaser, and (solely with respect to the representations, warranties and obligations set forth in Sections 5.9(b), 7.8, 14.1(c) and 14.4(f)) Dr. Richard G. Pestell (the "Underlying Agreement"), nor shall the Escrow Agent be required to determine if any person or entity has complied with any such agreements, nor shall any additional obligations of the Escrow Agent be inferred from the terms of such agreements, even though reference thereto may be made in this Agreement. In the event of any conflict between the terms and provisions of this Agreement, those of the Underlying Agreement, any schedule or exhibit attached to this Agreement, or any other agreement among the Parties, the terms and conditions of this Agreement shall control only in connection with any matter related to the Escrow Agent. The Escrow Agent may rely upon and shall not be liable for acting or refraining from acting upon any written notice, document, instruction or request furnished to it hereunder and believed by it to be genuine and to have been signed or presented by the proper Party or Parties without inquiry and without requiring substantiating evidence of any kind. The Escrow Agent shall not be liable to any Party, any beneficiary or other person for refraining from acting upon any instruction setting forth, claiming, containing, objecting to, or related to the transfer or distribution of the Escrow Asset, or any portion thereof, unless such instruction shall have been delivered to the Escrow Agent in accordance with Section 10 below and the Escrow Agent has been able to satisfy any applicable security procedures as may be required hereunder and as set forth in Section 10. The Escrow Agent shall be under no duty to inquire into or investigate the validity, accuracy or content of any such document, notice, instruction or request. The Escrow Agent shall have no duty to confirm or verify the accuracy or correctness of any amounts deposited with it hereunder.

(b) The Escrow Agent may execute any of its powers and perform any of its duties hereunder directly or through affiliates or agents. The Escrow Agent may consult with counsel, accountants and other skilled persons to be selected and retained by it. The Escrow Agent shall not be liable for any action taken, suffered or omitted to be taken by it in accordance with, or in reasonable reliance upon, the advice or opinion of any such counsel, accountants or other skilled persons. In the event that the Escrow Agent shall be uncertain or believe there is some ambiguity as to its duties or rights hereunder or shall receive instructions, claims or demands from any Party hereto which, in its opinion, are ambiguous or conflict with any of the provisions of this Agreement, it shall be entitled to refrain from taking any action and its sole obligation shall be to keep safely all property held in escrow until it shall be given a direction in writing by the Parties which eliminates such ambiguity or uncertainty to the satisfaction of Escrow Agent or by a final and non-appealable order or judgment of a court of competent jurisdiction. The Parties agree to pursue any redress or recourse in connection with any dispute without making the Escrow Agent a party to the same.

5. **Succession.** (a) The Escrow Agent may resign and be discharged from its duties or obligations hereunder by giving thirty (30) days advance notice in writing of such resignation to the Parties specifying a date when such resignation shall take effect. If the Parties have failed to appoint a successor escrow agent prior to the expiration of thirty (30) days following receipt of the notice of resignation, the Escrow Agent may petition any court of competent jurisdiction for the appointment of a successor escrow agent within relevant jurisdiction or for other appropriate relief, and any such resulting appointment shall be binding upon all of the Parties hereto. Escrow Agent's sole responsibility after such thirty (30) day notice period expires shall be to hold the Escrow Asset (without any obligation to reinvest the same) and to deliver the same to a designated substitute escrow agent, if any, or in accordance with the directions of a final order or judgment of a court of competent jurisdiction, at which time of delivery Escrow Agent's obligations hereunder shall cease and terminate, subject to the provisions of Section 7 hereunder. In accordance with Section 7 below, the Escrow Agent shall have the right to withhold any cash in its possession or an amount of shares equal to any dollar amount due and owing to the Escrow Agent, plus any costs and expenses the Escrow Agent shall reasonably believe may be incurred by the Escrow Agent in connection with the termination of the Agreement divided by the closing price per share on the primary trading market for Purchaser's common stock on the immediately preceding trading day.

(b) Any entity into which the Escrow Agent may be merged or converted or with which it may be consolidated, or any entity to which all or substantially all the escrow business may be transferred, shall be the Escrow Agent under this Agreement without further act.

6. **Compensation and Reimbursement.** The Escrow Agent shall be entitled to compensation for its services under this agreement as Escrow Agent and for reimbursement for its reasonable out-of-pocket costs and expenses, in the amounts and payable as set forth on Schedule 2. All amounts owing on Schedule 2 shall be paid by Purchaser. The Escrow Agent shall also be entitled to payment of any amounts to which the Escrow Agent is entitled under the indemnification provisions contained herein as set forth in Section 7. This Section 6 shall survive termination of this Agreement or the resignation, replacement or removal of the Escrow Agent for any reason.

7. **Indemnity.** (a) Subject to Section 7(c) below, Escrow Agent shall be liable for any losses, damages, claims, liabilities, penalties, judgments, settlements, actions, suits, proceedings, litigations, investigations, costs or expenses (including without limitation, the fees and expenses of outside counsel and experts and their staffs and all expenses of document location, duplication and shipment) (collectively "Losses") only to the extent such Losses are determined by a court of competent jurisdiction to be a result of Escrow Agent's gross negligence or willful misconduct; provided, however, that any liability of Escrow Agent will be limited to direct damages sustained by a Party to this Agreement which in the aggregate shall not exceed the value of the Escrow Asset held by the Escrow Agent.

(b) The Parties shall jointly and severally indemnify and hold Escrow Agent harmless from and against, and Escrow Agent shall not be responsible for, any and all Losses arising out of or attributable to Escrow Agent's duties under this Agreement or this appointment, including the reasonable costs and expenses of defending itself against any Losses or enforcing this Agreement, except to the extent of liability described in Section 7(a) above.

(c) Without limiting the Parties' indemnification obligations set forth in Section 7(b) above, neither the Parties nor the Escrow Agent shall be liable for any incidental, indirect, special or consequential damages of any nature whatsoever, including, but not limited to, loss of anticipated profits, occasioned by a breach of any provision of this Agreement even if apprised of the possibility of such damages.

(d) This Section 7 shall survive termination of this Agreement or the resignation, replacement or removal of the Escrow Agent for any reason.

8. **Patriot Act Disclosure/Taxpayer Identification Numbers/Tax Reporting.**

(a) **Patriot Act Disclosure.** Section 326 of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 ("USA PATRIOT Act") requires the Escrow Agent to implement reasonable procedures to verify the identity of any person that opens a new account with it. Accordingly, the Parties acknowledge that Section 326 of the USA PATRIOT Act and the Escrow Agent's identity verification procedures require the Escrow Agent to obtain information which may be used to confirm the Parties identity including without limitation name, address and organizational documents ("identifying information"). The Parties agree to provide the Escrow Agent with and consent to the Escrow Agent obtaining from third parties any such identifying information required as a condition of opening an account with or using any service provided by the Escrow Agent.

(b) **Certification and Tax Reporting.** The Parties, if applicable, have provided the Escrow Agent with their respective fully executed Internal Revenue Service ("IRS") Form W-8, or W-9 and/or other required documentation. All interest or other income earned under this Agreement shall be allocated to Purchaser and reported, as and to the extent required by law, by the Escrow Agent to the IRS, or any other taxing authority, on IRS Form 1099 or 1042S (or other appropriate form) as income earned from the Escrow Asset by Purchaser whether or not said income has been distributed during such year. Escrow Agent shall withhold any taxes it deems appropriate in the absence of proper tax documentation or as required by law, and shall remit such taxes to the appropriate authorities. The Parties hereby represent and warrant to the Escrow Agent that (i) there is no sale or transfer of an United States Real Property Interest as defined under IRC Section 897(c) in the underlying transaction giving rise to this Agreement; and (ii) such underlying transaction does not constitute an installment sale requiring any tax reporting or withholding of imputed interest or original issue discount to the IRS or other taxing authority.

9. **Notices.** All communications hereunder shall be in writing and except for communications from the Parties setting forth, claiming, containing, objecting to, or in any way related to the full or partial transfer or distribution of the Escrow Asset, including but not limited to transfer instructions (all of which shall be specifically governed by Section 10 below), shall be deemed to be duly given after it has been received and the receiving party has had a reasonable time to act upon such communication if it is sent or served:

(a) by facsimile or other electronic transmission (including e-mail);

(b) by overnight courier; or

(c) by prepaid registered mail, return receipt requested;

to the appropriate notice address set forth below or at such other address as any party hereto may have furnished to the other parties in writing by registered mail, return receipt requested.

If to Seller:	ProstaGene, LLC 100 Lancaster Ave, Room 133 Wynnewood, PA 19096 Attention: Dr. Richard G. Pestell
With a copy to:	Pepper Hamilton LLP 400 Berwyn Park | 899 Cassatt Road Berwyn, Pennsylvania 19312-1183 Attention: Timothy C. Atkins, Esq. email: ATKINST@pepperlaw.com
If to Purchaser:	CytoDyn Inc. 1111 Main Street, Suite 660 Vancouver, Washington 98660 Attention: Corporate Secretary email: mmulholland@cytodyn.com

With a copy to:	Lowenstein Sandler LLP 1251 Avenue of the Americas New York, NY 10020 Attention: Steven M. Skolnick, Esq. email: sskolnick@lowenstein.com
If to the Escrow Agent:	Computershare Trust Company, N.A. 8742 Lucent Boulevard, Suite 225 Highlands Ranch, CO 80129 Facsimile No. (303) 262-0608 Attention: Rose Stroud email: corporate.trust@computershare.com cc: jay.ramos@computershare.com and rose.stroud@computershare.com
With a copy to:	Computershare Trust Company, N.A. 480 Washington Boulevard Jersey City, NJ 07310 Attention: General Counsel Facsimile: (201) 680-4610

Notwithstanding the above, in the case of communications delivered to the Escrow Agent, such communications shall be deemed to have been given on the date received by an officer of the Escrow Agent or any employee of the Escrow Agent who reports directly to any such officer at the above-referenced office. In the event that the Escrow Agent, in its sole discretion, shall determine that an emergency exists, the Escrow Agent may use such other means of communication as the Escrow Agent deems appropriate. For purposes of this Agreement, "Business Day" shall mean any day other than a Saturday, Sunday or any other day on which the Escrow Agent located at the notice address set forth above is authorized or required by law or executive order to remain closed.

