UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, DC 20549

FORM 10-Q

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

For the quarterly period ended November 30, 2019

☐ **TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES ACT OF 1933**

For the transition period from_____ to _____

Commission File Number: 000-49908

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

Delaware	**83-1887078**
(State or other jurisdiction of incorporation or organization)	**(I.R.S. Employer or 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

(Former name, former address and former fiscal year, if changed since last report)

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

Title of Each Class	Trading Symbol(s)	Name of Each Exchange on Which Registered
None.	**None.**	**None.**

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

Indicate by check mark whether the registrant has submitted electronically every Interactive Data File required to be submitted pursuant to Rule 405 of Regulation S-T (Section 232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit such files). Yes ☒ No ☐

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

Large Accelerated Filer	☐	Accelerated Filer	☒
Non-accelerated Filer	☐	Smaller Reporting Company	☒
		Emerging Growth Company	☐

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

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

On December 31, 2019, there were 430,755,772 shares outstanding of the registrant's $0.001 par value common stock.

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PART I

Item 1. Financial Statements.

CytoDyn Inc.
Consolidated Balance Sheets
(Unaudited)

	November 30, 2019 (unaudited)	May 31, 2019
Assets		
Current assets:		
Cash	$ 409,452	$ 2,612,910
Restricted cash	790,999	853,599
Miscellaneous receivables	4,500	90,824
Prepaid expenses	623,687	107,211
Prepaid service fees	1,416,513	1,704,876
Total current assets	3,245,151	5,369,420
Operating lease right-of-use assets	184,665	—
Property, plant and equipment	37,118	29,251
Intangibles, net	14,450,038	15,475,454
Total assets	$ 17,916,972	$ 20,874,125
Liabilities and Stockholders' (Deficit) Equity		
Current liabilities:		
Accounts payable	$ 18,653,807	$ 16,239,434
Accrued liabilities and compensation	1,143,859	1,588,552
Accrued license fees	910,400	208,600
Accrued interest on convertible notes	70,186	212,777
Accrued dividends on Series C convertible preferred stock	298,364	37,351
Convertible notes payable, net	4,953,876	3,586,035
Current portion of operating leases payable	106,827	—
Current portion of long-term convertible notes payable	2,773,726	4,200,000
Registered direct offer proceeds held in trust	790,999	—
Warrant tender offer proceeds held in trust	—	853,599
Total current liabilities	29,702,044	26,926,348
Long-term liabilities:		
Convertible notes payable, net	188,591	454,568
Operating lease liability	79,164	—
Derivative liability	1,578,770	2,407,269
Total long-term liabilities	1,846,525	2,861,837
Total liabilities	31,548,569	29,788,185
Commitments and Contingencies	—	—
Stockholders' (Deficit) equity		
Preferred Stock, $0.001 par value; 5,000,000 shares authorized		
Series C convertible preferred stock, $0.001 par value; 20,000 authorized; 7,788 and 3,246 issued and outstanding at November 30, 2019 and May 31, 2019, respectively	8	3
Series B convertible preferred stock, $0.001 par value; 400,000 shares authorized, 92,100 shares issued and outstanding at November 30, 2019 and May 31, 2019, respectively	92	92
Common stock, $0.001 par value; 700,000,000 shares authorized, 399,315,351 and 329,554,763 issued and 399,156,340 and 329,395,752 outstanding at November 30, 2019 and May 31, 2019, respectively	399,316	329,555
Additional paid-in capital	246,618,030	220,119,856
Accumulated (deficit)	(260,648,884)	(229,363,407)
Less: treasury stock, at par (159,011 shares at $0.001)	(159)	(159)
Total stockholders' (deficit)	(13,631,597)	(8,914,060)
Total liabilities and stockholders' (deficit) equity	$ 17,916,972	$ 20,874,125

See accompanying notes to unaudited consolidated financial statements.

CytoDyn Inc.
Consolidated Statements of Operations
(Unaudited)

	Three Months Ended November 30,		Six Months Ended November 30,	
	2019	2018	2019	2018
Operating expenses:				
General and administrative	$ 3,094,316	$ 2,663,745	$ 6,140,281	$ 4,594,804
Research and development	8,526,398	12,869,244	17,581,687	24,337,910
Amortization and depreciation	500,038	154,801	1,031,081	243,772
Total operating expenses	12,120,752	15,687,790	24,753,049	29,176,486
Operating loss	(12,120,752)	(15,687,790)	(24,753,049)	(29,176,486)
Interest income	1,524	1,021	1,524	2,002
Change in fair value of derivative liabilities	203,166	281,055	828,499	(466,412)
Interest expense:				
Finance charges	(1,549,363)	—	(1,557,652)	—
Amortization of discount on convertible notes	(439,474)	(52,954)	(1,469,625)	(117,534)
Amortization of debt issuance costs	(120,279)	(10,411)	(404,340)	(19,589)
Loss on extinguishment of convertible note	—	(1,519,603)	—	(1,519,603)
Inducement interest - warrant exercises and debt conversion	(282,500)	—	(2,713,014)	—
Interest on convertible note payable	(552,790)	(143,617)	(956,810)	(248,247)
Total interest expense	(2,944,406)	(1,726,585)	(7,101,441)	(1,904,973)
Loss before income taxes	(14,860,468)	(17,132,299)	(31,024,467)	(31,545,869)
Income tax benefit	—	2,826,919	—	2,826,919
Net loss	$ (14,860,468)	$ (14,305,380)	$ (31,024,467)	$ (28,718,950)
Basic and diluted loss per share	$ (0.04)	$ (0.06)	$ (0.08)	$ (0.12)
Basic and diluted weighted average common shares outstanding	389,137,558	259,088,835	376,821,549	238,731,091

See accompanying notes to unaudited consolidated financial statements.

CytoDyn Inc.
Consolidated Statements of Cash Flows
(Unaudited)

	Six Months Ended November 30,	
	2019	2018
Cash flows from operating activities:		
Net loss	$(31,024,467)	$(28,718,950)
Adjustments to reconcile net loss to net cash used by operating activities:		
Amortization and depreciation	1,031,081	243,772
Amortization of debt issuance costs	404,340	19,589
Amortization of discount on convertible notes	1,469,625	117,534
Inducement interest related to warrant exercise and debt conversion	2,713,014	—
Interest expense associated with accretion of convertible notes payable	687,749	—
Change in fair value of derivative liabilities	(828,499)	466,412
Stock-based compensation	1,014,972	1,510,486
Loss on extinguishment of convertible note	—	1,519,603
Deferred income tax benefit	—	(2,826,919)
Changes in current assets and liabilities:		
(Increase) decrease in miscellaneous receivables	86,324	—
(Increase) decrease in prepaid expenses	(228,113)	(1,807,629)
Increase in accounts payable and accrued expenses	2,699,053	3,283,113
Net cash used in operating activities	(21,974,921)	(26,192,989)
Cash flows from investing activities:		
Furniture and equipment purchases	(13,532)	(2,262)
Net cash used in investing activities	(13,532)	(2,262)
Cash flows from financing activities:		
Proceeds from sale of common stock and warrants	6,665,300	23,463,585
Proceeds from sale of preferred stock	4,542,000	—
Proceeds from warrant exercises	11,900,260	—
Proceeds from registered direct financing held in trust	790,999	—
Principal paid on maturity of short-term convertible notes	(460,000)	—
Convertible note redemptions paid in cash	(850,000)	—
Exercise of option to repurchase shares held in escrow	(8,342)	—
Release of funds held in trust for warrant tender offer	(853,599)	—
Proceeds from convertible note payable, net	—	5,000,000
Payment of offering costs	(2,004,223)	(2,727,418)
Net cash provided by financing activities	19,722,395	25,736,167
Net change in cash	(2,266,058)	(459,084)
Cash, beginning of period	3,466,509	1,231,445
Cash, end of period	$ 1,200,451	$ 772,361
Supplemental disclosure of cash flow information:		
Cash paid during the period for interest	$ 255,489	—
Non-cash investing and financing transactions:		
Common stock issued for conversion redemption	$ 1,530,000	—
Dividends accrued on Series C convertible preferred stock	$ 261,010	—
Accrued interest converted into note payable	$ 153,877	$ 225,245
Debt discount associated with convertible notes payable	$ —	$ 700,000
Common stock issued for acquisition of ProstaGene, LLC	$ —	$ 11,558,000
Derivative liability associated a convertible note payable	$ —	$ 1,284,998
Conversion of interest and principal of short-term convertible notes to common stock	$ 214,959	—

See accompanying notes to unaudited consolidated financial statements.

CytoDyn Inc.
Consolidated Statement of Changes in Stockholders' (Deficit)/ Equity
(Unaudited)

	Preferred Stock		Common Stock		Treasury Stock	
	Shares	Amount	Shares	Amount	Shares	Amount
Balance May 31, 2018	92,100	$ 92	216,881,790	$216,881	159,011	$ (159)
First Quarter Fiscal Year Ended May 31, 2019						
Acquisition of ProstaGene LLC	—	—	—	—	—	—
Issuance of stock payment shares	—	—	—	—	—	—
Issuance of stock for note payable redemption	—	—	—	—	—	—
Proceeds from registered direct offering ($0.50/share)	—	—	1,970,000	1,970	—	—
Offering costs related to registered direct offering	—	—	—	—	—	—
Proceeds from private equity offering ($0.50/share)	—	—	15,028,600	15,029	—	—
Offering costs related to private equity offering	—	—	—	—	—	—
Offering costs related to debt offering	—	—	—	—	—	—
Debt discount and issuance costs related to offering	—	—	—	—	—	—
Beneficial conversion feature on note payable and relative fair value associated with warrants	—	—	—	—	—	—
Legal fees in connection with equity offerings	—	—	—	—	—	—
Stock-based compensation	—	—	—	—	—	—
Net Loss August 31, 2018	—	—	—	—	—	—
Balance August 31, 2018	92,100	$ 92	233,880,390	$233,880	159,011	$ (159)
Second Quarter Fiscal Year Ended May 31, 2019						
Acquisition of ProstaGene LLC	—	—	18,658,000	18,658	—	—
Issuance of stock payment shares	—	—	8,342,000	8,342	—	—
Issuance of stock for note payable redemption	—	—	—	—	—	—
Proceeds from registered direct offering ($0.50/share)	—	—	—	—	—	—
Offering costs related to registered direct offering	—	—	—	—	—	—
Proceeds from private equity offering ($0.50/share)	—	—	29,928,570	29,930	—	—
Offering costs related to private equity offering	—	—	—	—	—	—
Offering costs related to debt offering	—	—	—	—	—	—
Debt discount and issuance costs related to offering	—	—	—	—	—	—
Beneficial conversion feature on note payable and relative fair value associated with warrants	—	—	—	—	—	—
Legal fees in connection with equity offerings	—	—	—	—	—	—
Stock-based compensation	—	—	—	—	—	—
Net Loss November 30, 2018	—	—	—	—	—	—
Balance November 30, 2018	92,100	$ 92	290,808,960	$290,810	159,011	$ (159)

CytoDyn Inc.
Consolidated Statement of Changes in Stockholders' (Deficit)/ Equity
(Unaudited)

	Additional Paid-In Capital	Accumulated Deficit	Total	Fiscal Year To Date
Balance May 31, 2018	$159,764,611	$(173,139,396)	$(13,157,971)	$(13,157,971)
First Quarter Fiscal Year Ended May 31, 2019				
Acquisition of ProstaGene LLC	—	—	—	—
Issuance of stock payment shares	—	—	—	—
Issuance of stock for note payable redemption	—	—	—	—
Proceeds from registered direct offering ($0.50/share)	983,030	—	985,000	985,000
Offering costs related to registered direct offering	(75,151)	—	(75,151)	(75,151)
Proceeds from private equity offering ($0.50/share)	7,499,271	—	7,514,300	7,514,300
Offering costs related to private equity offering	(882,716)	—	(882,716)	(882,716)
Offering costs related to debt offering	—	—	—	—
Debt discount and issuance costs related to offering	—	—	—	—
Beneficial conversion feature on note payable and relative fair value associated with warrants	—	—	—	—
Legal fees in connection with equity offerings	(50,544)	—	(50,544)	(50,544)
Stock-based compensation	283,346	—	283,346	283,346
Net Loss August 31, 2018	—	(14,413,569)	(14,413,569)	(14,413,569)
Balance August 31, 2018	167,521,847	$(187,552,965)	$(19,797,305)	(19,797,305)
Second Quarter Fiscal Year Ended May 31, 2019				
Acquisition of ProstaGene LLC	11,539,342	—	11,558,000	11,558,000
Issuance of stock payment shares	(8,342)	—	—	8,342
Issuance of stock for note payable redemption	—	—	—	—
Proceeds from registered direct offering ($0.50/share)	—	—	—	985,000
Offering costs related to registered direct offering	—	—	—	(75,151)
Proceeds from private equity offering ($0.50/share)	14,934,355	—	14,964,285	22,478,585
Offering costs related to private equity offering	(1,693,354)	—	(1,693,354)	(2,576,070)
Offering costs related to debt offering	—	—	—	—
Debt discount and issuance costs related to offering	—	—	—	—
Beneficial conversion feature on note payable and relative fair value associated with warrants	—	—	—	—
Legal fees in connection with equity offerings	(25,652)	—	(25,652)	(76,195)
Stock-based compensation	1,227,140	—	1,227,140	1,510,486
Net Loss November 30, 2018		(14,305,380)	(14,305,380)	(28,718,950)
Balance November 30, 2018	193,503,678	$(201,858,345)	$ (8,063,924)	$ (8,063,924)

CytoDyn Inc.
Consolidated Statement of Changes in Stockholders' (Deficit)/ Equity
(Unaudited)

	Preferred Stock		Common Stock		Treasury Stock	
	Shares	Amount	Shares	Amount	Shares	Amount
Balance May 31, 2019	95,346	$ 95	329,554,763	$329,555	159,011	$ (159)
First Quarter Fiscal Year Ended May 31, 2020						
Issuance of stock for note payable redemption	—	—	3,014,181	3,015	—	—
Note conversion and extension fees		—	—	—	—	—
Proceeds from registered direct offering	—	—	5,639,500	5,640	—	—
Offering costs related to registered direct offering	—	—	—	—	—	—
Proceeds from public warrant tender offers	—	—	45,375,923	45,376	—	—
Offering costs related to public warrant tender offers	—	—				
Inducement interest expense—tender offers and debt conversions	—	—	—	—	—	—
Proceeds from Series C Preferred offering	1,754	2				
Offering costs related to Series C Preffered offering	—	—	—	—	—	—
Exercise of option to repurchase common stock						
Dividends on Series C Preferred shares	—	—	—	—	—	—
Legal fees in connection with equity offerings	—	—	—	—	—	—
Stock-based compensation	—	—	—	—	—	—
Net Loss August 31, 2019	—	—	—	—	—	—
Balance August 31, 2019	97,100	$ 97	383,584,367	$383,586	159,011	$ (159)
Second Quarter Fiscal Year Ended May 31, 2020						
Issuance of stock for note payable redemption	—	—	2,270,151	2,269	—	—
Note conversion and extension fees	—	—	—	—	—	—
Proceeds from registered direct offering	—	—	13,460,833	13,461	—	—
Offering costs related to registered direct offering	—	—	—	—	—	—
Proceeds from public warrant tender offers	—	—	—	—	—	—
Offering costs related to public warrant tender offers	—	—	—	—	—	—
Inducement interest expense—debt conversion	—	—	—	—	—	—
Proceeds from Series C Preferred offering	2,788	3	—	—	—	—
Offering costs related to Series C Preffered offering	—	—	—	—	—	—
Exercise of option to repurchase common stock	—	—	—	—	—	—
Dividends on Series C Preferred shares	—	—	—	—	—	—
Legal fees in connection with equity offerings	—	—	—	—	—	—
Stock-based compensation	—	—	—	—	—	—
Net Loss November 30, 2019	—	—	—	—	—	—
Balance November 30, 2019	99,888	$ 100	399,315,351	$399,316	159,011	$ (159)