10. **Security Procedures.** Notwithstanding anything to the contrary as set forth in Section 9, any instructions setting forth, claiming, containing, objecting to, or in any way related to the transfer or distribution, including but not limited to any transfer instructions that may otherwise be set forth in a written instruction permitted pursuant to Section 3 of this Agreement, may be given to the Escrow Agent only by confirmed facsimile or other electronic transmission (including e-mail) and no instruction for or related to the transfer or distribution of the Escrow Asset, or any portion thereof, shall be deemed delivered and effective unless the Escrow Agent actually shall have received such instruction by facsimile or other electronic transmission (including e-mail) at the number or e-mail address provided to the Parties by the Escrow Agent in accordance with Section 9 and as further evidenced by a confirmed transmittal to that number.

(a) In the event transfer instructions are so received by the Escrow Agent by facsimile or other electronic transmission (including e-mail), the Escrow Agent is authorized to seek confirmation of such instructions by telephone call-back to the person or persons designated on Schedule 1 hereto, and the Escrow Agent may rely upon the confirmation of anyone purporting to be the person or persons so designated. The persons and telephone numbers for call-backs may be changed only in a writing actually received and acknowledged by the Escrow Agent. If the Escrow Agent is unable to contact any of the authorized representatives identified in Schedule 1, the Escrow Agent is hereby authorized both to receive written instructions from and seek confirmation of such instructions by telephone call-back to any one or more of Purchaser's executive officers ("Executive Officers"), as the case may be, which shall include the titles of President, Chief Executive Officer and Chief Financial Officer, as the Escrow Agent may select. Such Executive Officer shall deliver to the Escrow Agent a fully executed incumbency certificate, and the Escrow Agent may rely upon the confirmation of anyone purporting to be any such officer.

(b) Seller acknowledges that the Escrow Agent is authorized to deliver the Escrow Asset to the custodian account or recipient designated by Seller in writing.

Purchaser acknowledges that the Escrow Agent is authorized to deliver the Escrow Asset to the address provided for notice to Purchaser or any address provided in a Claims Notice.

11. **Compliance with Court Orders.** In the event that any escrow property shall be attached, garnished or levied upon by any court order, or the delivery thereof shall be stayed or enjoined by an order of a court, or any order, judgment or decree shall be made or entered by any court order affecting the property deposited under this Agreement, the Escrow Agent is hereby expressly authorized, in its sole discretion, to obey and comply with all writs, orders or decrees so entered or issued, which it is advised by legal counsel of its own choosing is binding upon it, whether with or without jurisdiction, and in the event that the Escrow Agent reasonably obeys or complies with any such writ, order or decree it shall not be liable to any of the parties hereto or to any other person, entity, firm or corporation, by reason of such compliance notwithstanding such writ, order or decree be subsequently reversed, modified, annulled, set aside or vacated.

12. **Miscellaneous.** Except for transfer instructions as provided in Section 10, the provisions of this Agreement may be waived, altered, amended or supplemented, in whole or in part, only by a writing signed by the Escrow Agent and the Parties. Neither this Agreement nor any right or interest hereunder may be assigned in whole or in part by the Escrow Agent or any Party, except as provided in Section 5, without the prior consent of the Escrow Agent and the other parties. This Agreement shall be governed by and construed under the laws of the State of New York. Each Party and the Escrow Agent irrevocably waives any objection on the grounds of venue, forum non-conveniens or any similar grounds and irrevocably consents to service of process by mail or in any other manner permitted by applicable law and consents to the jurisdiction of any court of the State of New York or United States federal court, in each case, sitting in New York County, New York. The Parties and the Escrow Agent further hereby waive any right to a trial by jury with respect to any lawsuit or judicial proceeding arising or relating to this Agreement. No party to this Agreement is liable to any other party for losses due to, or if it is unable to perform its obligations under the terms of this Agreement because of, acts of God, fire, war, terrorism, floods, strikes, electrical outages, equipment or transmission failure, or other causes reasonably beyond its control. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. All signatures of the parties to this Agreement may be transmitted by facsimile or other electronic transmission (including e-mail), and such facsimile or other electronic transmission (including e-mail) will, for all purposes, be deemed to be the original signature of such party whose signature it reproduces, and will be binding upon such party. If any provision of this Agreement is determined to be prohibited or unenforceable by reason of any applicable law of a jurisdiction, then such provision shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions thereof, and any such prohibition or unenforceability in such jurisdiction shall not invalidate or render unenforceable such provisions in any other jurisdiction. A person who is not a party to this Agreement shall have no right to enforce any term of this Agreement. The Parties represent, warrant and covenant that each document, notice, instruction or request provided by such Party to Escrow Agent shall comply with applicable laws and regulations. Where, however, the conflicting provisions of any such applicable law may be waived, they are hereby irrevocably waived by the parties hereto to the fullest extent permitted by law, to the end that this Agreement shall be enforced as written. Except as expressly provided in Section 7 above, nothing in this Agreement, whether express or implied, shall be construed to give to any person or entity other than the Escrow Agent and the Parties any legal or equitable right, remedy, interest or claim under or in respect of this Agreement or the Escrow Asset escrowed hereunder.

* * * * *

IN WITNESS WHEREOF, the Parties and the Escrow Agent have executed this Escrow Agreement as of the date set forth above.

PROSTAGENE, LLC

By:	/s/ Richard Pestell
Name:	Richard Pestell
Title:	Chief executive officer, Founder
Telephone:	2674020545

CYTODYN INC. (F/K/A POINT NEWCO INC.)

By:	/s/ Michael D. Mulholland
Name:	Michael D. Mulholland
Title:	Treasurer, Corporate Secretary and Chief Financial Officer
Telephone:	(360) 980-8524

COMPUTERSHARE TRUST COMPANY, N.A.

as Escrow Agent

By:	/s/ Jaddiel Ramos
Name:	Jaddiel Ramos
Title:	Corporate Trust Officer

SCHEDULE 1

Telephone Number(s) and authorized signature(s) for
Person(s) Designated to give Escrow Asset Transfer Instructions

If from Seller:

	Name	Telephone Number	Signature
1.	Richard G. Pestell		
2.			
3.			

If from Purchaser:

	Name	Telephone Number	Signature
1.	Nader Pourhassan	(360) 980-8524	
2.	Michael D. Mulholland	(360) 980-8524	
3.			

Telephone Number(s) for Call-Backs and
Person(s) Designated to Confirm Escrow Asset Transfer Instructions

If from Seller:

	Name	Telephone Number
1.	Richard G. Pestell	
2.		
3.		

If from Purchaser:

	Name	Telephone Number
1.	Nader Pourhassan	(360) 980-8524
2.	Michael D. Mulholland	(360) 980-8524
3.		

SCHEDULE 2

Initial Services For review of documents, liaison with counsel, execution of Escrow Agreement, setting up records and all correspondence and other matters in connection therewith	$2,500.00
Annual Administration Fee (per year or part thereof, billed annually in advance) inclusive of 1 release and payout by wire or check to Stockholder Representative or Sellers shareholders. Thereafter $150 per payee.	$2,500.00
Investment Fee Funds to be deposited in interest-bearing accounts maintained by the Escrow Agent, which shall be a commercial bank with capital exceeding $500,000,000	N/A
Out-of-Pocket Expenses Overnight delivery charges, postage, stationary, etc.	At Cost

The foregoing fees are exclusive of all applicable taxes, costs for extraordinary services or events, and of reasonable legal costs and out-of-pocket expenses that may be incurred. Additional charges will be imposed for services not specifically priced or for extraordinary events, including, but not limited to, claims, threatened or actual litigation or default situations. Fees are subject to adjustment should activity levels justify it. Fees are subject to acceptance by Computershare's new business acceptance committee, and receipt of all required documentation for us to comply with any applicable anti-money laundering and anti-terrorism regulation, policy or guideline. Interest may be charged on overdue invoices.

SCHEDULE 3

APPROVED BANKS

Bank of America
BMO Harris Bank, N.A.
ANZ
Societe Generale
Fifth Third Bank
Bank of the West
PNC Bank NA
Huntington Bank
BNP Paribas
BB&T

EXHIBIT A

FORM OF JOINT RELEASE

[DATE]

VIA FACSIMILE (303) 262-0608

Computershare Trust Company, N.A.
8742 Lucent Boulevard, Suite 225
Highlands Ranch, CO 80129
Attention: Corporate Trust

Re: Joint Release Notice regarding ProstaGene, LLC Escrow

Dear :

This Release Notice is pursuant to Section 3(a) of the Escrow Agreement dated as of November 16, 2018 (the "Escrow Agreement") among ProstaGene, LLC, a Delaware corporation ("Seller"), CytoDyn Inc. (f/k/a Point NewCo Inc.), a Delaware corporation ("Purchaser", and together with Seller, sometimes referred to individually as "Party" or collectively as the "Parties"), and Computershare Trust Company, N.A. ("Escrow Agent"). All capitalized terms used herein shall have the meaning ascribed to it in the Escrow Agreement.

The Escrow Agent is instructed to promptly release such amounts to the Seller, according to the instructions attached hereto as Schedule 1.

PROSTAGENE, LLC, as Seller

By: _____
Name: _____
Title: _____

**CYTODYN INC. (F/K/A POINT NEWCO INC.),
as Purchaser**

By: _____
Name: _____
Title: _____

Schedule 1

Exhibit 10.3

EXECUTION

STOCK RESTRICTION AGREEMENT

This **STOCK RESTRICTION AGREEMENT** (this "**Agreement**") is made as of November 16, 2018 (the "**Effective Date**"), by and between CytoDyn Inc., a Delaware corporation ("**Company**"), ProstaGene, LLC, a Delaware limited liability company ("**ProstaGene**"), and Dr. Richard G. Pestell (the "**Stockholder**").

RECITALS

A. The Stockholder was the founder and majority owner of ProstaGene, with approximately a 77.2% ownership interest, and also owned certain intellectual property interests that he had previously licensed to ProstaGene.

B. The Company, certain of its predecessors and affiliates, ProstaGene and the Stockholder negotiated and entered into a Transaction Agreement, dated August 27, 2018 (the "**ProstaGene Purchase Agreement**"), to effect a holding company reorganization and the purchase and sale of intellectual property and other assets of ProstaGene (including certain intellectual property interests licensed by the Executive to ProstaGene) for the aggregate stock consideration specified therein (the "**ProstaGene Acquisition**").

C. Pursuant to the ProstaGene Purchase Agreement, the stock portion of the consideration payable in the ProstaGene Acquisition consists of 27,000,000 shares of the Company's common stock, par value $0.001 per share (the "**Stock Payment Shares**").