CytoDyn Inc.
Consolidated Statement of Changes in Stockholders' (Deficit)/ Equity
(Unaudited)

	Additional Paid-In Capital	Accumulated Deficit	Total	Fiscal Year To Date
Balance May 31, 2019	$220,119,856	$(229,363,407)	$ (8,914,060)	$ (8,914,060)
First Quarter Fiscal Year Ended May 31, 2020				
Issuance of stock for note payable redemption	1,001,985	—	1,005,000	1,005,000
Note conversion and extension fees	—	—	—	—
Proceeds from registered direct offering	2,250,160	—	2,255,800	2,255,800
Offering costs related to registered direct offering	(260,208)	—	(260,208)	(260,208)
Proceeds from public warrant tender offers	11,854,884	—	11,900,260	11,900,260
Offering costs related to public warrant tender offers	(1,058,466)	—	(1,058,466)	(1,058,466)
Inducement interest expense—tender offers and debt conversions	2,430,514	—	2,430,514	2,430,514
Proceeds from Series C Preferred offering	1,753,998	—	1,754,000	1,754,000
Offering costs related to Series C Preffered offering	(197,460)	—	(197,460)	(197,460)
Exercise of option to repurchase common stock			—	—
Dividends on Series C Preferred shares	—	(110,826)	(110,826)	(110,826)
Legal fees in connection with equity offerings	(15,877)	—	(15,877)	(15,877)
Stock-based compensation	580,727	—	580,727	580,727
Net Loss August 31, 2019	—	(16,163,999)	(16,163,999)	(16,163,999)
Balance August 31, 2019	$238,460,113	$(245,638,232)	$ (6,794,595)	(6,794,595)
Second Quarter Fiscal Year Ended May 31, 2020				
Issuance of stock for note payable redemption	737,690	—	739,959	1,744,959
Note conversion and extension fees	(216,800)	—	(216,800)	(216,800)
Proceeds from registered direct offering	4,396,039	—	4,409,500	6,665,300
Offering costs related to registered direct offering	(73,690)	—	(73,690)	(333,898)
Proceeds from public warrant tender offers	—	—	—	11,900,260
Offering costs related to public warrant tender offers	—	—	—	(1,058,466)
Inducement interest expense—debt conversion	282,500	—	282,500	2,713,014
Proceeds from Series C Preferred offering	2,787,997	—	2,788,000	4,542,000
Offering costs related to Series C Preffered offering	(181,722)	—	(181,722)	(379,182)
Exercise of option to repurchase common stock	(8,342)	—	(8,342)	(8,342)
Dividends on Series C Preferred shares	—	(150,184)	(150,184)	(261,010)
Legal fees in connection with equity offerings	—	—	—	(15,877)
Stock-based compensation	434,245	—	434,245	1,014,972
Net Loss November 30, 2019	—	(14,860,468)	(14,860,468)	(31,024,467)
Balance November 30, 2019	246,618,030	$(260,648,884)	$(13,631,597)	$(13,631,597)

See accompanying notes to unaudited consolidated financial statements

CYTODYN INC.
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS
AS OF NOVEMBER 30, 2019
(UNAUDITED)

Note 1 – Organization

CytoDyn Inc. (the "Company") was originally incorporated under the laws of Colorado on May 2, 2002 under the name RexRay Corporation (its previous name) and, effective August 27, 2015, reincorporated under the laws of Delaware. The Company is a clinical-stage biotechnology company developing innovative treatments for multiple therapeutic indications based on leronlimab, a novel humanized monoclonal antibody targeting the CCR5 receptor. CCR5 appears to play a key role in the ability of Human Immunodeficiency Virus ("HIV") to enter and infect healthy T-cells. The CCR5 receptor also appears to be implicated in human metastasis and in immune-mediated illnesses such as graft-vs-host disease ("GvHD") and Non-Alcoholic Steatohepatitis ("NASH"). The Company's lead product candidate, leronlimab, belongs to a class of HIV therapies known as entry inhibitors. These therapies block HIV from entering into and infecting certain cells.

The Company has developed a class of therapeutic monoclonal antibodies to address unmet medical needs in the areas of HIV and GvHD. In addition, the Company is expanding the clinical focus with leronlimab to include the evaluation in certain cancer and immunological indications where CCR antagonism has shown initial promise.

Note 2 – Summary of Significant Accounting Policies

Basis of Presentation

The accompanying consolidated financial statements are unaudited and have been prepared in accordance with accounting principles generally accepted in the United States of America ("U.S. GAAP") and reflect all adjustments, which consist solely of normal recurring adjustments, needed to fairly present the financial results for these periods. The consolidated financial statements and notes thereto are presented as prescribed by Form 10-Q. Accordingly, certain information and note disclosures normally included in financial statements prepared in accordance with accounting principles generally accepted in the United States of America have been omitted. The accompanying consolidated financial statements should be read in conjunction with the financial statements for the fiscal years ended May 31, 2019 and 2018 and notes thereto in the Company's Annual Report on Form 10-K for the fiscal year ended May 31, 2019, filed with the Securities and Exchange Commission on August 14, 2019. Operating results for the three and six months ended November 30, 2019 are not necessarily indicative of the results that may be expected for the entire year. In the opinion of management, all adjustments have been made, which consist only of normal recurring adjustments necessary for a fair statement of (a) the results of operations for the three and six months ended November 30, 2019 and November 30, 2018, (b) the financial position at November 30, 2019 and (c) cash flows for the six month periods ended November 30, 2019 and November 30, 2018.

Principles of Consolidation

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

Reclassifications

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

Going Concern

The consolidated accompanying financial statements have been prepared on a going concern basis, which contemplates the realization of assets and the satisfaction of liabilities in the normal course of business. As shown in the accompanying consolidated financial statements, the Company had losses for all periods presented. The Company incurred a net loss of $31,024,467 for the six months ended November 30, 2019 and has an accumulated deficit of $260,648,884 as of November 30, 2019. These factors, among others, raise substantial doubt about the Company's ability to continue as a going concern.

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

Use of Estimates

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

Cash

Cash is maintained at federally insured financial institutions and, at times, balances may exceed federally insured limits. The Company has never experienced any losses related to these balances. Balances in excess of federally insured limits at November 30, 2019 and May 31, 2019 approximated $1.3 million and $3.3 million, respectively.

Identified Intangible Assets

The Company follows the provisions of Financial Accounting Standards Board ("FASB") ASC Topic 350 Intangibles-Goodwill and Other, which establishes accounting standards for the impairment of long-lived assets such as intangible assets subject to amortization. The Company reviews long-lived assets to be held and used for impairment whenever events or changes in circumstances indicate that the carrying amount of the assets may not be recoverable. If the sum of the undiscounted expected future cash flows over the remaining useful life of a long-lived asset group is less than its carrying value, the asset is considered impaired. Impairment losses are measured as the amount by which the carrying amount of the asset group exceeds the fair value of the asset. There were no impairment charges for the six months ended November 30, 2019 and 2018. The value of the Company's patents would be significantly impaired by any adverse developments as they relate to the clinical trials pursuant to the patents acquired as discussed in Notes 7 and 9.

Research and Development

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

Pre-launch Inventory

The Company may scale-up and make commercial quantities of its product candidate prior to the date it anticipates that such product will receive final FDA approval. The scale-up and commercial production of pre-launch inventories involves the risk that such products may not be approved for marketing by the FDA on a timely basis, or ever. This risk notwithstanding, the Company may scale-up and build pre-launch inventories of product that have not yet received final governmental approval when the Company believes that such action is appropriate in relation to the commercial value of the product launch opportunity. The determination to capitalize is made once the Company (or its third party development partners) has filed a Biologics License Application ("BLA") that has been acknowledged by the FDA as containing sufficient information to allow the FDA to conduct its review in an efficient and timely manner and management is reasonably certain that all regulatory and legal requirements will be satisfied. This determination is based on the particular facts and circumstances relating to the expected FDA approval of the drug product being considered. As of November 30, 2019, and May 31, 2019, the Company did not have pre-launch inventory that qualified for capitalization pursuant to U.S. GAAP ASC 330 "Inventory."

Fair Value of Financial Instruments

Fair Value Hierarchy

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

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

Level 2. Observable inputs other than Level 1 prices, such as quoted prices for similar assets or liabilities, quoted prices in markets with insufficient volume or infrequent transactions (less active markets), or model-derived valuations in which all significant inputs are observable or can be derived principally from or corroborated with observable market data for substantially the full term of the assets or liabilities. Level 2 inputs also include non-binding market consensus prices that can be corroborated with observable market data, as well as quoted prices that were adjusted for security-specific restrictions.

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

Liabilities measured at fair value on a recurring basis by level within the fair value hierarchy as of November 30, 2019 and May 31, 2019 is as follows:

	Fair Value Measurement at November 30, 2019 (1)		Fair Value Measurement at May 31, 2019 (1)	
	Using Level 3	Total	Using Level 3	Total
Liabilities:				
Derivative liability—convertible note redemption provision	$ 1,456,398	$ 1,456,398	$ 2,005,137	$ 2,005,137
Derivative liability—warrants	122,372	122,372	402,132	402,132
Total liability	$ 1,578,770	$ 1,578,770	$ 2,407,269	$ 2,407,269

(1) The Company did not have any assets or liabilities measured at fair value using Level 1 or 2 of the fair value hierarchy as of November 30, 2019 and May 31, 2019.

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

The following is a reconciliation of the beginning and ending balances for liabilities measured at fair value on a recurring basis using significant unobservable inputs (Level 3) during the six months ended November 30, 2019, and the year ended May 31, 2019:

Investor warrants issued with registered direct equity offering	$ 4,360,000
Placement agent warrants issued with registered direct equity offering	819,200
Fair value adjustments	(3,855,468)
Balance at May 31, 2018	1,323,732
Inception date value of redemption provisions	2,750,006
Fair value adjustments—warrants	(744,869)
Fair value adjustments—convertible notes	(921,600)
Balance at May 31, 2019	$ 2,407,269
Fair value adjustments—warrants	(279,760)
Fair value adjustments—convertible notes	(548,739)
Balance at November 30, 2019	$ 1,578,770

Operating Leases

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

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

Stock-Based Compensation

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

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

Common Stock

On November 8, 2018, at the 2018 Annual Meeting of Stockholders, a proposal was approved to increase the total number of authorized shares of common stock of the Company from 450,000,000 to 600,000,000. Subsequently, on May 22, 2019, at a special meeting of stockholders, a proposal was approved to increase the total number of authorized shares of common stock of the Company from 600,000,000 to 700,000,000.

Preferred Stock

The Company's Board of Directors is authorized to issue up to 5,000,000 shares of preferred stock without stockholder approval. As of November 30, 2019, the Company has authorized the issuance of 400,000 shares of Series B convertible preferred stock and 20,000 shares of Series C convertible preferred stock, of which 92,100 shares and 7,788 shares, respectively, were outstanding. The remaining preferred shares authorized have no specified rights.

Treasury Stock

Treasury stock purchases are accounted for under the par value method, whereby the cost of the acquired stock is recorded at par value. As of November 30, 2019, the Company has purchased 159,011 shares of $0.001 par value treasury stock.

Debt Discount

During year ended May 31, 2019, the Company incurred approximately $4.2 million of debt discount related to the issuance of convertible notes, as described in Note 4. The discount is amortized over the life of the convertible promissory notes. During the six months ended November 30, 2019 and November 30, 2018, the Company recorded approximately $1.5 million and $0.1 million of related amortization, respectively.

Debt Issuance Cost

During the year ended May 31, 2019, the Company incurred direct costs associated with the issuance of convertible notes, as described in Note 4, and recorded approximately $1.0 million of debt issuance costs. During the six months ended November 30, 2019 and November 30, 2018, the Company recognized related amortization of approximately $404,000 and $20,000, respectively.

Offering Costs

During the six months ended November 30, 2019 and the year ended May 31, 2019, the Company incurred direct incremental costs associated with the sale of equity securities and conversion of debt, as described in Notes 10 and 11. The costs were approximately $2.0 million and $4.3 million for the six months ended November 30, 2019 and year ended May 31, 2019, respectively. The offering costs were recorded as a component of equity upon receipt of proceeds.

Stock for Services

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

Loss per Common Share

Basic loss per share is computed by dividing the net loss by the weighted average number of shares of common stock outstanding during the period. Diluted loss per share would include the weighted average number of shares of common stock outstanding and potentially dilutive common stock equivalents. Because of the net losses for all periods presented, the basic and diluted weighted average shares outstanding are the same since including the additional shares would have an anti-dilutive effect on the loss per share. For this reason the following potentially dilutive common stock equivalents were not included in the computation of basic and diluted weighted average number of shares of common stock outstanding for the six months ended November 30, 2019 and November 30, 2018: common stock options and warrants to purchase common stock of 177,457,255 and 155,836,676 respectively; short-term convertible notes and accrued interest that could convert into 10,048,121 and 0 common shares respectively; Shares of Series C and Series B convertible preferred stock including undeclared dividends that can potentially convert in the aggregate into a 17,550,240 and 1,330,861 common shares respectively.

Income Taxes

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

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

In accordance with Section 15 of the Internal Revenue Code, the Company utilized a federal statutory rate of 21% and 28.62% for the six months ended November 30, 2019 and November 30, 2018, respectively. The net tax expense for the six months ended November 30, 2019 is zero and a benefit of $2.8 million for the six months ended November 30, 2018. The Company has a full valuation allowance as of November 30, 2019 and May 31, 2019, as management does not consider it more than likely than not that the benefits from the deferred taxes will be realized.

Note 3 – Recent Accounting Pronouncements

Recent accounting pronouncements, other than below, issued by the FASB (including its EITF), the AICPA and the SEC did not or are not believed by management to have a material effect on the Company's present or future financial statements.

In February 2016, the FASB issued a new accounting standard which requires an entity to recognize assets and liabilities arising from a lease for both financing and operating leases. The ASU also requires new qualitative and quantitative disclosures to help investors and other financial statement users better understand the amount, timing, and uncertainty of cash flows arising from leases. The standard is effective for fiscal years beginning after December 15, 2018. The Company adopted the standard as of June 1, 2019, using the modified retrospective approach in which prior comparative periods are not adjusted. The Company elected the package of practical expedients permitted under the transition guidance within the new standard, which among other things, allows the Company to carry forward historical lease classification. The Company has operating leases for two office facilities, one which expires on April 30, 2021 and the other on March 31, 2022. As of June 1, 2019, the Company recognized additional right-of-use assets and corresponding operating lease liabilities related to its facility leases on the consolidated balance sheet. No cumulative effect adjustment was recognized as the amount was not material. The standard did not materially impact the Company's consolidated statement of operations or cash flows.

In June 2016, the FASB issued a new accounting standard intended to provide financial statement users with more decision-useful information about expected credit losses and other commitments to extend credit held by the reporting entity. The standard replaces the incurred loss impairment methodology in current GAAP with one that reflects expected credit losses and requires consideration of a broader range of reasonable and supportable information to inform credit loss estimates. The update is effective on January 1, 2020, with early adoption permitted. The Company does not expect the adoption to have a material impact on its consolidated financial statements.

In August 2018, the FASB issued a new accounting standard to reduce, modify, and add to the disclosure requirements on fair value measurements. The standard is effective for fiscal years beginning after December 15, 2019, with early adoption permitted. The Company does not expect the adoption to have a material impact on its consolidated financial statements.

In August 2018, the FASB issued a new accounting standard to align the requirements for capitalizing implementation costs incurred in a hosting arrangement that is a service contract with the requirements for capitalizing implementation costs incurred to develop or obtain internal-use software. The standard is effective for fiscal years beginning after December 15, 2019, with early adoption permitted. The Company does not expect the adoption to have a material impact on its consolidated financial statements.