C. In connection with the ProstaGene Acquisition, the Stockholder is being appointed to the Company's Board of Directors (the "**Board**") and is entering into an Employment Agreement (the "**Employment Agreement**") as the Company's Chief Medical Officer (collectively, the "**Stockholder Appointments**").

D. In connection with the ProstaGene Acquisition and the Stockholder Appointments, the Stockholder and ProstaGene are willing to enter into this Agreement and subject 8,342,000 Stock Payment Shares (collectively, the "**Restricted Stock**") distributable to the Stockholder as a result of the ProstaGene Acquisition to the restrictions in this Agreement.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual promises and covenants contained in this Agreement, the parties agree to the following between the parties as follows:

1. REPURCHASE OPTION

(a) In the event the Stockholder's employment under the Employment Agreement is terminated other than (x) by the Company without Cause (as defined in the Employment Agreement), (y) by the Stockholder for Good Reason (as defined in the Employment Agreement) or (z) by reason of death or Disability (as defined in the Employment Agreement), then the Company will have an irrevocable option ("**Repurchase Option**"), for a period of ninety (90) days after such termination, or such longer period as may be agreed to by the Company and the Stockholder, to repurchase from the Stockholder or the Stockholder's

personal representative, as the case may be, at a purchase price of $0.001 per share of Preferred Stock or $0.001 per Conversion Share, as applicable (the "**Option Price**"), up to but not exceeding the number of shares of Restricted Stock that have not vested in accordance with the provisions of Section 1(b) below as of such termination date. The Stockholder hereby acknowledges that the Company has no obligation, either now or in the future, to repurchase any of the shares of Common Stock, whether vested or unvested, at any time.

(b) Vesting. One hundred percent (100%) of the Restricted Stock will initially be subject to the Repurchase Option. The shares of the Restricted Stock will vest and be released from the Repurchase Option in three equal annual installments commencing on the date that is one year after the Effective Date, until all the Restricted Stock is released from the Repurchase Option (provided in each case that the Stockholder remains an employee of the Company as of the date of such release). Notwithstanding the foregoing, the Repurchase Option will automatically lapse and all shares subject to the Repurchase Option will immediately become fully vested and no longer subject to the Repurchase Option (i) on the effective date of a Change in Control of the Company, or (ii) if the Stockholder's employment under the Employment Agreement is terminated (x) by the Company without Cause (as defined in the Employment Agreement), (y) by the Stockholder for Good Reason (as defined in the Employment Agreement) or (z) by reason of death or Disability.

(c) Definitions.

(i) "**Affiliate**" shall have the meaning, with respect to a Person, a Person that directly or indirectly Controls, or is Controlled by, or is under common Control with such Person.

(ii) "**Change in Control**" means (x) a change in ownership of the Company under clause (1) below or (y) a change in the ownership of a substantial portion of the assets of the Company under clause (2) below:

(1) *Change in the Ownership of the Company*. A change in the ownership of the Company shall occur on the date that any one person, or more than one person acting as a group (as defined in clause (3) below), acquires ownership of capital stock of the Company that, together with capital stock held by such person or group, constitutes more than 50 percent of the total fair market value or total voting power of the capital stock of the Company. However, if any one person or more than one person acting as a group, is considered to own more than 50 percent of the total fair market value or total voting power of the capital stock of the Company, the acquisition of additional capital stock by the same person or persons shall not be considered to be a change in the ownership of the Company. An increase in the percentage of capital stock owned by any one person, or persons acting as a group, as a result of a transaction in which the Company acquires capital stock in the Company in exchange for property will be treated as an acquisition of stock for purposes of this paragraph.

(2) *Change in the Ownership of a Substantial Portion of the Company's Assets*. A change in the ownership of a substantial portion of the Company's assets shall occur on the date that any one person, or more than one person acting as a group (as defined in clause (3) below), acquires (or has acquired during the 12-month period ending on the date of

the most recent acquisition by such person or persons) assets from the Company that have a total gross fair market value equal to or more than 80 percent of the total gross fair market value of all of the assets of the Company immediately prior to such acquisition or acquisitions. For this purpose, gross fair market value means the value of the assets of the Company, or the value of the assets being disposed of, determined without regard to any liabilities associated with such assets. There is no Change in Control under this clause (2) when there is a transfer to an entity that is controlled by the shareholders of the Company immediately after the transfer, as provided below in this clause (2). A transfer of assets by the Company is not treated as a change in the ownership of such assets if the assets are transferred to (a) a shareholder of the Company (immediately before the asset transfer) in exchange for or with respect to its capital stock, (b) an entity, 50 percent or more of the total value or voting power of which is owned, directly or indirectly, by the Company, (c) a person, or more than one person acting as a group, that owns, directly or indirectly, 50 percent or more of the total value or voting power of all the outstanding capital stock of the Company, or (d) an entity, at least 50 percent of the total value or voting power of which is owned, directly or indirectly, by a person described in clause (2)(c) of this paragraph. For purposes of this clause (2), a person's status is determined immediately after the transfer of the assets. Notwithstanding anything in this clause (2) to the contrary, in no event shall a license of (or other similar transfer of rights in) PRO 140 be a change in the ownership of a substantial portion of the Company's assets.

(3) *Persons Acting as a Group*. For purposes of clauses (1) and (2) above, persons will not be considered to be acting as a group solely because they purchase or own capital stock or purchase assets of the Company at the same time. However, persons will be considered to be acting as a group if they are owners of a corporation that enters into a merger, consolidation, purchase or acquisition of assets or capital stock, or similar business transaction with the Company. If a person, including an entity, owns stock in both corporations that enter into a merger, consolidation, purchase or acquisition of assets or capital stock, or similar transaction, such shareholder is considered to be acting as a group with other shareholders in a corporation only with respect to the ownership in that corporation before the transaction giving rise to the change and not with respect to the ownership interest in the other corporation. For purposes of this paragraph, the term "corporation" shall have the meaning assigned such term under Treasury Regulation section 1.280G-1, Q&A-45.

(iii) "**Control**" shall have the meaning, as to any Person, the power to direct or cause the direction of the management and policies of such Person, whether through the ownership of voting securities, by contract or otherwise (the terms "**Controlled by**" and "**under common Control with**" shall have correlative meanings).

(iv) "**Person**" shall have the meaning: an individual, partnership, corporation, limited liability company, trust, joint venture, unincorporated association, or other entity or association.

2. EXERCISE OF REPURCHASE OPTION. The Repurchase Option will be exercised by written notice signed by an officer of the Company or by any assignee or assignees of the Company and delivered or mailed as provided in Section 11(a). Such notice will identify the number of shares of Restricted Stock to be purchased and will notify the Stockholder of the time, place and date for settlement of such purchase, which will be scheduled by the Company within

the term of the Repurchase Option set forth in Section 1(a) above. The Company will pay for any shares of Restricted Stock purchased pursuant to its Repurchase Option in cash. Upon delivery of such notice and payment of the purchase price, the Company will become the legal and beneficial owner of the Restricted Stock being repurchased and all rights and interest in such shares, and the Company will have the right to transfer to its own name the Restricted Stock being repurchased by the Company, without further action by the Stockholder or ProstaGene.

3. ADJUSTMENTS TO RESTRICTED STOCK. If, from time to time, during the term of the Repurchase Option there is any change affecting the Company's outstanding Common Stock as a class that is effected without the receipt of consideration by the Company (through merger, consolidation, reorganization, reincorporation, stock dividend, dividend in property other than cash, stock split, liquidating dividend, combination of shares, change in corporation structure or other transaction not involving the receipt of consideration by the Company), then any and all new, substituted or additional securities or other property (including cash) to which the Stockholder is entitled by reason of the Stockholder's ownership of Restricted Stock will be immediately subject to the Repurchase Option and be included in the word "**Restricted Stock**" for all purposes of the Repurchase Option with the same force and effect as the shares of the Restricted Stock presently subject to the Repurchase Option, but only to the extent the Restricted Stock is, at the time, covered by such Repurchase Option. While the total Option Price will remain the same after each such event, the Option Price per share of Restricted Stock upon exercise of the Repurchase Option will be appropriately adjusted.

4. ESCROW OF UNVESTED STOCK; PLEDGE OF RESTRICTED STOCK. As soon as reasonably practicable after the Effective Date, the Company shall issue a stock certificate in the Stockholder's name that corresponds to the Restricted Stock (the "**Certificate**"), and shall hold such Certificate in escrow for the Stockholder's benefit, properly endorsed for transfer, until such time as the Restricted Stock are forfeited to the Company or all restrictions thereon lapse. The Company shall not be liable for any act it may do or fail to do with respect to the holding of the Certificate in escrow hereunder, provided it acts or fails to act in good faith and in accordance with this Agreement.

5. TERMINATION OF REPURCHASE OPTION. Sections 1, 2, 3, and 4 of this Agreement will terminate upon the exercise in full or expiration of the Repurchase Option, whichever occurs first.

6. RIGHTS OF THE STOCKHOLDER. Subject to the provisions of Sections 4, 6, 8, and 9 of this Agreement, the Stockholder will exercise all rights and privileges of a stockholder of the Company with respect to the Restricted Stock deposited in escrow. The Stockholder will be deemed to be the holder for purposes of receiving any dividends that may be paid with respect to such shares of Restricted Stock and for the purpose of exercising any voting rights relating to such shares of Restricted Stock, even if some or all of such shares of Restricted Stock have not yet vested and been released from the Repurchase Option.

7. LIMITATIONS ON TRANSFER. In addition to any other limitation on transfer created by applicable securities laws, the Stockholder will not sell, assign, hypothecate, donate, encumber or otherwise dispose of any interest in the Restricted Stock while the Restricted Stock is subject to the Repurchase Option. As a condition of this Agreement, the Stockholder may be required to execute a stock power in the form of Exhibit A hereto with respect to any shares issued pursuant to this Agreement.

8. RESTRICTIVE LEGENDS. All certificates representing the Restricted Stock will have endorsed legends in substantially the following forms (in addition to any other legend which may be required by other agreements between the parties to this Agreement):

(a) "THE SHARES REPRESENTED BY THIS CERTIFICATE ARE SUBJECT TO AN OPTION SET FORTH IN A STOCK RESTRICTION AGREEMENT BETWEEN THE COMPANY AND THE REGISTERED HOLDER, OR SUCH HOLDER'S PREDECESSOR IN INTEREST, A COPY OF WHICH IS ON FILE AT THE PRINCIPAL OFFICE OF THE COMPANY. ANY TRANSFER OR ATTEMPTED TRANSFER OF ANY SHARES SUBJECT TO SUCH OPTION IS VOID WITHOUT THE PRIOR EXPRESS WRITTEN CONSENT OF THE COMPANY."