Note 4 – Convertible Instruments

Series C Convertible Preferred Stock

On March 20, 2019, the Company authorized 5,000 shares and issued 3,246 shares of Series C Convertible Preferred Stock, $0.001 par value per share ("Series C Preferred Stock"), at $1,000.00 per share for cash proceeds totaling $3,083,700, net of placement agent fees of $162,300. On August 29, 2019, the Company issued the remaining 1,754 shares of Series C Preferred Stock at $1,000.00 per share for cash proceeds totaling $1,542,545, net of placement agent fees and legal fees totaling $211,455. On October 11, 2019, the Company authorized an increase from 5,000 shares to 20,000 shares, and between October 21, 2019 and November 8, 2019 issued 2,788 shares of Series C Convertible Preferred Stock. As of November 30, 2019, 12,212 shares of Series C Preferred Stock remain available to be issued. The Series C Preferred Stock Certificate of Designation (the "Certificate of Designation") provides, among other things, that holders of Series C Preferred Stock shall be entitled to receive, out of any assets at the time legally available therefor, cumulative dividends at the rate of ten percent (10%) per share per annum of the stated value of the Series C Preferred Stock, to be paid per share of Series C Preferred Stock, which dividends shall accrue whether or not declared. Any dividends paid by the Company

will first be paid to the holders of Series C Preferred Stock prior and in preference to any payment or distribution to holders of common stock. Dividends on the Series C Preferred Stock are mandatory and cumulative and there are no sinking fund provisions applicable to the Series C Preferred Stock. The Series C Preferred Stock does not have redemption rights. The stated value per share for the Series C Preferred Stock is $1,000 (the "Stated Value"). In the event of any liquidation, dissolution or winding up of the Company, the Series C Preferred Stock will be paid, prior and in preference to any payment or distribution on any shares of common stock, currently outstanding series of preferred stock, or subsequent series of preferred stock, an amount per share equal to the Stated Value and the amount of any accrued and unpaid dividends. The holders of the Series C Preferred Stock will then receive distributions along with the holders of common stock on a pari passu basis according to the number of shares of common stock the Series C Preferred holders would be entitled if they converted their shares of Series C Preferred Stock at the time of such distribution. If, at any time while the Series C Preferred Stock is outstanding, the Company effects any reorganization, merger or sale of the Company or substantially all of its assets (each a "Fundamental Transaction"), a holder of the Series C Preferred Stock will have the right to receive any shares of the acquiring corporation or other consideration it would have been entitled to receive if it had been a holder of the number of shares of common stock then issuable upon conversion in full of the Series C Preferred Stock immediately prior to the Fundamental Transaction. Each share of Series C Preferred Stock is convertible at any time at the holder's option into that number of fully paid and nonassessable shares of the Company's common stock determined by dividing the Stated Value by the conversion price of $0.50 per share (subject to adjustment as set forth in the Certificate of Designation). No fractional shares will be issued upon the conversion of the Series C Preferred Stock. Except as otherwise provided in the Certificate of Designation or as otherwise required by law, the Series C Preferred Stock has no voting rights. As of November 30, 2019, the accrued dividends were approximately $299,000 or 598,000 shares of common stock.

Series B Convertible Preferred Stock

During fiscal 2010, the Company issued 400,000 shares of Series B Convertible Preferred Stock, $0.001 par value per share ("Series B Preferred Stock") at $5.00 per share for cash proceeds totaling $2,009,000, of which 92,100 shares remain outstanding at November 30, 2019. Each share of the Series B Preferred Stock is convertible into ten shares of the Company's common stock, including any accrued dividends, with an effective fixed conversion price of $0.50 per share. The holders of the Series B Preferred Stock can only convert their shares to shares of common stock provided the Company has sufficient authorized shares of common stock at the time of conversion. Accordingly, the conversion option was contingent upon the Company increasing its authorized common shares, which occurred in April 2010, when the Company's stockholders approved an increase in the authorized shares of common stock to 100,000,000. At the commitment date, which occurred upon such stockholder approval, the conversion option related to the Series B Preferred Stock was beneficial. The intrinsic value of the conversion option at the commitment date resulted in a constructive dividend to the Series B Preferred Stock holders of approximately $6,000,000. The constructive dividend increased and decreased additional paid-in capital by identical amounts. The Series B Preferred Stock has liquidation preferences over the common shares at $5.00 per share plus any accrued dividends. Dividends are payable to the Series B Preferred Stock holders when declared by the Board of Directors at the rate of $0.25 per share per annum. Such dividends are cumulative and accrue whether or not declared and whether or not there are any profits, surplus or other funds or assets of the Company legally available. The Series B holders have no voting rights. As of November 30, 2019, and May 31, 2019, the undeclared dividends were approximately $233,000 or 456,000 shares of common stock and approximately $216,000 or 432,000 shares of common stock, respectively.

2019 Short-term Convertible Notes

During the year ended May 31, 2019, the Company issued approximately $5.5 million of nine-month unsecured Convertible Notes (the "2019 Short-term Convertible Notes") and related warrants to investors for cash. Beginning on September 30, 2019 and through November 14, 2019, principal and interest totaling approximately $5.9 million came due. Holders of notes totaling approximately $1.1 million in principal and accrued interest agreed to extend their notes for another 3 months, and holders of notes totaling approximately $4.1 million in principal and accrued interest agreed to extend their notes for another 6 months. One note-holder with principal and accrued interest totaling approximately $0.2 million converted to shares of common stock of the Company. During the quarter ended November 30, 2019, a total of approximately $0.7 million of principal and accrued interest was repaid in cash. In addition, detachable stock warrants to purchase a total of 4,750,000 warrants with a five-year term and an exercise price of $0.30 per share and a five-year term were issued to investors who extended their notes. One investor received 200,000 warrants with a five-year term and an exercise price of $0.45 per share for converting the entire principal and accrued interest on its note. In connection with the note extensions and conversion, the Company recorded a non-cash inducement interest expense of approximately $0.3 million during the quarter ended November 30, 2029. The new principal amount of the 2019 Short-term Convertible Notes, including any accrued but unpaid interest thereon, is convertible at the election of the holder at any time into shares of common stock at any time prior to maturity at a conversion price of $0.50 per share. The 2019 Short-term Convertible Notes bear simple interest at the annual rate of 10%. Principal and accrued interest, to the extent not previously paid or converted, is due and payable on the maturity date. At the new commitment dates, the Company determined that there was a decrease in the fair value of the embedded conversion option resulting from the modification, the value of which is not required to be recognized under U.S. GAAP.

The Company recognized approximately $269,000 and $0 of interest expense during the six months ended November 30, 2019 and November 30, 2018, respectively.

Long-term Convertible Notes—June 2018 Note

On June 26, 2018, the Company entered into a securities purchase agreement, pursuant to which the Company issued a convertible promissory note (the "June 2018 Note") with a two-year term to an institutional accredited investor in the initial principal amount of $5.7 million. The investor gave consideration of $5.0 million to the Company. The June 2018 Note bears interest of 10% and is convertible into common stock, at $0.55 per share. The June 2018 Note is convertible in total, or in part, of the outstanding balance, at any time after six months from the issue date upon five trading days' notice, subject to certain adjustments and ownership limitations specified in the June 2018 Note. The Investor may redeem any portion of the June 2018 Note, at any time after six months from the issue date upon five trading days' notice, subject to a maximum monthly redemption amount of $350,000. The securities purchase agreement requires the Company to reserve shares for future conversions or redemptions by dividing the outstanding principal balance plus accrued interest by the conversion price of $0.55 per share times 1.5. As a result of the entry into the January 2019 Note (as defined below), the Company's obligations under the June 2018 Note are now secured by all of the assets of the Company, excluding the Company's intellectual property.

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

The amendment of the June 2018 Note was also evaluated under ASC Topic470-50-40, "Debt Modifications and Extinguishments." Based on the guidance, the instruments were determined to be substantially different, and debt extinguishment accounting was applied. The Company recorded approximately $1.5 million as an extinguishment loss, which was the difference in the net carrying value of the June 2018 Note prior to the amendment of approximately $5.4 million, and the fair value of the June 2018 Note and embedded derivatives after the amendment of approximately $6.9 million. The extinguishment loss includes a write-off of unamortized debt issuance costs and the debt discount associated with the original the June 2018 Note.

During the six months ended November 30, 2019 and November 30, 2018, the Company recognized approximately $300,000 and $248,000, of interest expense related to the June 2018 Note, respectively. During the six months ended November 30, 2019, the Company received redemption notices from the holder of the Company's June 2018 Note, requesting an aggregate redemption of $2,055,000 of the outstanding balance thereof. In satisfaction of the redemption notices, the Company issued shares of common stock totaling 4,746,935 and paid cash totaling $525,000 to the June 2018 Note holder in accordance with the terms of the June 2018 Note. Following the redemptions, the outstanding balance of the convertible June 2018 Note, including accrued but unpaid interest, was approximately $2.8 million.

Long-term Convertible Notes—January 2019 Note

On January 30, 2019, the Company entered into a securities purchase agreement, pursuant to which the Company issued a convertible promissory note (the "January 2019 Note") with a two-year term to the holder of the June 2018 Note in the initial principal amount of $5.7 million. In connection with the issuance of the January 2019 Note, the Company granted a lien against all of the assets of the Company, excluding the Company's intellectual property, to secure all obligations owed to the investor by the Company (including those under both the January 2019 Note and the June 2018 Note). The investor gave consideration of $5.0 million to the Company, reflecting original issue discount of $0.6 million and issuance costs of $0.1 million. The January 2019 Note bears interest of 10% and is convertible into common stock, at $0.50 per share. The January 2019 Note is convertible in total, or in part, of the outstanding balance, at any time after six months from the issue date upon five trading days' notice, subject to certain adjustments and ownership limitations specified in the Note. The Company analyzed the conversion option for derivative accounting treatment under ASC 815 and determined that the embedded conversion option did not qualify for derivative accounting.

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

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

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

Under the guidance of ASC 815, after allocation of proceeds to the redemption provision, relative fair value of equity classified warrants and the beneficial conversion feature, there were no proceeds remaining to allocate to convertible note payable. Therefore, principal, accrued interest, debt discount and offering costs will be recognized as interest expense, which represents the accretion of the convertible note payable and related debt discount and issuance costs. During the six months ended November 30, 2019 and November 30, 2018, the Company recognized approximately $387,000 and $-0-, respectively, of interest expense related to the January 2019 Note.

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

	Short Term	Long Term	Total
June 2018 Note	$ 2,100,000	$ 3,600,000	$ 5,700,000
Monthly redemption provision	2,100,000	(2,100,000)	—
Note amendment, net	—	111,410	111,410
Redemptions	(1,726,582)	(2,108,418)	(3,835,000)
Interest accretion—June 2018 and January 2019 Notes	300,308	685,599	985,907
Carrying value of Notes at November 30, 2019	$ 2,773,726	$ 188,591	$ 2,962,317

Note 5 – Derivative Liabilities

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

The following tables summarize the fair value of the warrant derivative liability and related common shares as of inception date September 15, 2016, and the fair value as of May 31, 2019 and November 30, 2019:

	Shares Indexed	Derivative Liability
Inception to date September 15, 2016	7,733,334	$ 5,179,200
Balance May 31, 2019	7,733,334	409,132
Balance November 30, 2019	7,733,334	$ 122,372

The Company recognized approximately $280,000 of non-cash gain and $466,000 of non-cash loss, due to the changes in the fair value of the liability associated with such classified warrants during the six months ended November 30, 2019 and November 30, 2018, respectively.

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

The Company estimated the fair value of the warrant derivative liability as of inception date September 15, 2016, May 31, 2019 and November 30, 2019, using the following assumptions:

	September 15, 2016	May 31, 2019	November 30, 2019
Fair value of underlying stock	$ 0.78	$ 0.39	$ 0.28
Risk free rate	1.20%	1.94%	1.61%
Expected term (years)	5	2.29	1.79
Stock price volatility	106%	61%	63%
Expected dividend yield	—	—	—
Probability of Fundamental Transaction	50%	50%	50%
Probability of holder requesting cash payment	50%	50%	50%

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

As described above in Note 4 above, the redemption provision embedded in the June 2018 and January 2019 Notes required bifurcation and measurement at fair value as a derivative. The fair value of the Note redemption provision derivative liabilities was calculated using a Monte Carlo Simulation which uses randomly generated stock-price paths obtained through a Geometric Brownian Motion stock price simulation. The fair value of the redemption provision will be significantly influenced by the fair value of the Company's stock price, stock price volatility, changes in interest rates and management's assumptions related to the redemption factor. The Company estimated the fair value of the redemptive provision using the following assumptions on the closing date of November 15, 2018, January 30, 2019 and May 31, 2019 and November 30, 2019:

	November 15,	January 30,	May 31, 2019		November 30, 2019	
	2018	2019	June Note	January Note	June Note	January Note
Fair value of underlying stock	$ 0.57	$ 0.49	$0.39	$ 0.39	$ 0.28	$ 0.28
Risk free rate	2.78%	2.52%	2.21%	1.95%	1.63%	1.60%
Expected term (in years)	1.61	2	1.07	1.67	0.57	1.17
Stock price volatility	58.8%	61%	62.2%	62.2%	66.3%	64.1%
Expected dividend yield	—	—	—	—	—	—
Discount factor	85%	85%	85%	85%	85%	85%

The following table summarizes the fair value of the convertible note redemption provision derivative liability as of inception dates November 15, 2018, January 30, 2019 and the fair value as of May 31, 2019 and November 30, 2019:

		Derivative Liability		
	Net Proceeds	Inception date	May 31, 2019	November 30, 2019
Inception date June 2018 Note, November 15, 2018	$5,000,000	$ 1,284,988	$ 847,103	$ 481,345
Inception date January 2019 Note, January 30, 2019	5,000,000	1,465,008	1,158,034	975,053
			$ 2,005,137	$ 1,456,398

The Company recognized approximately $549,000 of non-cash gain, due to the changes in the fair value of the liability associated with such classified redemption provision for the six months ended November 30, 2019.

Note 6 – Stock Options and Warrants

The Company has one active stock-based equity plan at November 30, 2019, the CytoDyn Inc. 2012 Equity Incentive Plan, as amended (the "2012 Plan"), and one stock-based equity plan that is no longer active, but under which certain prior awards remain outstanding, the CytoDyn Inc. 2004 Stock Incentive Plan (the "2004 Plan" and, together with the 2012 Plan, the "Incentive Plans"). The 2012 Plan was approved by stockholders at the Company's 2012 annual meeting to replace the 2004 Plan. The 2012 Plan was

amended by stockholder approval in February 2015 to increase the number of shares available for issuance from 3,000,000 to 5,000,000 shares of common stock and in March 2016 to increase the number of shares available for issuance from 5,000,000 to 7,000,000 shares of common stock. At the annual meeting of stockholders held on August 24, 2017, the stockholders approved an amendment to the 2012 Plan to increase the number of shares available for issuance from 7,000,000 to 15,000,000 shares of common stock. At a special meeting of stockholders held on May 22, 2019, the stockholders approved an amendment to the 2012 Plan to increase the number of shares available for issuance from 15,000,000 to 25,000,000 shares of common stock. As of November 30, 2019, the Company had 8,171,644 shares available for future stock-based grants under the 2012 Plan, as amended.

Stock Options

During the six months ended November 30, 2019, the Company granted annual stock option awards to directors to purchase a total of 1,975,000 shares of common stock. The exercise prices of the stock option awards ranges between $0.385 and $0.52 per share. 1,000,000 stock options vest immediately and the remaining awards vest quarterly over one year and have a ten-year term. The grant date fair value related to these stock options was $413,774.

During the six months ended November 30, 2019, the Company granted stock options, covering an aggregate of 1,787,500 shares of common stock, to executive management, employees and consultants with exercise prices ranging between $0.30 and $0.52 per share, except for one award of 50,000 shares which has an exercise price of $0.90 and represented a supplemental award related to a previous rescission, and which vested immediately. The awards granted to the consultants totaled 400,000 stock options, 200,000 of which vested immediately, 100,000 of which vested on December 12, 2019 and 100,000 of which will vest on April 7, 2020. Stock option awards covering an additional 1,112,500 shares granted to executive management and employees vest in 12 equal monthly installments and have a ten-year term. The remaining stock option awards granted to executive management and employees vest annually over three years, with a ten-year term. The grant date fair value of related to these stock options was $331,317.

On August 12, 2019, Gregory Gould, a member of the Company's Board of Directors, resigned. On September 12, 2019 Carl Dockery, a member of the Company's Board of Directors did not stand for re-election. 90 days after the cessation of their service, any vested and unexercised options in their names were returned to the pool of shares available for future stock-based grants under the 2012 Plan.

Warrants

During the six months ended November 30, 2019, in connection with registered direct offerings, as fully described in Note 11, the Company issued warrants covering 11,987,250 shares of common stock to investors. The investor warrants have a five-year term and an exercise price of $0.45 per share. In connection with the registered direct offering, the Company also issued warrants covering 655,305 shares of common stock to the placement agent. The placement agent warrants have a five-year term and an exercise prices ranging between of $0.40 and $0.444 per share.

During the six months ended November 30, 2019, in connection with Series C convertible preferred offerings, as fully described in Note 4, the Company issued common stock warrants covering a total of 9,601,000 shares of common stock to investors. The investor warrants have a five-year term and exercise prices ranging between $0.30 and $0.50 per share.

During the six months ended November 30, 2019, in connection with extension and conversion of short-term convertible notes, the Company issued common stock warrants covering a total of 4,750,000 shares of common stock to investors. The investor warrants have a five-year term and exercise prices ranging between $0.30 and $0.45 per share.

Compensation expense related to stock options, compensatory warrants and common stock reserved for advisory services for the three and six months ended November 30, 2019 and November 30, 2018 was approximately $1.0 million and $434,000 and $1.5 million and $1.2 million respectively. The grant date fair value of options and compensatory warrants vested during the six-month periods ended November 30, 2019 and November 30, 2018 was approximately $907,000 and $1.2 million respectively. As of November 30, 2019, there was approximately $1.1 million of unrecognized compensation expense related to share-based payments for unvested options, which is expected to be recognized over a weighted average period of 0.72 years.

The following table represents stock option and warrant activity as of and for the six months ended November 30, 2019:

	Number of Shares	Weighted Average Exercise Price	Weighted Average Remaining Contractual Life in Years	Aggregate Intrinsic Value
Options and warrants outstanding—May 31, 2019	178,591,849	$ 0.71	3.75	$ 896,400
Granted	30,756,055	0.36	—	—
Exercised	(30,250,649)	0.39	—	—
Forfeited/expired/cancelled	(1,640,000)	0.74	—	—
Options and warrants outstanding—November 30, 2019	177,457,255	0.65	3.67	—
Outstanding exercisable—November 30, 2019	173,178,551	$ 0.66	3.56	$ —

Note 7 – Acquisition of Patents and Intangibles

As discussed in Note 9 below, the Company consummated an asset purchase on October 16, 2012, and paid $3,500,000 for certain assets, including intellectual property, certain related licenses and sublicenses, FDA filings and various forms of the leronlimab (PRO 140) drug substance. The Company followed the guidance in Financial Accounting Standards Topic 805 to determine if the Company acquired a business. Based on the prescribed accounting, the Company acquired assets and not a business. As of November 30, 2019, the Company has recorded and is amortizing $3,500,000 of intangible assets in the form of patents. The Company estimates the acquired patents have an estimated life of ten years. Subsequent to the acquisition date, the Company has continued to expand, amend and file new patents central to its current clinical trial strategies, which, in turn, have extended the protection period for certain methods of using leronlimab (PRO 140) and formulations comprising leronlimab (PRO 140) out through at least 2031 and 2038, respectively, in various countries.

On November 16, 2018, the Company completed the acquisition of substantially all of the assets of ProstaGene, LLC (“ProstaGene”), a biotechnology start-up company, which included patents related to clinical research, a proprietary CCR5 technology for early cancer diagnosis, and a noncompetition agreement with ProstaGene’s founder and Chief Executive Officer, Richard G. Pestell, M.D., Ph.D. The acquisition of ProstaGene’s assets expands the Company’s clinical development of leronlimab (PRO 140) into cancer indications and commercialization of certain cancer diagnostic tests.

The aggregate purchase price paid for the ProstaGene acquisition was $11,558,000 based on the issuance of 20,278,000 shares of common stock of CytoDyn at $0.57 per share, including 1,620,000 shares earned, but not yet issued, by the investment bank for advisory services. In connection with the purchase, the Company entered into a Stock Restriction Agreement (“Agreement”), restricting the transfer of 8,342,000 shares of common stock payable to Dr. Pestell for a three-year period from the closing date of the transaction. Dr. Pestell’s employment with the Company was terminated on July 25, 2019, and as defined in the employment agreement, on September 17, 2019 the Company exercised its option to repurchase such Restricted Shares from Dr. Pestell at a purchase price of $0.001 per share. The repurchase is currently the subject of a legal proceedings between Dr. Pestell and the Company, as fully described in Part II, Item 1.

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

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

Assets acquired from ProstaGene include (1) patents issued in the United States and Australia related to "Prostate Cancer Cell Lines, Gene Signatures and Uses Thereof" and "Use of Modulators of CCR5 in the Treatment of Cancer and Cancer Metastasis," (2) an algorithm used to identify a 14-gene signature to predict the likelihood and severity of cancer diagnoses, and (3) a noncompetition agreement in connection with an employment agreement with Dr. Pestell as Chief Medical Officer of the Company. The fair value of the assets acquired approximates the consideration paid. The Company did not assume any liabilities. The Company accounted for the ProstaGene acquisition as an asset acquisition under ASC 805-10-55 "Business Combinations" because the assets retained from ProstaGene do not include an assembled workforce, and the gross value of the assets acquired meets the screen test in ASC 805-10-55-5A related to substantially all of the fair value being concentrated in a single asset or group of assets (i.e., the proprietary technology and patents) and, thus, is not considered a business. Thus, management concluded that the acquisition did not include both an input and substantive processes that together significantly contribute to the ability to create outputs.

The fair value of the technology acquired is identified using the Income Approach. The fair value of the patents acquired is identified using the Cost to Reproduce Method. The fair value of noncompetition agreement acquired is identified using the Residual Value Method. Goodwill is not recorded as the transaction represents an asset acquisition in accordance with ASU 2017-01. Acquisition costs for asset acquisitions are capitalized and included in the total cost of the transaction. In addition, pursuant to ASC 805, the net tax effect of the deferred tax liability arising from the book to tax basis differences is recorded as a cost of the acquisition.

The following presents intangible assets activity:

	November 30, 2019	May 31, 2019
Gross carrying amounts	$ 3,500,000	$ 3,500,000
Development of new Company website	$ 19,552	$ 19,553
Intangible asset acquisition:		
ProstaGene, LLC	15,126,216	15,126,216
Accumulated amortization	(4,195,730)	(3,170,315)
Total amortizable intangible assets, net	$ 14,450,038	$ 15,475,454
Patents currently not amortized	$ —	$ —
Carrying value of intangibles, net	$ 14,450,038	$ 15,475,454

Amortization expense related to intangible assets was approximately $497,100 and $994,200 and $152,900 and $240,000 for the three and six months ended November 30, 2019 and 2018, respectively. The estimated aggregate future amortization expense related to the Company's intangible assets with finite lives is estimated to be approximately $2 million per year for the next two years, $1.4 million the following year, $1.1 million for the next seven years, and $940,000 for the last year.

Note 8 – License Agreements

The Company has two license agreements with a third-party licensor covering the licensor's"system know-how" technology with respect to the Company's use of proprietary cell lines to manufacture new leronlimab (PRO 140) material. The Company accrues an annual license fees of £600,000 (approximately US$800,000 utilizing current exchange rates), which is payable annually in December. The December 2019 and 2018 payments were extended to March 15th, 2020 and April 15, 2019, respectively. Future annual license fees and royalty rate will vary depending on whether the Company manufactures leronlimab (PRO 140), utilizes the third-party licensor as a contract manufacturer, or utilizes an independent party as a contract manufacturer. The licensor does not charge an annual license fee when it serves as the manufacturer. In addition, the Company will incur royalties of up to 0.75% to 2% of net sales, depending upon who serves as the manufacturer, when the Company commences their first commercial sale, which will continue as long as the license agreement is maintained.

Note 9 – Commitments and Contingencies

Under the Progenics Purchase Agreement, the Company acquired rights to the HIV viral-entry inhibitor drug candidate PRO 140, a humanized anti-CCR5 monoclonal antibody, as well as certain other related assets, including the existing inventory of bulk PRO 140 drug product, intellectual property, certain related licenses and sublicenses, and FDA regulatory filings. In connection with purchase, the Company has one remaining milestone payment of $5.0 million, which will become due at the time of the first U.S. new drug application approval by the FDA or other non-U.S. approval for the sale of PRO 140. In addition, the Company will incur royalty payments of up to 5% on net sales during the period beginning on the date of the first commercial sale of PRO 140 until the later of (a) the expiration of the last to expire patent included in the acquired assets, and (b) 10 years, in each case determined on a country-by country basis. During the year ended May 31, 2016 the Company paid a milestone obligation of $1.5 million owed to Progenics as a result of the first dosing in a U.S. Phase 3 trial. To the extent that the remaining milestone payment and royalties are not timely made, under the terms of the Progenics Purchase Agreement, Progenics has certain repurchase rights relating to the assets sold to the Company thereunder. As of the date of this filing, it is management's conclusion that the probability of achieving the subsequent future scientific research milestone is not reasonably determinable, thus the future milestone payments payable to Progenics and its sub-licensors are deemed contingent consideration and, therefore, are not currently accruable. Payments to the third-party licensor and

to Progenics are in addition to payments due under a Development and License Agreement, dated April 30, 1999 (the "PDL License"), between Protein Design Labs (now AbbVie Inc.) ("PDL") and Progenics, which was assigned to the Company in the Progenics Purchase Agreement, pursuant to which the Company has an exclusive worldwide license to develop, make, have made, import, use, sell, offer to sell or have sold products that incorporate the humanized form of the PRO 140 antibody developed by PDL under the agreement the Company has paid various milestone obligations, with two remaining milestone payments of $0.5 million each, one payment of $0.5 million upon filing a BLA with the FDA or non-U.S. equivalent regulatory body and a second payment of $0.5 million, which will become due upon FDA approval or approval by anothernon-U.S. equivalent regulatory body. In addition, the Company will incur royalties of up to 3.5% of net sales for the longer of 10 years and the date of expiration of the last to expire licensed patent. Additionally, the PDL License provides for an annual maintenance fee of $150,000 or until annual royalties paid exceed that amount. To the extent the remaining milestone payment and royalties are not timely made, under the terms of the PDL License, AbbVie Inc. has certain termination rights relating to the Company's license of PRO 140 thereunder. As of the date of this filing, it is management's conclusion that the probability of achieving the subsequent future scientific research milestones is not reasonably determinable, thus the future milestone payments payable to PDL, Progenics and its sub-licensors are deemed contingent consideration and, therefore, are not currently accruable.

During the fourth quarter of fiscal 2019, the Company entered into a Master Services Agreement and Product Specific Agreement (collectively, the "Samsung Agreement") with Samsung BioLogics Co., Ltd. ("Samsung"), pursuant to which Samsung will perform technology transfer, process validation, manufacturing and supply services for the commercial supply of leronlimab. In April 2019 the Company delivered to Samsung a purchase order for $33 million worth of process validation and technology transfer services related to the manufacture of leronlimab, with payments by the Company scheduled to be made throughout calendar 2020. Under the Samsung Agreement, the purchase order is binding and the Company is obligated to pay the full amount of the purchase order. Under the terms of the Samsung Agreement, the Company is obligated to make specified minimum purchases of leronlimab from Samsung pursuant to forecasted requirements which the Company will provide to Samsung. The first forecast will be delivered to Samsung by March 31, 2020. Thereafter, the Company must provide Samsung with a rolling quarterly forecast setting forth the total quantity of commercial grade leronlimab that the Company expects to require in the following years. The Company estimates that initial ramp-up costs to manufacture commercial grade leronlimab at scale could total approximately $60 million, with approximately $30 million payable over the course of calendar 2020, and approximately $30 million payable in the first quarter of 2021. Thereafter, the Company will pay Samsung per 15,000L batch according to the pricing terms specified in the Samsung Agreement. The Samsung Agreement has an initial term ending in December 2027 and will be automatically extended for additional two year periods unless either party gives notice of termination at least six months prior to the then current term. Either party may terminate the Samsung Agreement in the event of the other party's insolvency or uncured material breach, and the Company may terminate the agreement in the event of a voluntary or involuntary complete market withdrawal of leronlimab from commercial markets, with one and half year's prior notice. Neither party may assign the agreement without the consent of the other, except in the event of a sale of all or substantially all of the assets of a party to which the agreement relates.

The Company has entered into project work orders, as amended, for each of its CRO and related laboratory vendors. Under the terms of these agreements, the Company incurs execution fees for direct services costs, which are recorded as a current asset. In the event the Company were to terminate any trial, it may incur certain financial penalties which would become payable to the CRO. Conditioned upon the form of termination of any one trial, the financial penalties may range up to $0.8 million. In the remote circumstance that the Company would terminate all clinical trials, the collective financial penalties may range from an approximate low of $0.7 million to an approximate high of $1.9 million.

From time to time, the Company is involved in routine litigation that arises in the ordinary course of business. Other than specified in Part II, Item 1, there are no pending significant legal proceedings to which the Company is a party for which management believes the ultimate outcome would have a material adverse effect on the Company's financial position.

Note 10 – Public Warrant Tender Offerings

During the six months ended November 30, 2019, the Company conducted two public warrant tender offers, in which accredited investors purchased unregistered common stock at either $0.30 or $0.40 per share. Pursuant to the offering, the Company sold a total of 45,375,923 shares of common stock, $0.001 par value, for aggregate gross proceeds of approximately $11.9 million. The Company paid placement agent fees of approximately $1.1 million for services in connection with the offering. The Company also recorded a non-cash inducement interest expense of approximately $2.4 million in connection with the offerings.

Note 11 – Registered Direct Equity Offerings

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

Note 12 – Employee Benefit Plan

The Company has an employee savings plan (the "Plan") pursuant to Section 401(k) of the Internal Revenue Code (the "Code"), covering all of its employees. The Company makes a qualified non-elective contribution of 3%, which consequently vests immediately. In addition, participants in the Plan may contribute a percentage of their compensation, but not in excess of the maximum allowed under the Code. During the three and six months ended November 30, 2019 and 2018, the Company incurred an expense of approximately $19,800 and $46,000 and $15,200 and $31,000, respectively, for qualified non-elective contributions.

Note 13 – Related Party Transactions

The Audit Committee of the Board of Directors, comprised of independent directors, or the full Board of Directors, reviews and approves all related party transactions.

On July 15, 2019, the Company entered into consulting agreements with two of its directors, one with Scott A. Kelly, M.D. in the capacity of non-executive Chief Science Officer, the other with David F. Welch, Ph.D. in the capacity ofnon-executive Strategy Advisor. On September 12, 2019, the Company and Dr. Welch agreed to amend his consulting agreement to eliminate any cash compensation (including previously earned entitlements) thereunder. The company has issued stock options covering an aggregate of 1,375,000 shares of common stock to Dr. Kelly and Dr. Welch as compensation pursuant to such agreements, including options to Dr. Kelly for 750,000 shares at an exercise price of $0.385, on September 12, 2019, and 187,500 shares at an exercise price of $0.39, on October 7, 2019; and options to Dr. Welch for 250,000 shares at an exercise price of $0.385, on September 12, 2019, and 187,500 shares at an exercise price of $0.39, on October 7, 2019. The options granted on September 12, 2019 vested immediately upon issuance and have a 10-year expiration term. The options issued on October 7, 2019 vest in four equal quarterly installments beginning on the grant date and have a 10-year expiration term.