(b) "THE SHARES REPRESENTED BY THIS CERTIFICATE HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933 AS AMENDED. THEY MAY NOT BE SOLD, OFFERED FOR SALE, PLEDGED OR HYPOTHECATED IN THE ABSENCE OF AN EFFECTIVE REGISTRATION STATEMENT AS TO THE SECURITIES UNDER SAID ACT OR AN OPINION OF COUNSEL SATISFACTORY TO THE COMPANY THAT SUCH REGISTRATION IS NOT REQUIRED."

(c) Any legend required by appropriate blue sky officials.

The Company will remove or cause the removal of the foregoing legends as and to the extent of the lapse of the applicable restrictions.

9. REFUSAL TO TRANSFER. The Company will not be required (a) to transfer on its books any shares of Restricted Stock of the Company which will have been transferred in violation of any of the provisions set forth in this Agreement, or (b) to treat as owner of such shares or to accord the right to vote as such owner or to pay dividends to any transferee to whom such shares will have been so transferred.

10. SERVICE. Neither this Agreement nor any action taken hereunder shall be construed as giving the Stockholder any right of continuing service with the Company.

11. MISCELLANEOUS.

(a) Notices. All notices required or permitted hereunder will be in writing and will be deemed effectively given: (i) upon personal delivery to the party to be notified, (ii) when sent by confirmed facsimile or e-mail if sent during normal business hours of the recipient, and if not during normal business hours of the recipient, then on the next business day, (iii) five (5) calendar days after having been sent by registered or certified mail, return receipt requested, postage prepaid, or (iv) one (1) business day after deposit with a nationally recognized overnight courier, specifying next day delivery, with written verification of receipt. All communications will be sent to the other party to this Agreement at such party's address set forth on the signature page to this Agreement, or at such other address as such party may designate by ten (10) days advance written notice to the other party to this Agreement.

(b) Governing Law. This Agreement, and all matters arising directly or indirectly herefrom, will be governed by and construed in accordance with the internal laws of the state of Delaware, without regard to conflict of law principles that would result in the application of any law other than the law of the state of Delaware.

(c) Entire Agreement; Amendment. This Agreement (including the exhibits to this Agreement) constitutes the entire agreement between the parties with respect to the subject matter of this Agreement and supersedes and merges all prior agreements or understandings, whether written or oral. This Agreement may not be amended, modified or revoked, in whole or in part, except by an agreement in writing signed by each of the parties to this Agreement.

(d) Successors and Assigns. This Agreement will inure to the benefit of the successors and assigns of the Company and, subject to the restrictions on transfer set forth in this Agreement, be binding upon ProstaGene, the Stockholder and the Stockholder's successors and assigns. The Repurchase Option of the Company under this Agreement will be assignable by the Company at any time or from time to time, in whole or in part.

(e) Further Execution. The parties agree to take all such further action(s) as may reasonably be necessary to carry out and consummate this Agreement as soon as practicable, and to take whatever steps may be necessary to obtain any governmental approval in connection with or otherwise qualify the issuance of the securities that are the subject of this Agreement.

(f) Amendment. This Agreement may be amended or modified only by a written instrument executed by both the Company and the Stockholder.

(g) Severability. If one or more provisions of this Agreement are held to be unenforceable under applicable law, the parties agree to renegotiate such provision in good faith. In the event that the parties cannot reach a mutually agreeable and enforceable replacement for such provision, then (i) such provision will be excluded from this Agreement, (ii) the balance of the Agreement will be interpreted as if such provision were so excluded and (iii) the balance of the Agreement will be enforceable in accordance with its terms.

(h) Counterparts. This Agreement may be executed in two or more counterparts, including facsimile counterparts, each of which will be deemed an original and all of which together will constitute one instrument.

[Signature Page Follows]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first written above.

CYTODYN INC.

By: /s/ Michael D. Mulholland
Name: Michael D. Mulholland
Title: Chief Financial Officer

STOCKHOLDER

/s/ Richard G. Pestell
Name: Richard G. Pestell

ACKNOWLEDGED AND AGREED:

PROSTAGENE, LLC

By: /s/ Richard Pestell
Name: Richard Pestell
Title: Chief Executive Officer

ATTACHMENTS:

Exhibit A – Stock Power

Exhibit A-1

STOCK POWER

FOR VALUE RECEIVED, Richard G. Pestell , hereby sells, assigns, and transfers unto CytoDyn Inc. shares of Series C convertible preferred stock, par value $0.001 per share, of CytoDyn Inc. (the "**Company**"), issued pursuant to, and subject to the terms of, that certain Stock Restriction Agreement by and between the Company and Richard G. Pestell, dated , 20 , standing in his/her name on the books of said corporation represented by Certificate No. herewith, and does hereby irrevocably constitute and appoint as his/her attorney to transfer the said stock on the books of said corporation with full power of substitution in the premises.

Dated:

/s/ Richard G. Pestell
Richard G. Pestell

[**INSTRUCTION**: *Please do not fill in any blanks other than the signature line. The purpose of this assignment is to enable the Company to exercise its Repurchase Option set forth in the Agreement without requiring additional signatures on the part of the Stockholder.*]

Exhibit A-2

STOCK POWER

FOR VALUE RECEIVED, Richard G. Pestell , hereby sells, assigns, and transfers unto CytoDyn Inc. shares of common stock, par value $0.001 per share, of CytoDyn Inc. (the "**Company**"), issued pursuant to, and subject to the terms of, that certain Stock Restriction Agreement by and between the Company and Richard G. Pestell, dated , 20 , standing in his/her name on the books of said corporation represented by Certificate No. herewith, and does hereby irrevocably constitute and appoint as his/her attorney to transfer the said stock on the books of said corporation with full power of substitution in the premises.

Dated:

/s/ Richard G. Pestell
Richard G. Pestell

[**INSTRUCTION**: *Please do not fill in any blanks other than the signature line. The purpose of this assignment is to enable the Company to exercise its Repurchase Option set forth in the Agreement without requiring additional signatures on the part of the Stockholder.*]

Exhibit 10.4

EXECUTION

CONFIDENTIAL INFORMATION, INVENTIONS AND NONCOMPETITION AGREEMENT

This CONFIDENTIAL INFORMATION, INVENTIONS AND NONCOMPETITION AGREEMENT (this "Agreement"), dated as of November 16, 2018 (the "Effective Date"), is by and among CYTODYN INC., a Delaware corporation ("HoldCo"), CYTODYN OPERATIONS INC., a Delaware corporation and wholly owned subsidiary of HoldCo ("OpCo" and together with HoldCo, the "Company"), and me, Dr. Richard G. Pestell.

W I T N E S S E T H:

WHEREAS, I am the founder and principal member of ProstaGene, LLC, a Delaware limited liability company ("ProstaGene"), with approximately a 77.2% ownership interest, and I also own certain intellectual property interests that I have previously licensed to ProstaGene;

WHEREAS, the Company, certain of its predecessors and affiliates, ProstaGene and I have negotiated and entered into a Transaction Agreement, dated August 27, 2018 (the "ProstaGene Purchase Agreement"), to effect a holding company reorganization and the purchase and sale of intellectual property and other assets of ProstaGene (including certain intellectual property interests licensed by me to ProstaGene) for the aggregate stock consideration specified therein (the "ProstaGene Acquisition");

WHEREAS, in connection with the ProstaGene Acquisition, I am being appointed to the Company's Board of Directors and am entering into an employment agreement as the Company's Chief Medical Officer (the "Employment Agreement"); and

WHEREAS, in connection with and in consideration of the foregoing, I have agreed to execute and be bound by the terms of 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, intending to be legally bound hereby, I hereby agree with the Company as follows:

1. Representations and Warranties

1.1 No Conflict with any Other Agreement or Obligation. I represent and warrant that, other than as set forth on Schedule 1.1, I am not bound by any agreement or arrangement with or duty to any other person that would conflict with this Agreement. I shall not disclose to the Company or induce the Company to use any proprietary, trade secret or confidential information or material belonging to others.

2. Confidential Information

2.1 Definition of Confidential Information. "Confidential Information" means all of the trade secrets, know-how, ideas, business plans, pricing information, the identity of and any information concerning customers or suppliers, computer programs (whether in source code or

object code), procedures, processes, materials (including biological materials), data, nonpublic regulatory information, experimental protocols and results, nonpublic algorithms (including gene signature algorithms), strategies, methods, systems, designs, discoveries, inventions, production methods and sources, marketing and sales information, information received from others that the Company is obligated to treat as confidential or proprietary, information relating to the Company's corporate finance and liquidity transactions, and any other technical, operating, financial and other business information relating to the Company, its business, potential business, operations or finances, or the business of the Company's affiliates or customers, of which I may have acquired or developed knowledge or of which I may in the future acquire or develop knowledge of during my work for the Company, or from my colleagues while working for the Company. Confidential Information does not include any of the foregoing that is or becomes available to the public other than as a result of a disclosure by me in breach of this Agreement.

2.2 Protection of Confidential Information. I will use the Confidential Information only in the performance of my duties for the Company. I will not disclose the Confidential Information, directly or indirectly, at any time during or after my employment by the Company except to persons authorized by the Company to receive this information. I will not use the Confidential Information, directly or indirectly, at any time during or after my employment by the Company, for my personal benefit, for the benefit of any other person or entity, or in any manner adverse to the interests of the Company. I will take all action reasonably necessary to protect the Confidential Information from being disclosed to anyone other than persons authorized by the Company. Notwithstanding the foregoing or anything else contained herein to the contrary, this Agreement shall not preclude me from disclosing Confidential Information to a governmental body or agency or to a court if and to the extent that a restriction on such disclosure would limit me from exercising any protected right afforded to me under applicable law, including the ability to receive an award for information provided to the Securities Exchange Commission or any other governmental body.