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

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

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

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

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

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

Note 14 – Subsequent Events

On December 2, 2019, the Company received a redemption notice from the holder of the Company's June 2018 Convertible Note requesting a redemption of $350,000, which, at the Company's election, was paid in cash rather than stock. Following this redemption, the outstanding balance on the June 2018 Convertible Note, including accrued interest, was approximately $2.6 million.

On December 6, 2019, the Company entered into subscription agreements with certain investors for the sale of 415 Series C convertible preferred shares at a purchase price of $1,000 per share (December 6, 2019 offering"). The investors in the December 6, 2019 offering also received warrants to purchase 1,037,500 shares of common stock with an exercise price of $0.30 per share and a five-year term. The Company received net proceeds from the December 6, 2019 offering of approximately $0.38 million.

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

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

On December 16, 2019, the Company received a redemption notice from the holder of the Company's January 2019 Convertible Note requesting a redemption of $350,000, which, at the Company's election, was paid in cash rather than stock. On December 27, December 30, December 31, 2019 and on January 2, 2020, the Company received additional conversion notices from the holder of the January 2019 Convertible Note requesting conversions totaling $1.15 million. Pursuant to the January 2019 Convertible Note, such conversions are at $0.50 per share. Accordingly, the Company issued 2.3 million shares in connection with such conversion notices. Following the aforementioned redemption and conversions, the outstanding balance on the January 2019 Convertible Note, including accrued interest, was approximately $4.2 million.

On December 17, 2019, the Company entered into a Commercialization and License Agreement (the "License Agreement") and a Supply Agreement (the "Supply Agreement") with Vyera Pharmaceuticals, LLC, a Delaware limited liability company ("Vyera"). Pursuant to the License Agreement, the Company granted Vyera an exclusive royalty-bearing license to commercialize pharmaceutical preparations containing leronlimab (PRO 140) for the treatment of HIV in humans in the United States. Pursuant to the terms of the License Agreement, and subject to the conditions set forth therein, Vyera will bear the cost of, and be responsible for, among other things, the commercialization of leronlimab (PRO 140) in the United States. Pursuant to the Supply Agreement, the Company has agreed to supply Vyera and Vyera has agreed to purchase from the Company, its requirements of leronlimab (PRO-140) for commercialization under the License Agreement. Under the terms of the Supply Agreement, Vyera is obligated to make purchases of leronlimab (PRO 140) from the Company pursuant to Vyera's forecasted requirements, updated monthly, which will contain a binding period that will increase over the course of the first two years following receipt of regulatory approval of leronlimab (PRO 140) for the treatment of humans with HIV.

On December 19, 2019, the Company issued stock options covering 7,300,000 shares of its common stock to directors and officers. The stock option awards have a per share exercise price of $0.63. Stock options covering 6,050,000 shares vested immediately upon issuance and 1,250,000 shares will vest upon filing of the BLA associated with HIV-Combination therapy. In addition, the president and chief executive officer received a warrant covering 2,000,000 shares with an exercise price of $0.63 per share, which vests upon the Company's filing of the BLA.

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

As partial consideration for the License Agreement and the Supply Agreement, Vyera's parent company, Phoenixus AG ("Phoenixus"), agreed to make a $4.0 million equity investment in the Company (the "December 23 2019 Offering"). On December 23, 2019, the Company entered into definitive subscription agreements relating to Phoenixus' investment. In addition to the $4.0 million of shares of common stock and warrants sold to Phoenixus, the December 23 2019 Offering also included $0.5 million of shares of common stock and related warrants sold to an entity associated with David F. Welch, a member of the Company's board of directors, on terms identical to those applicable to Phoenixus. In the aggregate, the Company sold 14,754,098 shares of common stock and warrants to purchase up to an aggregate of 7,377,049 shares of common stock. Each share of common stock was sold together with one-half of one warrant to purchase one share of common stock for a combined purchase price of $0.305 per share.

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

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

On December 30, 2019, the Company entered into a private warrant exchange in which certain accredited investors purchased unregistered common stock at a reduced exercise price per share of $0.50 for any warrant with a stated exercise price greater than $0.50 per share and no discount for warrants with a stated exercise price equal to or less than $0.50 per share. The Company sold 2,230,000 shares of common stock, as well as 446,000 additional shares as an inducement to exercise their warrants, for a total of 2,676,000 shares of common stock, $0.001 par value. Aggregate gross proceeds from the private warrant exchange were approximately $1.0 million.

On January 6, 2020, the Company granted stock option awards covering 210,000 shares of common stock to employees, with an exercise price of $0.98 per share. The awards vest ratably over three years and have a ten-year term.

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

This filing, contains forward-looking statements. The words "anticipate," "believe," "expect," "intend," "predict," "plan," "seek," "estimate," "project," "continue," "could," "may," and similar terms and expressions are intended to identify forward-looking statements. These statements include, among others, information regarding future operations, future capital expenditures and future net cash flows. Such statements reflect current views with respect to future events and financial performance and involve risks and uncertainties, including, without limitation, regulatory initiatives and compliance with governmental regulations, the sufficiency of the Company's cash position and the ability to raise additional capital, clinical priorities, the results of clinical trials for the Company's drug candidate, and various other matters, many of which are beyond our control. Should one or more of these risks or uncertainties occur, or should underlying assumptions prove to be incorrect, actual results may vary materially and adversely from those anticipated, believed, estimated, or otherwise indicated. Consequently, all of the forward-looking statements made in this filing are qualified by these cautionary statements and there can be no assurance of the actual results or developments.

The following discussion and analysis of our financial condition and results of operations should be read in conjunction with the other sections of this Quarterly Report, including our financial statements and related notes appearing elsewhere herein. To the extent not otherwise defined herein, capitalized terms shall have the same meanings as in such financial statements and related notes. This discussion and analysis contains forward-looking statements including information about possible or assumed results of our financial condition, operations, plans, objectives and performance that involve risk, uncertainties and assumptions. The actual results may differ materially from those anticipated and set forth in such forward-looking statements.

Overview

Our current business strategy is to prioritize the completion our BLA filing for leronlimab as a combination therapy for highly treatment experienced HIV patients, to advance our Phase 1b/2 clinical trial for metastatic triple-negative breast cancer, to continue our Phase 2 trial for graft-versus-host disease ("GvHD"), to finalize with the FDA our submitted protocol for a pivotal Phase 3 clinical trial with leronlimab as a monotherapy for HIV patients and concurrently to explore other cancer and immunologic indications for leronlimab, including Non-Alcoholic SteatoHepatitis ("NASH"). The Company recently received permission from the FDA to proceed with a Phase 2 clinical trial for colorectal cancer. We continue to pursue licensing opportunities and other potential strategic partnerships for leronlimab with pharmaceutical companies and other potential business partners.

Clinical Trials Update for HIV Applications

Phase 2b Extension Study for HIV, as Monotherapy

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

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

This trial was successfully completed, and is the basis for our current BLA, for which the first of three sections was submitted to the FDA in March 2019 under a "rolling review." We expect to submit the remaining two sections of the BLA in the first quarter of 2020. This trial for leronlimab as a combination therapy with existing Highly Active Anti-Retroviral Therapy ("HAART") drug regimens for highly treatment experienced HIV patients achieved its primary endpoint with a p-value of 0.0032. Nearly all patients who have completed this trial have transitioned to anFDA-cleared rollover study, as requested by the treating physicians to enable the patients to have continued access to leronlimab.

Rollover Study for HIV as Combination Therapy

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

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

Enrollment for this trial is now closed after reaching 565 patients. This trial assesses the subcutaneous use of leronlimab as a long-acting single agent maintenance therapy for 48 weeks in patients with suppressed viral load with CCR5-tropic HIV-1 infection. The primary endpoint is the proportion of participants with a suppressed viral load to those who experienced virologic failure. The secondary endpoint is the length of time to virologic failure. The trial evaluates three dosage arms, 350 mg, 525 mg and 700 mg. We

recently reported that interim data suggested that both the 525 mg and the 700 mg dosages are achieving a responder rate of approximately 90% after the initial 10 weeks. Some of the data from this trial is also being used to provide safety data for the BLA filing for leronlimab as a combination therapy. In view of the high responder rate at the increased dosage levels, coupled with the newly developed CCR5 receptor occupancy test, we recently filed a pivotal trial protocol with the FDA for leronlimab as a monotherapy. We are discussing finalization of that protocol with FDA and could initiate the Phase 3 trial in the first quarter of 2020. Upon finalization with the FDA of the pivotal trial protocol for monotherapy, the Phase 2b/3 investigative trial will likely be discontinued.

We will require a significant amount of additional capital to complete the foregoing clinical trials for HIV and complete our BLA submission, as well as to advance our trials in the oncology and immunology space, including, but not limited to triple-negative breast cancer, certain cancer indications, GvHD and NASH. See "Liquidity and Capital Resources" below.

Cancer and Immunological Applications

We are continuing to advance our exploration of opportunities for clinical applications for leronlimab involving the CCR5co-receptor, other than HIV-related treatments, such as cancer, inflammatory conditions and autoimmune diseases.

The target of leronlimab is the important G protein coupled co-receptor CCR5. CCR5 is more than the pathway to HIV replication; it is also a crucial component of inflammatory responses and is a key mediator in many cancer metastasis. We believe this opens the potential for multiple pipeline opportunities for leronlimab. CCR5 is a protein located on the surface of white blood cells and cancer epithelial cells that serves as a receptor for attractants called chemokines. Chemokines are the key orchestrators of leukocyte trafficking by attracting immune cells to the sites of inflammation.

At the site of an inflammatory reaction, chemokines are released. These chemokines are specific for CCR5 and cause the migration ofT-cells to these sites promoting further inflammation. We believe the mechanism of action of leronlimab has the potential to block the movement of T-cells to inflammatory sites, which could be instrumental in diminishing or eliminating inflammatory responses. CCR5 is also expressed on the surface of epithelial cells in certain cancers. Some disease processes that we believe could benefit from CCR5 blockade include many types of common cancers, GvHD (a reaction occurring in some patients after bone marrow transplantation), NASH, autoimmunity and chronic inflammation, such as rheumatoid arthritis and psoriasis. Recent published data has shown that the cancer cells within a tumor consist of two types of cells—one with CCR5 and others without them. The published data indicated that cancer cells that can metastasize express CCR5. Metastases are the cause of death in the vast majority of cancer patients. A prior publication indicates that CCR5 antagonists can turn off certain calcium signaling and reduce the migration of CCR5 positive cancer cells. Inhibition of CCR5 signaling blocks the guided migration and reduces the metastasis. Leronlimab has demonstrated (in an in-vitro study) that it also turns off calcium signaling and blocks breast cancer cellular invasion. Furthermore, published studies showed current chemotherapy induces CCR5, and CCR5 antagonists enhance the effectiveness of current chemotherapies, potentially allowing a reduction in chemotherapy, which may provide an improved quality of life for patients.

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

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

We also previously initiated our first clinical trial with leronlimab in an immunological indication – a Phase 2 clinical trial with leronlimab for GvHD in patients with AML or MDS who are undergoing bone marrow stem cell transplantation. As noted below, enrollment under the amended protocol for the GvHD trial has been delayed subject to increased capital resources.

The following overview provides an update on our immune-oncology pipeline:

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

We recently received clearance from the FDA for our IND submission to initiate a Phase 1b/2 clinical trial for metastatic triple-negative breast cancer patients and have dosed the first patient in this trial. In May 2019, the FDA granted Fast Track designation for the use of leronlimab in combination with carboplatin in treating mTNBC. Five clinical trial sites have been identified, and the first patient was treated before the end of September 2019. The change in circulating tumor cells ("CTCs") number will be evaluated every 21 days during treatment and will be used as an initial prognostic marker for efficacy. Up to 48 patients are expected to be enrolled in this study.

Pre-clinical Studies for Multiple Cancer Indications

We are initiating multiple pre-clinical studies with leronlimab for melanoma, pancreatic, breast, prostate colon, lung, liver and stomach cancers. An ongoing pre-clinical study conducted by us recently reported that leronlimab reduces by more than 98% human breast cancer metastasis in a murine xenograft model. Based upon these strong results, we filed for Orphan Drug Designation for leronlimab for use in triple-negative breast cancer. In addition, pre-clinical results in a colorectal cancer study were likewise encouraging, and the FDA recently granted clearance to CytoDyn to proceed with a Phase 2 protocol.

Phase 2 Trial for Graft-versus-Host Disease

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

Phase 2 Trial for Metastatic Colorectal Cancer

The FDA recently granted us clearance to proceed with Phase 2 studies of leronlimab and regorafenib as a combination therapy for metastatic colorectal cancer in early September 2019. This Phase 2 study will enroll 30 patients and is designed to test the hypothesis that the combination of leronlimab, administered as a subcutaneous injection, and regorafenib, administered orally, will increase progression-free survival in patients with CCR5-positive metastatic colorectal cancer.

Phase 2 Trial and IND for NASH

The FDA recently granted clearance to CytoDyn to proceed with Phase 2 studies to test whether leronlimab may control the devastating effects of liver fibrosis associated with Nonalcoholic steatohepatitis ("NASH"). This trial is designed to be a 60-patient, multi-center, randomized, double blind, placebo-controlled Phase 2 study of the safety and efficacy of leronlimab in adult patients with NASH.

Results of Operations

Results of Operations for the three months ended November 30, 2019 and 2018 are as follows:

For the three months ended November 30, 2019 and 2018, we had no activities that produced revenues from operations.

For the three months ended November 30, 2019 and 2018, we had a net loss of approximately $14.9 million and $14.3 million, respectively. The slight increase in net loss of approximately $0.6 million was attributable to a large reduction in research and development ("R&D") expenses, offset by a higher interest expense and a non-recurring tax benefit recognized in the three months ended November 30, 2018. The reduction in loss per share in contrast to the comparable period a year ago, was primarily attributable to an increase in the number of common shares outstanding.

For the three months ended November 30, 2019 and 2018, operating expenses totaled approximately $12.1 million and $15.7 million, respectively, consisting of R&D expenses, G&A expenses, and amortization and depreciation. The reduction in operating expenses of approximately $3.6 million, or 22.7%, was attributable to reductions in R&D expenses of approximately $4.3 million, offset in part by increased G&A expenses and amortization of approximately $0.4 million and $0.3 million, respectively.

G&A expenses totaled approximately $3.1 million for the three months ended November 30, 2019, and were comprised of salaries and benefits, non-cash stock-based compensation expense, professional fees, insurance and various other expenses. The increase in general and administrative expenses of approximately $0.4 million, or 16%, for the three months ended November 30, 2019 was due to increased salaries and benefits for new employees, coupled with increases in other corporate and administrative expenses.

R&D expenses, which totaled approximately $8.5 million for the three months ended November 30, 2019, decreased approximately $4.3 million, or 33.7%, over the comparable 2018 quarter due a reduction of $3.8 million in manufacturing activity related to the BLA and a reduction in clinical trial costs of $0.4 million for our Phase 2b/3 investigative monotherapy trial. For the quarter ended November 30, 2019, R&D expenditures continue to be primarily devoted to: (1) increased CMC (chemistry, manufacturing and controls) activities to address regulatory compliance requirements for our BLA filing and leronlimab, (2) our pivotal Phase 2b/3 combination therapy trial and our investigative Phase 2b/3 monotherapy trial, (3) increase in clinical trials in our oncology indications, and (4) continuing activities necessary to complete the BLA filing with the FDA.

We expect future R&D expenses to be dependent on the timing of FDA approval of our BLA filing, the timing of FDA clearance of our pivotal trial protocol for leronlimab as a monotherapy for HIV patients, the clinical progression of our oncology trials, along with the outcome of the pre-clinical studies for several other cancer indications. R&D expenses are also expected to increase due to CMC activities in preparation for approval and commercialization of leronlimab. Until we meet the criteria under general accepted accounting principles (“GAAP”) to capitalize CMC activities associated with commercial product manufacturing, all CMC manufacturing costs will continue to be expensed as R&D.

Amortization and depreciation expenses totaled approximately $0.5 million increased approximately $0.3 million, or 223%. The increase was primarily attributable to the amortization of intangible assets recognized with the acquisition of ProstaGene.

For the three months ended November 30, 2019, we recognized anon-cash benefit associated with the decrease in fair value of of derivative liabilities of approximately $0.2 million, as compared to a non-cash benefit of approximately $0.3 in the comparable 2018 period. The warrants and two convertible note instruments containing a contingent cash settlement provision that give rise to a derivative liability, originated in September 2016, June 2018 and January 2019, respectively. For each reporting period, we determine the fair value of the derivative liability and record a corresponding non-cash benefit or non-cash charge, as a consequence of a decrease or increase, respectively, in the calculated derivative liability.

Interest expense for the three months ended November 30, 2019 totaled approximately $2.9 million. The increase of approximately $1.2 million over the comparable quarter in 2018 was driven primarily by (1) a non-cash finance charge levied by a major supplier related to their past due accounts payable balance; (2) non-cash inducement interest expense related to convertible note extensions of $0.3 million with no corresponding charge in the comparable period; (3) amortization of debt issuance and debt discount costs of approximately $0.6 million compared to $0.06 in the comparable 2018 period; (4) interest on convertible notes payable of approximately $0.6 million compared to $0.1 million in the comparable 2018 period; offset by (5) a non-cash loss on extinguishment of $1.5 million on a convertible note in the comparable prior period that did not recur in the current period. The loss on extinguishment of the note arose from the GAAP treatment of certain amendments, as more fully described above in Note 4.

The future trends in all expenses will be driven, in large part, by the future outcomes of pre-clinical studies and clinical trials and their related effect on research and development expenses, general and administrative expenses, the manufacturing of new commercial leronlimab, and the increasing activities associated with the filing of a BLA. We require a significant amount of additional capital, and our ability to continue to fund operations will continue to depend on its ability to raise such capital. See in particular, “Liquidity and Capital Resources” below and Item 1A Risk Factors in our Annual Report on Form 10-K for the year ended May 31, 2019.

Results of Operations for the six months ended November 30, 2019 and 2018 are as follows:

For the six months ended November 30, 2019 and November 30, 2018, the Company had no activities that produced revenues from operations.

For the six months ended November 30, 2019, the Company incurred a net loss of approximately $31.0 million, as compared to a net loss of approximately $28.7 million for the similar period in 2018. The increase in net loss of approximately $2.3 million related primarily to decreases in research and development expenses of approximately $6.8 million, offset by increases in general and administrative expenses of approximately $1.5 million, an increase in interest expenses of $5.2 million and a $2.8 million credit for taxes on income in the prior year. The prior year tax credit arose from the recognition of a deferred income tax benefit from a reduction in the Company’s deferred tax valuation allowance resulting from recording a deferred tax liability of $2,826,919 in

connection with the acquisition of assets in the ProstaGene LLC transaction. The deferred tax liability represents the tax effect of the difference in the carrying value of the assets and their tax basis at acquisition. The loss per share for the six months ended November 30, 2019 and November 30, 2018 was $(0.08) and $(0.12), respectively, with the reduction in loss per share (despite an increase in aggregate net loss) caused by a significant increase in the number of shares outstanding from the prior period.

For the six months ended November 30, 2019 and November 30, 2018, operating expenses totaled approximately $24.8 million and $29.2 million, respectively, consisting of research and development, general and administrative expenses, and amortization and depreciation. The decrease in operating expenses of approximately $4.4 million, or 15%, was attributable to decreases in research and development expenses of approximately $6.8 million; an increase in general and administrative expenses of approximately $1.5 million and an increase in amortization and depreciation expense of $0.8 million.

General and administrative expenses, which totaled approximately $6.1 million for the six months ended November 30, 2019, were comprised of salaries and benefits, non-cash stock-based compensation expense, professional fees, insurance and various other expenses. The increase in general and administrative expenses of approximately $1.5 million, or 34%, for the six months ended November 30, 2019 over the comparable period a year ago was primarily due to an increase in salaries expense from additional headcount of $0.5 million and an increase in external corporate legal fees of $0.8 million.

Research and development (“R&D”) expenses, which totaled approximately $17.6 million for the six months ended November 30, 2019, decreased approximately $6.8 million, or 28%, over the comparable 2018 period principally due to lower manufacturing-related expenses of approximately $7.5million, offset by an increase of approximately $0.5 million in license fees associated with proprietary cell lines. For the six-month period ended November 30, 2019, R&D expenditures continue to be primarily devoted to: (1) increased CMC (chemistry, manufacturing and controls) activities to address regulatory compliance requirements of a future BLA filing and to advance the preparations for manufacturing new quantities of leronlimab (PRO 140), (2) our pivotal Phase 2b/3 combination therapy trial and our investigative Phase 2b/3 monotherapy trial, (3) continuing activities necessary to complete the BLA filing with the FDA, and (4) clinical trials in our oncology indications.

We expect R&D expenses in future periods to level off modestly to reflect completion of manufacturing activities preparation for an anticipated BLA filing in the first half of 2020 followed by a potential strategic advancement in clinical priorities for cancer indications, all of which are subject to the availability of sufficient additional capital. Any acceleration in clinical activities would increase R&D expenses.

For the six months ended November 30, 2019, the Company recognized anon-cash benefit associated with the decrease in fair value of derivative liabilities of approximately $0.8 million, as compared to a non-cash charge of approximately $0.5 in the comparable 2018 period. The warrants and two convertible note instruments containing a contingent cash settlement provision that give rise to a derivative liability, originated in September 2016, June 2018 and January 2019, respectively. For each reporting period, we determine the fair value of the derivative liabilities and record a corresponding non-cash benefit or non-cash charge, as a consequence of a decrease or increase, respectively, in the calculated derivative liabilities.

Interest expense for the six months ended November 30, 2019 totaled approximately $7.1 million, as compared to approximately $1.9 million for the similar period in 2018. The components of interest expense include finance charges on certain past due accounts payable balances, non-cash inducement interest expenses incurred on warrant exercises and debt conversion, along with the amortization of debt discount and debt issuance costs.

The future trends in all expenses will be driven, in large part, by the future outcomes of pre-clinical studies and clinical trials and their related effect on research and development expenses, general and administrative expenses, manufacturing of new commercial leronlimab, and the increasing activities associated with the filing of the BLA. The Company requires a significant amount of additional capital and its ability to continue to fund operations will continue to depend on its ability to raise such capital. See in particular, “Liquidity and Capital Resources” below and Item 1A Risk Factors in our Annual Report on Form 10-K for the year ended May 31, 2019.

Liquidity and Capital Resources

Our cash position at November 30, 2019 decreased approximately $2.3 million to approximately $1.2 million, as compared to a balance of approximately $3.5 million as of May 31, 2019. The net decrease in cash for the six months ended November 30, 2019 was attributable to net cash used in operating activities of approximately $22.0 million, offset in part by net cash provided by financing activities of approximately $19.7 million.

As of November 30, 2019, we had significant negative working capital of approximately $26.5 million compared to negative working capital of approximately $21.6 million at May 31, 2019, an increase in negative working capital of approximately $4.9 million driven by an increase in amounts owed to suppliers, offset by a reduction in cash balances and prepaid service fees.

Cash Flows

Net cash used in operating activities totaled approximately $22.0 million during the six months ended November 30, 2019, which reflects a decrease of approximately $4.2 million of net cash used in operating activities over the six months ended November 30, 2019. The decrease in net cash used in operating activities was due primarily to a reduction in the net loss owing to lower research and development costs of approximately $6.8 million, offset by an increase in selling, general and administrative costs of approximately $1.5 million in the six months ended November 30, 2019, coupled with significantly higher non-cash expenses included in the net loss.

Net cash used in investing activities was immaterial during the six months ended November 30, 2019.

Net cash provided by financing activities of approximately $19.7 million during the six months ended November 30, 2019, decreased approximately $6.0 million over net cash provided by financing activities during the six months ended November 30, 2018. The decrease in net cash provided from financing activities was attributable primarily to proceeds from the sale of common stock and warrants, preferred stock, and warrant exercises totaling $23.1 million, net of offering costs of approximately $2.0 million, compared to common stock and warrants, and convertible notes payable of $28.5 million net of offering costs of approximately $2.7 million in the same period in the prior year.

Capital Requirements

We have not generated revenue to date, and we do not expect to generate product revenue until FDA approval of leronlimab. We expect that we will continue to incur operating losses as expenses continue to increase as we proceed with completion of our BLA, prepare for commercialization of leronlimab and continue our pre-clinical and clinical trial programs. The future trends of all expenses will be driven, in large part, by the timing of the anticipated approval of our BLA, the magnitude of our commercialization readiness, future clinical trial strategy and timing of the commencement of our future revenue stream. We will require a significant amount of additional capital in the future in anticipation of a fully commercialized leronlimab product.

Contract Manufacturing

During the fourth quarter of fiscal 2019, we entered into a Master Services Agreement and Product Specific Agreement (collectively, the "Samsung Agreement") with Samsung BioLogics Co., Ltd. ("Samsung"), pursuant to which Samsung will perform technology transfer, process validation, manufacturing and supply services for the commercial supply of leronlimab. In April 2019, we delivered to Samsung a purchase order for $33 million worth of process validation and technology transfer services related to the manufacture of leronlimab, with payments by us scheduled to be made throughout calendar 2020. Under the Samsung Agreement, the purchase order is binding and we are obligated to pay the full amount.

Under the terms of the Samsung Agreement, we are obligated to make specified minimum purchases of leronlimab from Samsung pursuant to forecasted requirements which we will provide to Samsung. The first forecast will be delivered to Samsung by March 31, 2020. Thereafter, we must provide Samsung with a rolling quarterly forecast setting forth the total quantity of commercial grade leronlimab that we expect to require in the following years. We estimate that initial ramp-up costs to manufacture commercial grade leronlimab at scale could total approximately $60 million, with approximately $30 million payable over the course of calendar 2020, and approximately $30 million payable in the first quarter of 2021. Thereafter, we will pay Samsung per 15,000L batch according to the pricing terms specified in the Samsung Agreement.

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

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

Commercialization Activities

During the third quarter of fiscal 2020, we entered into a Commercialization and License Agreement (the "Vyera License Agreement") and a Supply Agreement (the "Vyera Supply Agreement") with Vyera Pharmaceuticals, LLC, a Delaware limited liability company ("Vyera").

Pursuant to the Vyera License Agreement, we granted Vyera an exclusive royalty-bearing license to commercialize pharmaceutical preparations containing leronlimab (PRO 140) for treatment of HIV in humans in the U.S. Under the terms of the Vyera License Agreement, we are eligible to receive payments from Vyera totaling up to approximately $87.0 million, to be made upon Vyera's achievement of certain sales and regulatory milestones, subject to reduction if such milestones are not achieved within certain agreed timeframes. In addition, during the Royalty Term (as defined below), we are entitled to royalty payments equal to 50% of Vyera's gross profit margin from sales of leronlimab (PRO 140) (defined in the Vyera License Agreement as "Net Sales") in the U.S. Following expiration of the Royalty Term, Vyera will continue to maintain non-exclusive rights to commercialize leronlimab (PRO 140).

The Vyera License Agreement will expire upon the expiration of the Royalty Term. The "Royalty Term" means the period beginning on the date of the first commercial sale of the Product and ends on the latest of (i) the expiration of the last valid claim of the patents covering the Product, (ii) ten years after the first commercial sale of the Product, (iii) the expiration of regulatory exclusivity for the Product and (iv) the Biosimilar Entry Date (as defined in the Vyera License Agreement). The Vyera License Agreement may be terminated by either party for material breach, upon a party's insolvency or bankruptcy, or for a safety concern or clinical failure.

Pursuant to the Vyera Supply Agreement, Vyera has agreed to purchase from us its requirements of leronlimab (PRO 140) for commercialization under the Vyera License Agreement. The price that Vyera will pay for purchases of leronlimab (PRO 140) is capped at an agreed upon amount that will rise over time in accordance with the Producer Price Index for Pharmaceutical Preparation Manufacturing published by the United States Department of Labor, Bureau of Labor Statistics. Under the terms of the Vyera Supply Agreement, Vyera is obligated to make purchases of leronlimab (PRO 140) from us pursuant to Vyera's forecasted requirements, updated monthly, which will contain a binding period that will increase over the course of the first two years following receipt of Regulatory Approval (as defined in the Vyera Supply Agreement) of leronlimab (PRO 140) for the treatment of HIV in humans.

The Vyera Supply Agreement will expire at the expiration of the Royalty Term, provided that Vyera shall have the right, in its sole discretion, to extend the term of the Vyera Supply Agreement for so long as Vyera agrees to continue to pay us an agreed-upon royalty payment. The Vyera Supply Agreement will automatically terminate upon the termination of the Vyera License Agreement in the event that the termination of the Vyera License Agreement occurs prior to the expiration of the Royalty Term. The Vyera Supply Agreement may be terminated by either party for material breach or upon a party's insolvency or bankruptcy.

Contract Research

We have entered into project work orders for each of our clinical trials with our CRO and related laboratory vendors. Under the terms of these agreements, we have prepaid certain execution fees for direct services costs. In connection with our clinical trials, we have entered into separate project work orders for each trial with our CRO. In the event that we terminate any trial, we may incur certain financial penalties which would become payable to the CRO. Conditioned upon the form of termination of any one trial, the financial penalties may range up to $0.8 million. In the remote circumstance that we terminate all clinical trials, the collective financial penalties may range from an approximate low of $0.7 million to an approximate high of $1.9 million.

Licensing

Under the Progenics Purchase Agreement, we are required to pay Progenics the following ongoing milestone payments and royalties: (i) $5.0 million at the time of the first U.S. new drug application approval by the FDA or other non-U.S. approval for the sale of leronlimab (PRO 140); and (ii) royalty payments of up to five percent (5%) on net sales during the period beginning on the date of the first commercial sale of leronlimab (PRO 140) until the later of (a) the expiration of the last to expire patent included in the acquired assets, and (b) 10 years, in each case determined on a country-by country basis. In addition, under a Development and License Agreement, dated April 30, 1999 (the "PDL License"), between Protein Design Labs (now AbbVie Inc.) and Progenics, which was previously assigned to us, we are required to pay AbbVie Inc. additional milestone payments and royalties as follows: (i) $0.5 million upon filing a BLA with the FDA or non-U.S. equivalent regulatory body; (ii) $0.5 million upon FDA approval or approval by another non-U.S. equivalent regulatory body; and (iii) royalties of up to 3.5% of net sales for the longer of 10 years and the date of expiration of the last to expire licensed patent. Additionally, the PDL License provides for an annual maintenance fee of $150,000 until royalties paid exceed that amount. As of the date of this filing, while we have completed and filed the first of three portions of our BLA, we expect to file the remaining two portions in the first quarter of 2020. Further, if the BLA is accepted by the FDA, it is management's conclusion that the probability of achieving the subsequent future clinical development and regulatory milestones is not reasonably determinable, thus the future milestone payments payable to Progenics and its sub-licensors are deemed contingent consideration and, therefore, are not currently accruable.