2.3 Return of Confidential Information. When my employment by the Company terminates or at any time upon demand, I will immediately return or destroy all materials (including without limitation, written or printed documents, email and computer disks or tapes, whether machine or user readable, computer memory, and other information reduced to any recorded format or medium) containing, summarizing, abstracting or in any way relating to the Confidential Information. At the time I return these materials I will acknowledge to the Company, in writing and under oath, in the form attached as Exhibit A, that I have complied with the terms of this Agreement. I further agree that any electronic accounts I open, handle or become involved with on the Company's behalf constitute Company property. I will provide all access codes, passcodes, and administrator rights to the Company at any time during or after my employment on demand.

2.4 Defend Trade Secrets Act Notice. I acknowledge receipt of notice of the following immunities under 18 USC Section 1833(b):

(a) An individual shall not be held criminally or civilly liable under any U.S. federal or state trade secret law for the disclosure of a trade secret that (i) is made (A) in confidence to a federal, state or local government official, either directly or indirectly, or to an attorney and (B)

solely for the purpose of reporting or investigating a suspected violation of law or (ii) is made in a complaint or other document filed in a lawsuit or other proceeding, if such filing is made under seal.

(b) In addition, an individual who files a lawsuit for retaliation by an employer for reporting a suspected violation of law may disclose the employer's trade secrets to his or her attorney and use the trade secret information in the court proceeding if the individual: (i) files any document containing the trade secret under seal and (ii) does not disclose the trade secret, except pursuant to court order.

3. Inventions

3.1 Definition of Inventions. The term "Inventions" means:

(a) contributions and inventions, discoveries, creations, developments, improvements, works of authorship and ideas (whether or not they are patentable or copyrightable) of any kind that are conceived, created, developed or reduced to practice by me, alone or with others, while I am employed by the Company that are either: (i) conceived or reduced to practice while working at the Company or with the use of the Company resources, facilities or materials, (ii) relate to the Company's business or actual or demonstrably anticipated research or development, or (iii) result from any work performed by me for the Company; and

(b) any and all patents, patent applications, copyrights, trade secrets, trademarks, domain names and other intellectual property rights, worldwide, with respect to any of the foregoing.

(c) The term "Inventions" specifically excludes any inventions that I develop entirely on my own time without using any Company equipment, supplies, facilities or trade secret information, except for those inventions that: (a) relate to the Company's business or actual or demonstrably anticipated research or development; or (b) result from any work performed by me for the Company. The term "Inventions" also specifically excludes any invention that is subject to the invention policy of Baruch S. Blumberg Institute ("Blumberg") in effect on January 1, 2017, except to the extent assigned to the Company under the Intellectual Property Agreement among the Company (as the assignee of ProstaGene), Blumberg and me effective January 1, 2017.

3.2 All Inventions are Exclusively the Property of the Company.

(a) I will promptly disclose all Inventions made or conceived, reduced to practice or learned by me, either alone or jointly with others, in full detail, to the Chief Financial Officer and Chief Executive Officer of the Company using the form attached as Exhibit B. I will not disclose any Invention to anyone other than persons authorized by the Company, without the Company's express prior written instruction to do so.

(b) All Inventions will be deemed "work made for hire" as that term is used in the U.S. Copyright Act, and belong solely to the Company from conception. I hereby expressly disclaim all interest in all Inventions. To the extent that title to any Invention or any materials comprising or including any Invention is found not be a "work made for hire" as a matter of law,

I hereby irrevocably assign to the Company all of my right, title and interest to that Invention. At any time during or after my employment by the Company that the Company requests, I will sign whatever written documents of assignment are necessary to formally evidence my irrevocable assignment to the Company of any Invention.

(c) At all times during or after my employment by the Company I will assist the Company in obtaining, maintaining and renewing patent, copyright, trademark and other appropriate protection for any Invention, in the United States and in any other country, at the Company's expense.

(d) During the term of my employment with the Company, to the extent that I, as the principal investigator at Blumberg or any other applicable research or academic institution (each, an "Applicable Institution"), make an invention disclosure or create any other licensable or transferable intellectual property (the "Subject IP"), (i) to the extent I have a right or opportunity to consent to the licensing or transfer of the Subject IP, I will notify the Company, will use best efforts to cause the owner of the Subject IP to negotiate with the Company for an exclusive or non-exclusive license agreement or option agreement for the Subject IP and will not, without the Company's consent, consent to a license or transfer of the Subject IP to anyone other than the Company or its affiliates, unless and until the Company declines to enter into or terminates such negotiations without entering into a definitive license agreement or option agreement for the Subject IP; and (ii) to the extent that I have a right or opportunity to own any Subject IP, I will notify the Company and use best efforts, subject to the Company's prior written consent and on the Company's behalf, to pursue ownership of such inventions and transfer such ownership rights to the Company; in the case of each of clauses (i) and (ii) above, for no additional consideration payable to me directly or indirectly by the Company, other than under the intellectual property policy of any Applicable Institution.

(e) Other than as set forth in Schedule 3.2, I am not aware of any prior, ongoing or anticipated studies that would fall within the scope of the covenants set forth in Section 3.2(d). During the term of my employment with the Company, with respect to any research that relates to any Company Business (as defined below), I will provide advance written notice including the proposed research plan (the "Research Plan") to the Company's Board of Directors. The Company shall have the opportunity to direct the Research Plan to be conducted under the Master Sponsored Research Agreement, dated as of January 1, 2017, between the Company (as the assignee of ProstaGene) and Blumberg, or under a similar sponsored research program with another Applicable Institution, or through the Company's own private research facilities. If the Company's Board of Directors reasonably determines that the Research Plan may conflict with the Company's clinical development strategies relating to any Company Business, I will revise the Research Plan to address any such concerns prior to initiating any such research through an Applicable Institution.

4. Non-Compete. In order to protect the legitimate business interests of the Company and in consideration of the compensation I am receiving in the ProstaGene Transaction and as Chief Medical Officer and a director of the Company, and of the Company's willingness to provide to me access to its Confidential Information, I agree that during the period beginning on the closing of the ProstaGene Transaction (the "Closing Date") and ending on the later of (a) five (5) years after the Closing Date or (b) one (1) year following the termination of my employment for any

reason (the "Restricted Period"), I will not directly or indirectly, whether as owner, sole proprietor, partner, shareholder, director, member, consultant, agent, founder, co-venture partner or otherwise, engage, invest or otherwise participate or provide any services, research or consultation, to a Competing Business, except to the extent of any Permitted Activities that are or (to the extent the Employment Agreement has previously been terminated) would have been permissible under Section 2.4 of the Employment Agreement. A "Competing Business" is any business that engages, plans to engage or, within the then most recent one-year period prior to the date of termination, was engaged in any of the following (collectively, the "Company Business"): (x) research or development relating to CCR5 receptor function, including the study of anti-CCR5 agents alone or together with non-CCR5 agents, in the fields of oncology or immunology for diagnostic, prognostic or therapeutic application; or (y) any other business that the Company is conducting or demonstrably planning to conduct as of such date. I further acknowledge that the Company's business is international in scope and therefore the restrictions herein shall apply anywhere in the world; if, however, a court of competent jurisdiction were to determine that this geographic scope is overbroad, the restriction shall be limited to the United States; and if, however, a court of competent jurisdiction were to determine that this geographic scope is overbroad, the restriction shall be limited to any state where the Company does business (the "Restricted Area").

5. Non-Solicitation. To protect the legitimate business interests of the Company and in consideration of the compensation I am receiving in the ProstaGene Transaction and as Chief Medical Officer and a director of the Company, and of the Company's willingness to provide to me access to its Confidential Information, I agree that during the Restricted Period and in the Restricted Area, I will not directly or indirectly, whether as owner, sole proprietor, partner, shareholder, director, member, employee, consultant, agent, founder, co-venture partner or otherwise:

(a) solicit or interfere with any of the Company's customers, clients, Prospective Customers or Clients (defined below), members, business partners or suppliers. A "Prospective Customer or Client" is any person or entity solicited by the Company at any time during the period of my employment, with whom or which I had contact, or about whom or which I received Confidential Information; or

(b) solicit, recruit, hire, engage, or refer (or assist any third party in soliciting, recruiting, hiring, engaging or referring) any person or entity who or which either is, or during the twelve (12) months immediately preceding the termination of my employment was, an employee, agent, consultant or independent contractor of the Company.

6. Miscellaneous

6.1 Interpretation and Scope of this Agreement. Each provision of this Agreement shall be interpreted on its own. If any provision is held to be unenforceable as written, it shall be enforced to the fullest extent permitted under applicable law. In the event that one or more of the provisions contained in this Agreement shall for any reason be held unenforceable in any respect under the law of any state of the United States or the United States, then it shall (a) be enforced to the fullest extent permitted under applicable law, and (b) such unenforceability shall not affect any other provision of this Agreement, but this Agreement shall then be construed as if such unenforceable portion(s) had never been contained herein.

6.2 Remedies. I understand and agree that if I breach or threaten to breach any of the provisions of this Agreement the Company would suffer immediate and irreparable harm and that monetary damages would be an inadequate remedy. I agree that, in the event of my breach or threatened breach of any of the provisions of this Agreement, the Company shall have the right to relief from a court to restrain me (on a temporary, preliminary and permanent basis) from using or disclosing Company Confidential Information or Inventions or otherwise violating any of the provisions of this Agreement, and that any such restraint shall be in addition to (and not instead of) any and all other remedies to which the Company shall be entitled, including money damages. The Company shall not be required to post a bond or other security to secure against an imprudently granted injunction (again, whether temporary, preliminary or permanent).

6.3 Governing Law; Jury Waiver; Consent to Jurisdiction. I acknowledge that the governing documents surrounding the ProstaGene Acquisition are governed by Delaware law. Accordingly, this Agreement (together with any and all modifications, extensions and amendments of it) and any and all matters arising directly or indirectly herefrom shall be governed by and construed and enforced in accordance with the internal laws of the State of Delaware applicable to agreements made and to be performed entirely in such state, without giving effect to the conflict or choice of law principles thereof. For all matters arising directly or indirectly from this Agreement ("Agreement Matters"), I hereby (i) irrevocably consent and submit to the sole exclusive jurisdiction of the state and federal courts of the State of Delaware and the parties hereto hereby irrevocably submit to the exclusive jurisdiction of any such courts in connection with any legal action, lawsuit, arbitration, mediation, or other legal or quasi legal proceeding ("Proceeding") directly or indirectly arising out of or relating to any Agreement Matter; provided that a party to this Agreement shall be entitled to enforce an order or judgment of any such court in any United States or foreign court having jurisdiction over the other party, (ii) irrevocably waive, to the fullest extent permitted by law, any objection that I may now or later have to the laying of the venue of any such Proceeding in any such court or that any such Proceeding which is brought in any such court has been brought in an inconvenient forum, (iii) irrevocably waive, to the fullest extent permitted by law, any immunity from jurisdiction of any such court or from any legal process therein, (iv) irrevocably waive, to the fullest extent permitted by law, any right to a trial by jury in connection with a Proceeding, (v) covenant that I will not, directly or indirectly, commence any Proceeding other than in such courts, and (vi) agree that service of any summons, complaint, notice or other process relating to such Proceeding may be effected in the manner provided for the giving of notice as set forth in this Agreement.

6.4 Entire Agreement; Amendments and Waivers. This Agreement represents the entire understanding and agreement among the parties hereto with respect to the subject matter hereof and can be amended, supplemented, or changed and any provision hereof can be waived, only by written instrument signed by the party against whom enforcement of any such amendment, supplement, change or waiver is sought.

6.5 Survival. I acknowledge and agree that the restrictions that are set forth in this Agreement and the location and period of time for which such restrictions apply are reasonable and necessary to protect the Company's legitimate business interests and shall survive the expiration or termination of this Agreement as well as the termination of my employment for any reason. I further acknowledge that the restrictions contained in this Agreement will not prevent me from earning a livelihood during the applicable period of restriction.

6.6 Captions. The captions and section headings in this Agreement are included solely for convenience of reference and are not intended to affect the interpretation of any provision of this Agreement.

6.7 Counterparts; Binding Effect. This Agreement may be executed in counterparts, each of which shall be deemed an original agreement, but all of which together shall constitute one and the same agreement. Except as otherwise expressly provided herein, this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns, including, without limitation, a purchaser of all or substantially all of the assets of the Company or any of its affiliates. Signatures delivered by facsimile (including without limitation by "pdf") shall be deemed effective for all purposes.

6.8 Notices. All notices and other communications given or made pursuant to this Agreement shall be in writing and shall be deemed effectively given: (a) upon personal delivery to the party to be notified, (b) when sent by confirmed electronic mail or facsimile if sent during normal business hours of the recipient, and if not so confirmed, then on the next business day, (c) five (5) days after having been sent by registered or certified mail, return receipt requested, postage prepaid, or (d) one (1) day after deposit with a nationally recognized overnight courier, specifying next day delivery, with written verification of receipt. All communications to me shall be sent to the respective parties at their address as set forth on the signature page of this Agreement, or in the Company's records, or to such e-mail address, facsimile number or address as subsequently modified by written notice given in accordance with this Section and all notices to the Company shall be provided to the Company's headquarters, attention CEO, with a copy which, itself, shall not constitute notice, to Michael J. Lerner, Esq., Lowenstein Sandler LLP, 1251 Avenue of the Americas, New York New York 10020.

[Signature Page Follows]

By signing this Agreement below, (1) I agree to be bound by each of its terms, (2) I acknowledge that I have read and understand this Agreement and the important restrictions it imposes upon me, and (3) I represent and warrant to the Company that I have had ample and reasonable opportunity to consult with legal counsel of my own choosing to review this Agreement and understand its terms including that it places significant restrictions on me.

WITNESS:

By: _____

Name: _____

Date: _____

EMPLOYEE:

By: /s/ Richard G. Pestell

Name: Dr. Richard G. Pestell

Address: 901 North Penn Street, Apt. R1902
Philadelphia, PA 19123

Date: November 15, 2018

Accepted by Company:

CytoDyn Operations Inc.

By: /s/ Michael D. Mulholland

Name: Michael D. Mulholland

Title: Treasurer, Corporate Secretary and Chief Financial Officer

Date: 16 November 2018

SCHEDULE 1.1

Conflicts

Invention Policy of Baruch S. Blumberg Institute

SCHEDULE 1.1

Ongoing Studies

Grant	PI	Date	Subject	Annual	Total Grant
Falk Trust	Pestell	9/1/11 to 11/30/18	Targeting CCR5 for cancer treatment (includes clinical trial)	$500,000/yr	$1,500,000
Breast Cancer Research Program, Breakthrough	Pestell	7/1/18 to 6/30/21	Novel mechanisms governing human breast cancer chromosomal instability	$390,000/yr	$1,170,000

EXHIBIT A

Form of Acknowledgment

My employment by CytoDyn Operations Inc. and CytoDyn Inc. (collectively, the "*Company*") is now terminated. I have reviewed my Confidential Information, Inventions and Noncompetition Agreement with the Company, dated August , 2018 (the "*Agreement*"), and I swear, under oath, that:

- I have complied and will continue to comply with all of the provisions of the Agreement.
- I understand that all of the Company's materials (including without limitation, written or printed documents, email and computer disks or tapes, whether machine or user readable, computer memory, and other information reduced to any recorded format or medium), whether or not they contain Confidential Information (as that phrase is defined in the Agreement), are and remain the property of the Company. I have delivered to authorized Company personnel, or have destroyed, all of those documents and all other Company materials in my possession.
- I acknowledge and agree that the restrictions that are set forth in the Agreement with respect to the Confidential Information shall survive the expiration or termination of the Agreement as well as the termination of my employment with the Company for any reason.

_____
Signature

_____
Name (please print clearly)

_____

_____
Address

STATE OF)

) ss.:

COUNTY OF)

BE IT REMEMBERED, that on this day of , , before me, the subscriber, a notary public of the State of , personally appeared , who being by me duly sworn on his oath, deposed and made proof to my satisfaction that (s)he is the person named in the within instrument, to whom I first made known the contents thereof, and thereupon (s)he acknowledged that (s)he signed, sealed and delivered the same as his/her voluntary act and deed for the uses and purposes therein expressed.

_____
[SEAL] Notary Public

EXHIBIT B

Invention Disclosure Form

INVENTION DISCLOSURE FORM

INSTRUCTIONS: Use this form for submitting an initial disclosure of your invention. If necessary, please attach and number any additional pages. After completing and signing this form, immediately forward it to Michael D. Mulholland, as Chief Financial Officer, and Nader Z. Pourhassan, Ph.D., as Chief Executive Officer.

CytoDyn Operations Inc. and CytoDyn Inc. (collectively, "CytoDyn") will review all complete Invention Disclosure Forms as they are received from employees and consultants of CytoDyn. Invention Disclosure Forms are reviewed for patentability and for commercial potential. All information on the form must be completed in order for CytoDyn to perform its review. Typically, CytoDyn files a provisional patent application on any invention that may be patentable and commercially valuable.

The purpose of this form is to notify CytoDyn of your potential invention and any relevant related information. The form also serves to establish a legal record of the date of invention conception. This form should be submitted to the Chief Financial Officer and the Chief Executive Officer when something new and useful has been conceived, or when unusual, unexpected, or unobvious research results have been achieved and can be used.

I. Descriptive title of the invention:

II. Individual Submitting This Form

Full Name

Home Address (Street)

City, County, State, Zip

Work Phone

Citizenship

Signature

Date

III. Other Individuals Who Assisted In Developing This Invention

Full Name	Full Name	Full Name
Home Address (Street)	Home Address (Street)	Home Address (Street)
City, County, State, Zip	City, County, State, Zip	City, County, State, Zip
Work Phone	Work Phone	Work Phone
Citizenship	Citizenship	Citizenship
Signature	Signature	Signature
Date	Date	Date

IV. Planned or Actual Use of the Invention:

(yes) (no)

V. Disclosure of the Invention:

1. With respect to this invention:

   A. Have any discussions or other contacts been made with potential purchasers? ( ) ( )

   B. Has it been sold or offered for sale? ( ) ( )

   C. If it pertains to a process, have any steps been taken to employ the process commercially? ( ) ( )

   D. Has it been described in a printed publication? ( ) ( )

   E. Has it been disclosed in a talk or a paper presented at a public meeting? ( ) ( )

   F. Has it been otherwise disclosed to vendors or customers? ( ) ( )

   G. If not, is any such use, sale, publication or disclosure now contemplated? ( ) ( )

   H. Has it been reduced to practice (i.e., made, carried out, or built and tested) or has a model or prototype been built? ( ) ( )

   I. Is there any agreement that deals with rights in this invention or ownership of this invention? ( ) ( )

2. If any answer to any part of question 1 is "YES," please indicate earliest dates, and give the surrounding circumstances (attach additional sheet(s) if necessary):

VI. Description:

Please add any additional sheets and drawings necessary to describe the invention.

1. Summary of the Invention:

2. What problem is solved?

3. Describe any similar system(s) that you are aware of and the advantages of the invention over these other system(s) or method(s).

4. Technical description of the invention (refer to drawings with reference numerals).

5. What aspects of the Invention can be varied or altered, and yet still accomplish the end result or object of the invention?

6. Supporting documentation as to when and where the invention was first conceived. Please list any relevant written or pictorial material (notebook number and page, file reports or drawings, etc.).

Invention Witnessed and Understood By:	Evaluated and Understood By:
Signature: _____	Signature: _____
Printed Name: _____	Printed Name: _____
Title: _____	Title: _____
Date: _____	Date: _____

Exhibit 10.5

EXECUTION

EMPLOYMENT AGREEMENT

This EMPLOYMENT AGREEMENT (this "Agreement"), dated as of November 16, 2018 (the "Effective Date"), is by and among CYTODYN INC., a Delaware corporation ("HoldCo"), CYTODYN OPERATIONS INC., a Delaware corporation and wholly owned subsidiary of HoldCo ("OpCo" and together with HoldCo, the "Company"), and Richard G. Pestell (the "Executive").

W I T N E S S E T H:

WHEREAS, the Executive is the founder and majority owner of ProstaGene, LLC, a Delaware limited liability company ("ProstaGene"), with approximately a 77.2% ownership interest, and also owns certain intellectual property interests that he has previously licensed to ProstaGene;

WHEREAS, the Company, certain of its predecessors and affiliates, ProstaGene and the Executive have negotiated and entered into a Transaction Agreement, dated August 27, 2018 (the "ProstaGene Purchase Agreement"), to effect a holding company reorganization and the purchase and sale of intellectual property and other assets of ProstaGene (including certain intellectual property interests licensed by the Executive to ProstaGene) for the aggregate stock consideration specified therein (the "ProstaGene Acquisition");

WHEREAS, in connection with the ProstaGene Acquisition, the Company has appointed the Executive to the Board of Directors of the Company (the "Board"); and

WHEREAS, in connection with the ProstaGene Acquisition, 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; 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 a term of three (3) years (such default period of the employment relationship shall be referred to herein as the "Basic Term" and the period during which the Executive is employed by the Company shall be referred to herein as the "Term") commencing on the Effective Date. This Agreement and the Basic Term shall be deemed to extend each day for an additional day automatically and without

any action on behalf of either party hereto. 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 serve in the capacity of Chief Medical Officer.