Going Concern

As reported in the accompanying consolidated financial statements, for the six months ended November 30, 2019 and November 30, 2018, we incurred net losses of approximately $31.0 million and $28.7 million, respectively. We have no activities that produced revenue in the periods presented and have sustained operating losses since inception.

We currently require and will continue to require a significant amount of additional capital to fund operations, pay our accounts payables, and our ability to continue as a going concern is dependent upon our ability to raise such additional capital, commercialize our product and achieve profitability. If we are not able to raise such additional capital on a timely basis or on favorable terms, we may need to scale back our operations or slow down or cease certain clinical trials or CMO activities, which could materially delay the timeframe to BLA submission. Our failure to raise additional capital could also affect our relationships with key vendors, disrupting our ability to timely execute our business plan. In extreme cases, we could be forced to file for bankruptcy protection, discontinue our operations or liquidate our assets.

Since inception, we have financed our activities principally from the sale of public and private equity securities and proceeds from convertible notes payable and related party notes payable. We intend to finance our future operating activities and our working capital needs largely from the sale of equity and debt securities, combined with additional funding from other traditional financing sources. As of the date of this filing, we have approximately 11 million shares of common stock authorized, unreserved and available for issuance under our certificate of incorporation, as amended, and approximately $134 million available for future registered offerings of securities under our universal shelf registration statement on Form S-3, which was declared effective on March 7, 2018 (assuming the full exercise of outstanding warrants, at the currently applicable exercise prices, that were previously issued in registered transactions thereunder).

The sale of equity and convertible debt securities to raise additional capital may result in dilution to stockholders and those securities may have rights senior to those of common shares. If we raise additional funds through the issuance of preferred stock, convertible debt securities or other debt financing, these activities or other debt could contain covenants that would restrict our operations. On January 30, 2019, we entered into a long-term convertible note, which is secured by all of our assets, except for our intellectual property and also includes certain restrictive provisions, such as a limitation on additional indebtedness and future dilutive issuances of securities, any of which could impair our ability to raise additional capital on acceptable terms and conditions. Any other third-party funding arrangements could require us to relinquish valuable rights. We may require additional capital beyond currently anticipated needs. Additional capital, if available, may not be available on reasonable or non-dilutive terms. Please refer to the matters discussed in Item 1A "Risk Factors" in our Annual Report on Form 10-K for the year ended May 31, 2019.

The accompanying consolidated financial statements have been prepared on a going concern basis, which contemplates the realization of assets and the satisfaction of liabilities in the normal course of business. We have incurred losses for all periods presented and have a substantial accumulated deficit. As of November 30, 2019, these factors, among several others, raise substantial doubt about our ability to continue as a going concern.

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

Off-Balance Sheet Arrangements

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

Item 3. Quantitative and Qualitative Disclosures about Market Risk.

Not applicable.

Item 4. Controls and Procedures.

Disclosure Controls and Procedures

Under the supervision and with the participation of management, including the Chief Executive Officer and the Chief Financial Officer of the Company, the Company has evaluated the effectiveness of its disclosure controls and procedures (as defined in Rule 13a-15(e) and 15d-15(e) under the Securities Exchange Act of 1934, as amended) as of November 30, 2019. Based on that evaluation, the Chief Executive Officer and the Chief Financial Officer concluded that the Company's disclosure controls and procedures were effective as of November 30, 2019.

Internal Control Over Financial Reporting

No changes occurred during the quarter ended November 30, 2019, that materially affected, or are reasonably likely to materially affect, the Company's internal control over financial reporting.

PART II

Item 1. Legal Proceedings.

On July 26, 2019, our Board of Directors terminated the employment of Dr. Richard G. Pestell, our former Chief Medical Officer, for cause pursuant to the terms of his employment agreement. On August 22, 2019, we received notice that a lawsuit naming the Company and its Chief Executive Officer and the Chairman of the Board was filed by Dr. Pestell in the United States District Court for the District of Delaware, alleging breach of Dr. Pestell's employment agreement, among other claims, and seeking damages in the amount of certain severance entitlements thereunder pertaining to non-cause termination, among other relief. The treatment of those entitlements and of certain previously granted unvested stock options and shares of restricted common stock, which were subject

to a repurchase option, are expected to be determined by the outcome of this litigation. On September 17, 2019, the Company and the other defendants moved to dismiss the complaint in part. On September 27, 2019, Dr. Pestell amended his complaint. On October 10, 2019 and October 11, 2019, the Company and the other defendants again moved to dismiss the complaint in part. That motion remains pending. We intend to vigorously defend this action.

From time to time, we are involved in claims and suits that arise in the ordinary course of our business. Management currently believes that the resolution of any such claims against us, if any, will not have a material adverse effect on our business, financial condition or results of operations.

Item 1A. Risk Factors.

There have been no material changes from the risk factors previously disclosed in our Annual Report on Form 10-K for the year ended May 31, 2019, as filed with the SEC on August 14, 2019, under the heading "Item 1A. Risk Factors", except as discussed below, and investors should review the risks provided in the Annual Report and below, prior to making an investment in us. Our business, financial condition and operating results can be affected by a number of factors, whether currently known or unknown, including but not limited to those described in the Annual Report, under "Item 1A. Risk Factors" and below, any one or more of which could, directly or indirectly, cause our actual financial condition and operating results to vary materially from past, or from anticipated future, financial condition and operating results. Any of these factors, in whole or in part, could materially and adversely affect our business, financial condition, operating results and stock price.

Risks Related to Our Business

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

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

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

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

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

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

- we may not succeed in getting leronlimab approved or approved with commercially competitive labeling;
- Vyera may prioritize the commercialization of its other products over leronlimab;
- Vyera may pursue higher-priority programs, or change the focus of its marketing programs;
- Vyera may acquire or develop alternative products;
- Vyera may in the future choose to devote fewer resources to leronlimab;
- changes in laws and regulations applicable to, and scrutiny of, the pharmaceutical industry;

- market acceptance of leronlimab may fail to materialize, increase or may decrease;
- Vyera may experience financial difficulties; and
- Vyera may fail to comply with its obligations under our Vyera License Agreement and related agreements.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

None.

Item 3. Defaults Upon Senior Securities.

None.

Item 4. Mine Safety Disclosures.

Not Applicable.

Item 5. Other Information.

Appointment of New Vice President, General Counsel, and Corporate Secretary

Effective January 6, 2020, the Board appointed Maura Fleming as Vice President, General Counsel, and Corporate Secretary.

In connection with Ms. Fleming's appointment as Vice President, General Counsel, and Corporate Secretary, the Board approved the following compensation arrangements for Ms. Fleming: (i) an annual base salary of $200,000, (ii) a target annual bonus equal to 35% of Ms. Fleming's base salary, and (iii) other customary benefits provided to our executive officers, including participation in our 401(k) plan. Ms. Fleming will also be eligible to participate in our equity compensation program. A copy of Ms. Fleming's employment agreement is filed as Exhibit 10.8 to this Quarterly Report on Form 10-Q.

Also in connection with Ms. Fleming's appointment, the Board granted Ms. Fleming a stock option award under our equity incentive plan, covering 200,000 shares of our common stock, and vesting in three equal annual installments over a three-year period from the grant date.

Prior to joining us, Ms. Fleming, 50, provided legal services as a contract attorney beginning in October 2019, and served as Of Counsel at Holland & Hart, LLP, from October 2018 to October 2019. Prior to that, Ms. Fleming was Senior Corporate Counsel at Shutterfly, Inc. (NASDAQ: SFLY), a company which specializes in personalized products and services to help consumers capture, preserve, and share photos, from May 2017 to September 2018, and Director of Legal Services at Aerohive Networks, Inc. (NYSE: HIVE), a company that provides wireless networking services (which was acquired by Extreme Networks (NASDAQ: EXTR) in August 2019), from December 2013 to May 2017. Prior to that, Ms. Fleming practiced for six years as a corporate attorney in the Palo Alto, California office of Wilson Sonsini Goodrich & Rosati, PC. Ms. Fleming received a B.A. degree from the University of California at Davis and a J.D. from Santa Clara University School of Law.

There are no family relationships, as defined in Item 401 of Regulation S-K, between Ms. Fleming and any of our executive officers or directors or persons nominated or chosen to become a director or executive officer. There is no arrangement or understanding between Ms. Fleming and any other person pursuant to which Ms. Fleming was appointed as Vice President, General Counsel, and Corporate Secretary. There are no transactions in which Ms. Fleming has an interest requiring disclosure under Item 404(a) of Regulation S-K.

Amendment to Executive Officer Employment Agreements

On January 6, 2020, the Board approved certain amendments to the employment agreements of our executive officers to provide for the payment of severance obligations, in the Board's sole discretion, in shares of our common stock, upon any termination of such executive officers without cause. The form of amendment is filed as Exhibit 10.9 to this Quarterly Report on Form 10-Q.

Amendment to Employment Agreement with Michael D. Mulholland

During the quarter ended November 30, 2019, the compensation package for Michael D. Mulholland was revised to reflect his new role as Senior Vice President of Finance. Mr. Mulholland's revised compensation package includes (i) an annual base salary of $210,000 and (ii) a target annual bonus payable in cash or, at the discretion of the Board, 50% in cash and 50% in shares of our common stock, equal to 35% of base salary, subject to achievement of specified performance objectives.

Item 6. Exhibits.

(a) Exhibits:

3.1	Certificate of Amendment to the Certificate of Designation of the Rights, Preferences, Privileges and Restrictions of the Series C Convertible Preferred Stock (incorporated by reference to Exhibit 3.1 to the Registrant's Current Report on Form 8-K filed October 22, 2019).
4.1	Form of Series C Warrant Agreement (incorporated by reference to Exhibit 4.1 to the Current Report on Form 8-K filed on October 22, 2019).
10.1	Form of Subscription Agreement (September 2019 Registered Direct Offering) (incorporated by reference to Exhibit 10.1 to the Registrant's Current Report on Form 8-K filed September 19, 2019).
10.2	Form of Subscription Agreement (October 2019 Registered Direct Offering) (incorporated by reference to Exhibit 10.1 to the Registrant's Current Report on Form 8-K filed October 3, 2019).
10.3	Form of Subscription Agreement (November 2019 Registered Direct Offering) (incorporated by reference to Exhibit 10.1 to the Registrant's Current Report on Form 8-K filed November 7, 2019).
10.4	Form of Subscription Agreement (October 2019 Series C Convertible Preferred Stock Offering) (incorporated by reference to Exhibit 10.1 to the Registrant's Current Report on Form 8-K filed October 22, 2019).
10.5***	Commercialization and License Agreement between CytoDyn Inc. and Vyera Pharmaceuticals, LLC, dated December 17, 2019.
10.6***	Supply Agreement between CytoDyn Inc. and Vyera Pharmaceuticals, LLC, dated December 17, 2019.
10.7*	Employment Agreement by and between CytoDyn Inc. and Craig S. Eastwood, dated December 6, 2019.
10.8*	Employment Agreement by and between CytoDyn Inc. and Maura Fleming, dated January 6, 2020.
10.9*	Form of Amendment to Executive Officer Employment Agreements.
31.1**	Rule 13a-14(a) Certification by CEO of Registrant.
31.2**	Rule 13a-14(a) Certification by CFO of the Registrant.
32.1**	Certification of CEO of the Registrant pursuant to 18 U.S.C. Section 1350.
32.2**	Certification of CFO of the Registrant pursuant to 18 U.S.C. Section 1350.
101.INS **	XBRL Instance Document.
101.SCH **	XBRL Taxonomy Extension Schema Document.
101.CAL **	XBRL Taxonomy Extension Calculation Linkbase Document.
101.DEF **	XBRL Taxonomy Extension Definition Linkbase Document.
101.LAB **	XBRL Taxonomy Extension Label Linkbase Document.
101.PRE **	XBRL Taxonomy Extension Presentation Linkbase Document.

* Management contract or compensatory plan or arrangement.
** Filed herewith.
*** Certain confidential portions of this Exhibit were omitted by means of marking such portions with asterisks because the identified confidential portions (i) are not material and (ii) would be competitively harmful if publicly disclosed.

SIGNATURES

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

CYTODYN INC.
(Registrant)

Dated: January 9, 2020

/s/ Nader Z. Pourhassan
Nader Z. Pourhassan
President and Chief Executive Officer

Dated: January 9, 2020

/s/ Craig S. Eastwood
Craig S. Eastwood
Chief Financial Officer

Certain identified information has been excluded because it is both not material and would likely cause competitive harm if publicly disclosed.

COMMERCIALIZATION AND LICENSE AGREEMENT

This Commercialization and License Agreement (this "**Agreement**") is made effective as of December 17, 2019 (the "**Effective Date**") by and between Vyera Pharmaceuticals, LLC, a Delaware limited liability company ("**Vyera**"), and CytoDyn Inc., a Delaware corporation ("**CytoDyn**"). CytoDyn and Vyera are sometimes referred to herein individually as a "**Party**" and collectively as the "**Parties**."

RECITALS

WHEREAS, Vyera is a pharmaceutical company engaged in the commercialization of products useful in the amelioration, treatment or prevention of certain human diseases and conditions.

WHEREAS, CytoDyn has developed leronlimab (PRO 140), an anti-CCR5 humanized monoclonal antibody and is pursuing the clinical development of its PRO 140 drug candidate for the treatment of multi-drug resistant Human Immunodeficiency Virus ("**HIV**") infection, as well as related HIV infection indications.

WHEREAS, the Parties desire that, upon regulatory approval of PRO 140 for the Initial Indication (as defined below), Vyera will Commercialize (as defined below) Licensed Products (as defined below) in the Field (as defined below) in the Territory (as defined below), all in accordance with the terms and conditions of this Agreement.

NOW, THEREFORE, in consideration of the foregoing and the premises and conditions set forth herein, the Parties agree as follows:

ARTICLE 1
DEFINITIONS

1.1 "**AAA**" has the meaning set forth in Section 12.3(a).

1.2 "**AAI Agreement**" has the meaning set forth in Section 9.2(o).

1.3 "**Affiliate**" means, with respect to a particular Party, a Person that controls, is controlled by or is under common control with such Party. For the purposes of this definition, the word "control" (including, with correlative meaning, the terms "controlled by" or "under the common control with") means the actual power, either directly or indirectly through one (1) or more intermediaries, to direct or cause the direction of the management and policies of such entity, whether by the ownership of fifty percent (50%) or more of the voting stock of such entity, by contract or otherwise.

1.4 "**AGC Agreement**" has the meaning set forth in Section 9.2(o).

1.5 "**Agreement**" has the meaning set forth in the introductory paragraph.

1.6 "**Alliance Manager**" means, with respect to each Party, the person appointed by such Party from within its organization to coordinate and facilitate the communication, interaction and cooperation of the Parties pursuant to this Agreement. The Alliance Managers shall be the primary contacts between the Parties with respect to the activities conducted pursuant to this Agreement.

1.7 "**Annual WAC**" means the annual wholesale acquisition cost for the Licensed Product.

1.8 "**API**" means an active pharmaceutical ingredient, whether produced from a living organism or through synthetic process (i.e., any substance intended to be used in the manufacture of a drug product and that is intended to furnish pharmacological activity in the cure, treatment or prevention of disease).

1.9 "**Applicable Law**" means all applicable statutes, ordinances, regulations, rules, or orders of any kind whatsoever of any Governmental Authority, including, without limitation, the FDCA, Prescription Drug Marketing Act, the Generic Drug Enforcement Act of 1992 (21 U.S.C. §335a et seq.), U.S. Patent Act (35 U.S.C. §1 et seq.), Federal Civil False Claims Act (31 U.S.C. §3729 et seq.), and Anti-Kickback Statute (42 U.S.C. §1320a-7b et seq.), all as amended from time to time, together with any rules, regulations, and compliance guidance promulgated thereunder.

1.10 "**Arbitration Request**" has the meaning set forth in Section 12.3(b).