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. The Executive shall report to, and be subject to the lawful direction of, the Board and the Chief Executive Officer of the Company (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 Medical Officer, as the CEO shall from time to time reasonably direct.

Section 2.3 Compliance with Policies, etc.

(a) 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.

(b) Notwithstanding the foregoing clause (a), with respect to the Executive's activities that are subject to the Baruch S. Blumberg Institute's Invention Policy (the "Blumberg Invention Policy"), the Blumberg Invention Policy shall govern over any conflicting policies and procedures of Company subject in each case to the Intellectual Property Agreement among ProstaGene, the Executive and Baruch S. Blumberg Institute ("Blumberg") effective as of January 1, 2017.

(c) Other than the Blumberg Invention Policy, the Executive has no agreement with, or duty to, any other employer, or any other person or entity with which he is engaged to provide any services, that would prohibit or conflict with his performance of his

duties under this Agreement. In addition, Dr. Pestell has complied with all conflicts of interest or other reporting obligations to Blumberg, Xavier University, and any other employer or services recipient in disclosing this Agreement.

Section 2.4 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 his business time, ability and attention as reasonably necessary to perform his duties for the Company. The parties agree that the Executive may, without violation of this Agreement and his obligations to the Company, conduct the following activities (the "Permitted Activities"): (i) participate in charitable, civic or community affairs, (ii) manage the Executive's passive personal investments and affairs, (iii) continue his academic research at or through Blumberg or any Affiliate thereof or another non-profit research or academic institution, (iv) maintain a clinical appointment at Xavier University or other medical center, (v) continue his consulting activities with the National Cancer Institute, medical schools, hospitals and medical systems on accreditation and related matters, (vi) continue his consulting with Invictus Biotechnology Pty Ltd. and (vii) continue serving as an expert witness in litigations; provided in any case that the majority of the Executive's business time is directed at the performance of the Executive's duties to the Company hereunder. If in the future any of the Permitted Activities individually or in the aggregate create a business or fiduciary conflict with the Company, the Executive and the Board will work in good faith to manage and resolve such conflict. The Executive has truthfully described the current scope of his Permitted Activities to representatives of the Company. 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 in Wynnewood, Pennsylvania. 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 as follows (subject, in each case, to the provisions of ARTICLE 4 below):

(a) Base Salary. During the Term, the Company shall pay the Executive a base salary (the "Base Salary") at the annualized rate of $400,000, 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 the Board and/or the Compensation Committee of the Board (the "Compensation Committee") shall in its/their discretion deem appropriate. 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, 2019), 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, in each case, as established by the Board or the Compensation Committee (taking into account the input of the Executive with respect to the establishment of the Executive's individual objectives) for the fiscal year with respect to which such Annual Bonus relates. The determination of the level of achievement of the corporate objectives and the Executive's individual performance objectives for a year shall be made by the Board or the Compensation Committee, in its sole judgment and discretion. Each Annual Bonus for a fiscal year, to the extent earned, will be paid in a lump sum no 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 in cash or, in the discretion of the Board and/or the the Compensation Committee, fifty percent (50%) in cash and (50%) in unrestricted Shares under (and as defined in) the Company's 2012 Equity Incentive Plan (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; provided that the Executive may elect to receive in such unrestricted Shares any portion of an Annual Bonus that would otherwise be payable in cash. The Annual Bonus shall not be deemed earned until the date that it is paid. Accordingly, in order for the Executive to earn and receive an Annual Bonus, the Executive must be actively employed in good standing by the Company at the time of such payment except as set forth in Section 4.1(c).

(c) Supplemental Bonus. For each fiscal year ending during the Term (beginning with the fiscal year ending May 31, 2019), the Executive may be eligible to receive a supplemental bonus (the "Supplemental Bonus"). Whether the Executive shall be paid a Supplemental Bonus for a fiscal year, and the amount of such Supplemental Bonus, shall be determined by the Board in its sole discretion. When determining whether a Supplemental Bonus shall be payable for a fiscal year, the Board may, but shall not be required to, consider any unanticipated achievement of corporate objectives for such fiscal year. Each Supplemental Bonus for a fiscal year, to the extent earned, will be paid in a lump sum no later than March 15 of the calendar year immediately following the year in which such Supplemental Bonus was earned. The Board shall determine whether each Supplemental Bonus shall be payable in cash and/or in unrestricted Shares under (and as defined in) the Plan. The Supplemental Bonus shall not be deemed earned until the date that it is paid. Accordingly, in order for the Executive to receive a Supplemental Bonus, the Executive must be actively employed by the Company at the time of such payment except as set forth in Section 4.1(c).

(d) 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, to be approved by the Board or the Compensation Committee in its discretion.

(e) 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 executives 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.

(f) Paid Vacation. The Executive shall be permitted to take twenty (20) paid vacation days in accordance with the Company's vacation policies in effect from time to time for its executive team.

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; Resignation for Good Reason.

(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. The Executive may resign for Good Reason provided he notifies the Company within ninety (90) days of the occurrence of any of the conditions that he reasonable considers to be a "Good Reason" condition and provides the Company with at least thirty (30) days in which to cure the condition; provided that 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".

(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 sole judgment and discretion of the Board); or (iv) the Executive materially violates the Covenants Agreement (as defined in Section 5.1 below). As used in this Agreement, "Good Reason" means the occurrence of any of the following without the Executive's consent: (1) a material breach by the Company of the terms of this Agreement; (2) a reduction in the Executive's Base Salary; (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 30 mile radius of Wynnewood, Pennsylvania.

(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 4.2(b)); and

(ii) subject to Section 4.4 and Section 4.5:

(A) continued payment of the Executive's then-current Base Salary for the longer of (x) the remainder of the Basic Term and (y) twelve (12) months), in each case paid on the Company's regular payroll schedule (the "Severance Payments");

(B) waiver of the applicable premium otherwise payable for COBRA continuation coverage for the Executive (and, to the extent covered immediately prior to the date of such cessation, his eligible dependents) and if COBRA is not available, monthly reimbursement for an equivalent health insurance policy for the Executive (and, to the extent covered immediately prior to the date of such cessation, his eligible dependents), in each case for a period equal to twelve (12) months;

(C) payment of (1) any Annual Bonus and Supplemental Bonus otherwise payable (but for the cessation of the Executive's employment) with respect to a year ended prior to the cessation of Executive's employment, to the extent not yet paid, and (2) a pro-rata bonus for the fiscal year in which the termination of employment occurs, calculated by multiplying the Annual Bonus that would otherwise have been absent termination (i.e. payable to the extent that the Board determines that the applicable performance conditions applicable to such annual bonus are attained) by a fraction, the numerator of which is equal to the number of days in the fiscal year during which the Executive was employed and the denominator of which equals 365, with such amount paid not later than March 15th following the last day of such fiscal year; and

(D) all stock options and other awards that the Executive may have under the Plan 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 the exercise period for all such stock options shall be extended until the date that is one (1) year after the effective date of termination of employment.

Section 4.2 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 of this Agreement or otherwise or constitute Good Reason for purposes of Section 4.1 of this Agreement or otherwise.

(b) If the Executive's employment is terminated pursuant to Section 4.2(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 (in accordance with the Company's policies);

(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 4.3 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) one hundred eighty (180) consecutive days; or (ii) two hundred seventy (270) days during any twelve (12) month period.

(c) If the Executive's employment is terminated pursuant to Section 4.3(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 4.4 Release Agreement. In order to receive the Severance Payments set forth in Section 4.1, 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 discretion; provided, that the Company provides the Executive with the form of Release Agreement within seven (7) days following the Termination Date. The Severance Payments are subject to the Executive's execution of such Release Agreement within

twenty-one (21) days (or forty-five (45) days, in the case of a group layoff) of the Executive's receipt of the Release Agreement and the Executive's non-revocation of such Release Agreement.

Section 4.5 Post-Termination Breach. Notwithstanding anything to the contrary contained in this Agreement, the Company's obligations to provide the Severance Payments will immediately cease if the Executive breaches any of the provisions of the Covenants Agreement or 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 4.6 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 Covenants Agreement. The Executive agrees to execute and be bound by the Confidential Information, Inventions and Noncompetition Agreement in the form attached hereto as Schedule A (the "Covenants Agreement"), the terms of which are incorporated herein by reference. 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. Other than any costs, fees and expenses payable pursuant to the ProstaGene Purchase Agreement, 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 Entire Agreement. This Agreement, the Indemnification Agreement in the form attached hereto as Schedule B (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 and 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, in the Indemnification Agreements 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 5.4 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 5.4.

Section 5.5 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, WA 98660
Attn: CEO

With a copy, which itself shall not constitute notice, to Michael J. Lerner, Esq., Lowenstein Sandler LLP, 1251 Avenue of the Americas, New York, New York 10020.

If to the Executive, to:
Richard G. Pestell
901 North Penn Street, Apt. R1902
Philadelphia, PA 19123

With a copy, which itself shall not constitute notice, to Timothy C. Atkins, Pepper Hamilton LLP, 400 Berwyn Park 899 Cassatt Road, Berwyn, Pennsylvania 19312.

Any person named above may designate another address by giving notice in accordance with this Section to the other persons named above.

Section 5.6 Governing Law; Jurisdiction. This Agreement shall be governed by, and construed in accordance with, the laws of the State of Delaware, 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 Delaware and the parties hereto hereby irrevocably submit to the exclusive jurisdiction of any such courts. THE COMPANY AND THE EXECUTIVE HEREBY WAIVE THEIR RESPECTIVE RIGHT TO TRIAL BY JURY IN ANY ACTION CONCERNING THIS AGREEMENT OR ANY AND ALL MATTERS ARISING DIRECTLY OR INDIRECTLY HEREFROM AND REPRESENT THAT THEY HAVE CONSULTED WITH COUNSEL OF THEIR CHOICE OR HAVE CHOSEN VOLUNTARILY NOT TO DO SO SPECIFICALLY WITH RESPECT TO THIS WAIVER.

Section 5.7 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 5.8 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 5.9 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 5.10 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 5.11 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 5.12 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 5.13 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 5.13 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 5.14 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 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 5.15 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 Board 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 5.16 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 unless the Executive would be considered to have incurred a "termination of employment" from the Company within the meaning of Treasury Regulation §1.409A-1(h)(1)(ii). 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 in connection with any termination of employment. Notwithstanding anything in this Agreement to the contrary, in the event any period to execute the Release Agreement spans two calendar years, then to the extent necessary to avoid adverse consequences under Section 409A, any payments payable or to be provided hereunder in connection with any termination of employment will be paid or provided on the first business day of the second calendar year if such date is later than the date on which payment would otherwise have been made absent this sentence.

Section 5.17 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 other 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.

[Signature Page Follows]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

COMPANY

CYTODYN OPERATIONS INC.

By: /s/ Michael D. Mulholland
Name: Michael D. Mulholland
Title: Chief Financial Officer

EXECUTIVE

/s/ Richard G. Pestell
Richard G. Pestell

SCHEDULE A

CONFIDENTIAL INFORMATION, INVENTIONS AND NONCOMPETITION AGREEMENT

SCHEDULE B

INDEMNIFICATION AGREEMENT

Exhibit 99.1

CytoDyn Completes Acquisition of ProstaGene and Names Dr. Richard G. Pestell to Board of Directors

VANCOUVER, Washington (November 19, 2018), CytoDyn Inc. (OTC.QB: CYDY), a biotechnology company developing a novel humanized CCR5 monoclonal antibody for multiple therapeutic indications, announces that on Friday November 16, 2018 it completed the previously announced acquisition of privately held ProstaGene, LLC. Concurrently, Richard G. Pestell, M.D., Ph.D., M.B.A., F.A.C.P., F.R.A.C.P., founder and former Chief Executive Officer of ProstaGene, has been appointed to the CytoDyn board of directors and named Chief Medical Officer with responsibility for leading all PRO 140 (leronlimab) programs in non-HIV indications. Dr. Pestell has served as the Company's Interim Chief Medical Officer since August 2018.

"Richard is a driving force in CCR5 antagonist research and we gain significant expertise and intellectual property with this acquisition that advances the development of PRO 140 as a novel cancer metastasis therapeutic," said Anthony D. Caracciolo, CytoDyn's Chairman. "We are privileged to have Richard join CytoDyn to expand our executive and scientific team, and we enthusiastically welcome him as the newest member of our board of directors."

Under the terms of the definitive agreement, CytoDyn acquired substantially all of the assets of ProstaGene, including the transfer or assignment of certain intellectual property rights held by ProstaGene and Dr. Pestell. The aggregate transaction consideration consisted of 27,000,000 shares of CytoDyn common stock. One-fifth of the stock consideration is being held back for distribution over an 18-month escrow period, to the extent not needed to satisfy indemnity claims. Approximately one-half of the stock consideration otherwise distributable to Dr. Pestell (approximately 8.3 million shares) is restricted and subject to vesting and forfeiture upon certain events over a three-year period. The total transaction value, based on the $0.5696 closing share price for CytoDyn common stock on November 15, 2018, was approximately $15.4 million.

CytoDyn has announced plans to aggressively develop PRO 140 as a therapeutic for metastatic cancers, and previously reported the submission of an investigational new drug (IND) application to the U.S. Food and Drug Administration (FDA) to conduct a Phase 1b/2 clinical trial with PRO 140 as a therapy for patients with metastatic triple-negative breast cancer.

About Dr. Richard Pestell

Dr. Pestell has received significant national and international awards for both clinical care and cancer research. He has directed two National Cancer Institute (NCI)-Designated Cancer Centers, and has served on the advisory board of seven NCI cancer centers and several international research centers. Dr. Pestell will continue to serve as President of the Pennsylvania Cancer and Regenerative Medicine Research Center, part of the Baruch S. Blumberg Institute, a position he has held since January 2017. From 2005 to December 2016, he held several positions at Thomas Jefferson University in Philadelphia, including Director of the Sidney Kimmel Cancer Center, Executive Vice President, Special Advisor to President for Innovation and Professor with Tenure. He previously served as Chairman of the Department of Oncology, Director of the Lombardi Comprehensive Cancer Center and tenured Professor at Georgetown University in Washington, D.C.

Dr. Pestell received his M.B.B.S. from the University of Western Australia, his M.D. and Ph.D. from the University of Melbourne and completed postdoctoral clinical and research fellowships at the Massachusetts General Hospital and Harvard Medical School. He received his Executive MBA from the Stern School of Business of New York University.

About PRO 140

PRO 140 is a humanized IgG4 monoclonal antibody that blocks CCR5, a cellular receptor that plays multiple roles with implications in HIV infection, tumor metastasis, and immune signaling.

In the setting of HIV/AIDS, PRO 140 belongs to a new class of therapeutics called viral-entry inhibitors; it masks CCR5, thus protecting healthy T cells from viral infection by blocking the predominant HIV (R5) subtype from entering those cells. At the same time, PRO 140 does not appear to interfere with the normal function of CCR5 in mediating immune responses. PRO 140 has been the subject of seven clinical trials, each demonstrating efficacy by significantly reducing or controlling HIV viral load in human test subjects. PRO 140 has been designated a “fast track” product by the FDA. The PRO 140 antibody appears to be a powerful antiviral agent leading to potentially fewer side effects and less frequent dosing requirements compared with daily drug therapies currently in use.

In the setting of cancer, research has shown that CCR5 plays a central role in tumor invasion and metastasis and that increased CCR5 expression is an indicator of disease status in several cancers. Moreover, researchers have shown that drugs that block CCR5 can block tumor metastases in laboratory and animal models of aggressive breast and prostate cancer. CytoDyn is conducting additional research with PRO 140 in the cancer setting and plans to initiate Phase 2 human clinical trials when appropriate.

The CCR5 receptor also plays a central role in modulating immune cell trafficking to sites of inflammation and it is crucial for the development of acute graft-versus-host disease (GvHD) and other inflammatory conditions. Clinical studies by others have shown that blocking CCR5 using a chemical inhibitor can reduce the clinical impact of acute GvHD without significantly affecting the engraftment of transplanted bone marrow stem cells. CytoDyn is currently conducting a Phase 2 clinical study with PRO 140 to further support the concept that the CCR5 receptor on engrafted cells is critical for the development of acute GvHD and that blocking this receptor from recognizing certain immune signaling molecules is a viable approach to mitigating acute GvHD. The FDA has granted orphan drug designation to PRO 140 for the prevention of graft-versus-host disease (GvHD).

About CytoDyn

CytoDyn is a biotechnology company developing innovative treatments for multiple therapeutic indications based on PRO 140 (leronlimab), a novel humanized monoclonal antibody targeting the CCR5 receptor. CCR5 plays a key role in the ability of HIV to enter and infect healthy T-cells. The CCR5 receptor is also implicated in tumor metastasis and in immune-mediated illnesses such as graft-vs-host disease (GvHD) and NASH. CytoDyn has successfully completed a Phase 3 pivotal trial with PRO 140 in combination with standard anti-retroviral therapies in HIV-infected treatment-experienced patients. The Company plans to seek FDA approval for PRO 140 in combination therapy and plans to complete the filing of a Biological License Application (BLA) in the first quarter of 2019 for that indication. CytoDyn is also conducting a Phase 3 investigative trial with PRO 140 as a once-weekly monotherapy for HIV-infected patients, and plans to initiate a registration-directed study of PRO 140 monotherapy indication, which if successful, could support a label extension. Clinical results to date from multiple trials have shown that PRO 140 can significantly reduce viral burden in people infected with HIV with no reported drug-related serious adverse events (SAEs). Moreover, results from a Phase 2b clinical trial demonstrated that PRO 140 monotherapy can prevent viral escape in HIV-infected patients, with some patients on PRO 140 monotherapy remaining virally suppressed for more than four years. CytoDyn is also conducting a Phase 2 trial to evaluate PRO 140 for the prevention of GvHD and expects to initiate clinical trials with PRO 140 in metastatic triple-negative breast cancer in 2018. More information is at www.cytodyn.com.

Forward-Looking Statements

This press release contains certain forward-looking statements that involve risks, uncertainties and assumptions that are difficult to predict, including statements regarding future benefits arising from its acquisition of ProstaGene, expectations of PRO 140’s efficacy in certain cancer indications, the Company’s clinical focus, and the Company’s 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. The Company’s 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, the Company urges investors to specifically consider the various risk factors identified in the Company’s Form 10-K for the fiscal year ended May 31, 2018 in the section titled “Risk Factors” in Part I, Item 1A, and in our Form 10-Q for the quarterly period ended August 31, 2018 in the section titled “Risk Factors” in Part II, Item 1A, any of which could cause actual results to differ materially from those indicated by the Company’s forward-looking statements.

The Company’s forward-looking statements reflect its 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. Investors should not place undue reliance on the Company’s forward-looking statements, which are subject to risks and uncertainties relating to, among other things: (i) the sufficiency of the Company’s cash position and the Company’s ongoing ability to raise additional capital to fund its operations, (ii) the Company’s ability to complete its Phase 2b/3 pivotal combination therapy trial for PRO 140 (CD02) and to meet the FDA’s requirements with respect to safety and efficacy to support the filing of a Biologics License Application, (iii) the Company’s ability to meet its debt obligations, if any, (iv) the Company’s ability to identify patients to enroll in its clinical trials in a timely fashion, (v) the Company’s ability to achieve approval of a marketable product, (vi) design, implementation and conduct of clinical trials, (vii) the results of the Company’s clinical trials, including the possibility of unfavorable clinical trial results, (viii) the market for, and marketability of, any product that is approved, (ix) the existence or development of vaccines, drugs, or other treatments for infection with HIV that are viewed by medical professionals or patients as superior to the Company’s products, (x) regulatory initiatives, compliance with governmental regulations and the regulatory approval process, (xi) general economic and business conditions, (xii) changes in foreign, political, and social conditions, and (xiii) 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 the Company’s forward-looking statements.

The Company intends that all forward-looking statements made in this press release 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, to the extent applicable. Except as required by law, the Company does not undertake any responsibility to update these forward-looking statements to take into account events or circumstances that occur after the date of this press release. Additionally, the Company does not undertake any responsibility to update investors upon the occurrence of any unanticipated events which may cause actual results to differ from those expressed or implied by these forward-looking statements.

# # #

CONTACTS:

Investors:

LHA Investor Relations
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jcain@lhai.com