1.11 "**Bankruptcy Laws**" has the meaning set forth in Section 11.6(b).

1.12 "**Biosimilar Competitor**" means, with respect to the Licensed Product, a drug or biological product that has been determined by the FDA to be therapeutically equivalent to the Licensed Product, such that it may be substituted by a pharmacist for the Licensed Product in the Field in the Territory without the need for such pharmacist to seek authorization from the physician that prescribed the Licensed Product.

1.13 "**Biosimilar Entry Date**" means the first day of the first Calendar Quarter that occurs after Biosimilar Competitor(s) have achieved at least [***] in the Field in the Territory.

1.14 "**BLA**" means a Biologics License Application (as defined in the FDCA), including all supplements, amendments, variations, extensions and renewals thereof.

1.15 "**Breaching Party**" has the meaning set forth in Section 11.4.

1.16 "**Business Day**" means a day other than Saturday, Sunday or any other day on which commercial banks located in the State of New York or the State of Washington, U.S., are authorized or obligated by Applicable Law to close.

1.17 "**Calendar Quarter**" means the respective periods of three (3) consecutive calendar months ending on March 31, June 30, September 30 and December 31; provided, however, that (a) the first Calendar Quarter of the Term shall extend from the Effective Date to the end of the first complete Calendar Quarter thereafter; and (b) the last Calendar Quarter of the Term shall end upon the expiration or termination of this Agreement.

1.18 "**Calendar Year**" means the twelve-month period ending on December 31; provided, however, that (a) the first Calendar Year of the Term shall begin on the Effective Date and end on December 31, 2019; and (b) the last Calendar Year of the Term shall end on the effective date of expiration or termination of this Agreement.

1.19 "**Change of Control**" means, with respect to Vyera, (a) the sale of all or substantially all of its assets; (b) any merger, consolidation or acquisition of Vyera, by or into another Person; and/or (c) any change in the ownership of more than fifty percent (50%) of the voting capital stock of Vyera or its direct or indirect parent entities, other than: (i) transactions involving solely Vyera (or an Affiliate, as applicable) and/or one or more Affiliates, on the one hand, and one or more of Vyera's (or an Affiliate's, as applicable) Affiliates, on the other hand, and/or (ii) transactions in which the stockholders of Vyera (or an Affiliate, as applicable) immediately prior to such transaction hold at least fifty percent (50%) of the voting power of the surviving company or ultimate parent company of the surviving company; in each of clauses (a)-(c), in one or more related transactions.

1.20 "**Claim**" has the meaning set forth in Section 13.1.

1.21 "**Clinical Trial**" means any human clinical study or trial of a Licensed Product in the Field in the Territory.

1.22 "**Combination Product**" means a product that is Commercialized by Vyera and/or its Affiliates under this Agreement and that comprises, consists of, or incorporates two or more APIs (whether administered together or separately), which includes leronlimab as one of the APIs together with one or more additional APIs that: (a) are not leronlimab; and (b) are not proprietary to CytoDyn, regardless of the formulation or mode of administration of such Combination Product. For the sake of clarity, a Combination Product is a Licensed Product.

1.23 "**Commercial Failure**" means that Vyera fails to achieve aggregate [***].

1.24 "**Commercialization**" means any and all pre-launch, launch and post-launch activities related to the marketing, promoting, distributing (to Third Parties), offering for sale and selling a Licensed Product in the Field in the Territory. For clarity, Commercialization does not include Development and/or Manufacturing of a Licensed Product. When used as a verb, "**Commercialize**" means to engage in Commercialization.

1.25 "**Commercialization Plan**" has the meaning set forth in Section 5.2.

1.26 "**Commercially Reasonable Efforts**" means: (a) with respect to the efforts to be expended, or considerations to be undertaken, by a Party or its Affiliate with respect to any objective, activity or decision to be undertaken hereunder, reasonable, good faith efforts to accomplish such objective, activity or decision as such Party would normally use to accomplish a similar objective, activity or decision under similar circumstances; and (b) with respect to Development and Commercialization of any Licensed Product for any indication by a Party, efforts and resources consistent with those efforts and resources commonly used by a similarly situated biotechnology company with respect to a product owned by it or to which it has similar rights, which product is at a similar stage in its development or product life and is of similar market potential taking into account (i) the patent and other proprietary position of the Licensed Product and (ii) the anticipated profitability of the Licensed Product.

1.27 "**Competitive Product**" means any product for the treatment or prevention of [***], leronlimab that is not a Licensed Product.

1.28 "**Confidential Information**" means, subject to Article 10, all non-public or proprietary information not otherwise included in Know-How disclosed by either Party to the other Party in connection with the activities contemplated by this Agreement, which may include ideas, inventions, discoveries, concepts, compounds, compositions, formulations, formulas, practices, procedures, processes, methods, knowledge, know-how, trade secrets, technology, inventories, machines, techniques, development, designs, drawings, computer programs, knowledge, skill, experience, documents, apparatus, results, clinical and regulatory strategies, Regulatory Documentation, and submissions pertaining to, or made in association with, filings with any Governmental Authority, data, including pharmacological, toxicological and clinical data, analytical and quality control data, manufacturing data and descriptions, patent and legal data, market data, financial data or descriptions, devices, assays, chemical formulations, specifications, material, product samples and other samples, physical, chemical and biological materials and compounds and information related to such materials and compounds, and any modifications, improvements, designs, and recipes without regard as to whether any of the foregoing is marked "confidential" or "proprietary," or disclosed in oral, written, graphic, or electronic form. Confidential Information shall include the terms and conditions of this Agreement.

1.29 "**Control**" or "**Controlled**" means, with respect to any Know-How, Patent or other intellectual property right, possession (including ownership) by a Party, including its Affiliates, of the ability (without taking into account any rights granted by a Party to the other Party under the terms of this Agreement) to grant access, a license or a sublicense to such Know-How, Patent or other intellectual property right without violating the terms of any agreement or other arrangement with, or necessitating the consent of, any Third Party, at such time that the Party would be first required under this Agreement to grant the other Party such access, license or sublicense.

1.30 "**Cost of Goods**" means the amount paid to CytoDyn by Vyera for the supply of Licensed Products under the Supply Agreement (net of anymark-up applied under the Supply Agreement). The Cost of Goods shall be the Cost of Manufacture of Licensed Products manufactured by CytoDyn (if applicable) or the amount actually paid by CytoDyn to a Third Party for the Manufacture and supply of such Licensed Products.

1.31 "**Cost of Manufacture**" [***].

1.32 "**Cover**", "**Covering**" or "**Covered**" means, with respect to a product, technology, process or method, that, in the absence of ownership of, or a license granted under, a Valid Claim, the practice or Commercialization of such product, technology, process or method would infringe such Valid Claim (or, in the case of a Valid Claim that has not yet issued, would infringe such Valid Claim if it were to issue in its then current form or in a substantially similar version).

1.33 "**Cure Period**" has the meaning set forth in Section 11.4.

1.34 "**CytoDyn**" has the meaning set forth in the introductory paragraph.

1.35 "**CytoDyn Indemnitee**" has the meaning set forth in Section 13.1.

1.36 "**CytoDyn Know-How**" means any and all Know-How Controlled by CytoDyn either or both as of the Effective Date or during the Term that is necessary or useful to Commercialize any Licensed Product in the Field in the Territory.

1.37 "**CytoDyn Patents**" means any and all Patents Controlled by CytoDyn either or both as of the Effective Date or during the Term that claim any CytoDyn Know-How or Inventions. The CytoDyn Patents as of the Effective Date include those set forth on **Attachment A**. CytoDyn may update Attachment A from time to time to remove reference to expired Patents and to include reference to additional Patents.

1.38 "**CytoDyn Reserved Dispute**" has the meaning set forth in Section 12.4.

1.39 "**Develop**" **or** "**Development**" means all research and non-clinical and clinical drug development activities, including toxicology, pharmacology, and other non-clinical efforts, statistical analysis, formulation development, delivery system development, the performance of Clinical Trials, including the Manufacturing, as applicable, of the Licensed Product for use in research and Clinical Trials, or other activities reasonably necessary in order to obtain and maintain Regulatory Approval of Licensed Products in the Field in the Territory. When used as a verb, "Develop" means to engage in Development activities.

1.40 "**Development Plan**" means the Development Plan attached hereto as **Attachment B**, as it may be amended in accordance with Section 4.3.

1.41 "**Disclosing Party**" has the meaning set forth in Section 10.1.

1.42 "**Disposition Period**" has the meaning set forth in Section 2.6.

1.43 "**Dispute**" has the meaning set forth in Section 12.1.

1.44 "**Effective Date**" has the meaning set forth in the introductory paragraph.

1.45 "**Equity Investment**" has the meaning set forth in Section 8.13.

1.46 "**Existing Licenses**" has the meaning set forth in Section 9.2(b).

1.47 "**FDA**" means the U.S. Food and Drug Administration and any successor agency(ies) or authority having substantially the same function.

1.48 "**FDCA**" means the United States Federal Food, Drug and Cosmetic Act of 1938 (21 U.S.C. §301 et seq.) and applicable regulations promulgated thereunder, as amended from time to time.

1.49 "**Field**" means the treatment of HIV in humans.

1.50 "**Financial Statements**" means (a) the audited consolidated balance sheet of Vyera's parent company, Phoenixus AG and its subsidiaries, for the fiscal year ended December 31, 2018, and the related consolidated statement of operations, shareholders' equity and cash flows for the fiscal year then ended, and (b) the unaudited consolidated balance sheet of Phoenixus AG for the eight (8) months ended August 31, 2019, and the related consolidated profit and loss statements for the eight (8) months then ended.

1.51 "**First Commercial Sale**" means, with respect to a Licensed Product, the first sale of such Licensed Product to a Third Party by Vyera or its Affiliates after Regulatory Approval of such Licensed Product has been obtained. Sales for test marketing, sampling and promotional uses, compassionate or similar use shall not constitute a First Commercial Sale unless such sale results in a Net Sale.

1.52 [***].

1.53 "**Force Majeure**" means any event beyond the reasonable control of the affected Party that materially affects the Party's performance of its obligations, except payment obligations, under this Agreement, including embargoes; war or acts of war, including terrorism; insurrections, riots, or civil unrest; strikes, lockouts or other labor disturbances; epidemics, fire, floods, earthquakes, tsunamis, hurricanes or other acts of nature; or acts, omissions or delays in acting by any Governmental Authority (including the refusal of the competent Governmental Authorities to issue required Regulatory Approvals due to reasons other than the affected Party's negligence or willful misconduct or any other cause within the reasonable control of the affected Party) and failure of plant or machinery (provided that such event or failure could not have been prevented by the exercise of skill, diligence, and prudence that would be reasonably and ordinarily expected from a skilled and experienced person engaged in the same type of undertaking under the same or similar circumstances).

1.54 "**GAAP**" means generally accepted accounting principles current in the U.S.

1.55 "**GCP**" means the then-current standards, practices and procedures promulgated or endorsed by the FDA as set forth in the guideline adopted by the International Conference on Harmonization ("**ICH**"), titled "Guidance for Industry E6 Good Clinical Practice: Consolidated Guidance," (or any successor document) including related regulatory requirements imposed by the FDA, as they may be updated from time to time.

1.56 "**GLP**" means the then-current standards, practices and procedures promulgated or endorsed by the FDA as set forth in 21 C.F.R. Part 58 (or any successor statute or regulation), including related regulatory requirements imposed by the FDA, as they may be updated from time to time, including applicable guidelines promulgated under the ICH.

1.57 "**GMP**" means the then-current good manufacturing practices required by the FDA, as set forth in the FDCA, as amended, and the regulations promulgated thereunder, for the manufacture and testing of pharmaceutical materials.

1.58 "**Governmental Authority**" means any multi-national, national, federal, state, local, municipal or other government authority of any nature (including any governmental division, subdivision, department, instrumentality, agency, bureau, branch, office, commission, council, court or other tribunal).

1.59 "**HIV**" has the meaning set forth in the Recitals to this Agreement.

1.60 "**Indemnifying Party**" has the meaning set forth in Section 13.3(a).

1.61 "**Indemnitee**" has the meaning set forth in Section 13.3(a).

1.62 "**Initial Indication**" means use in combination with other antiretroviral agents for treatment experiencedHIV-1 patients infected exclusively by CCR5-tropic virus, who are failing their current regimen and have documented multi-antiretroviral class resistance to at least one ART drug within 3 drug classes (or within 2 drug classes with limited treatment options).

1.63 "**Inventions**" means any and all inventions, discoveries and developments, whether or not patentable, which are conceived and reduced to practice relating to the Licensed Product in the Field after the Effective Date and arising in the course of activities under this Agreement: (a) solely by one or more employees or consultants of CytoDyn; (b) solely by one or more employees or consultants of Vyera; or (c) jointly by one or more employees or consultants of CytoDyn and one or more employees or consultants of Vyera. To be clear, Inventions, as defined here, does not include CytoDyn Patents that exist as of the Effective Date.

1.64 "**JC**" has the meaning set forth in Section 3.1(a).

1.65 "**Know-How**" means all non-public or proprietary information now known or hereafter developed and disclosed in connection with the activities contemplated by this Agreement, including information applicable to compounds, formulations, compositions, products or to their manufacture, development, registration, use or commercialization or methods of assaying or testing them or processes for their manufacture, formulations containing them, compositions incorporating or comprising them and including all biological, chemical, pharmacological, biochemical, toxicological, pharmaceutical, physical and analytical, safety, quality control, manufacturing, preclinical and clinical data, instructions, processes, formulae, expertise and information, regulatory filings and copies thereof, relevant to the development, manufacture, use or commercialization of and/or which may be useful in studying, testing, development, production or formulation of products, or intermediates for the synthesis thereof.

1.66 "**Knowledge**" means, (a) with respect to CytoDyn, the actual knowledge (following due inquiry) of Nader Z. Pourhassan, Michael D. Mulholland, Nitya G. Ray, and Brendan Rae, and (b) with respect to Vyera, the actual knowledge (following due inquiry) of Averill L. Powers, Ruchin Patel, Nicholas J. Pelliccione and Anne K. Kirby.

1.67 "[***]" has the meaning set forth in [***].

1.68 "[***]" has the meaning set forth in [***].

1.69 "**Liability**" **or** "**Liabilities**" means losses, damages, fees, costs and other liabilities incurred by a Party related to such Party's performance or conduct, or by virtue of being a "Party", under this Agreement.

1.70 "**Licensed Product**" means any pharmaceutical product, including all forms, presentations, strengths, doses and formulations (including any method of delivery), that contains leronlimab (PRO-140) as defined by [***] that CytoDyn is currently evaluating in its clinical development program for the treatment of HIV infection that is Covered by one or more claims of a CytoDyn Patent or CytoDyn Know-How.

1.71 "**Licensed Product Infringement**" has the meaning set forth in Section 2.4(a).

1.72 "**Losses**" has the meaning set forth in Section 13.1.

1.73 "**Manufacture**" means all activities and processes related to the manufacturing of a Licensed Product, or any ingredient thereof, including manufacturing of intermediate and finished Licensed Product for Development and Commercialization, labelling, packaging, handling, warehousing, in-process and finished Licensed Product testing, release of a Licensed Product or any component or ingredient thereof, validation, quality control and quality assurance activities related to manufacturing and release of a Licensed Product and ongoing stability tests and regulatory activities related to any of the foregoing. Where the context so requires, Manufacture shall also include obtaining a Licensed Product from contract manufacturers. When used as a verb, to "**Manufacture**" means to engage in Manufacturing activities.

1.74 "**Minimum Requirements**" means the investments and activities identified as "Minimum Requirements" in a Commercialization Plan.

1.75 "[***]" has the meaning set forth in [***].

1.76 "[***]" has the meaning set forth in [***].

1.77 "**Net Sales**" means, with respect to the Licensed Product, [***]

Notwithstanding the foregoing, amounts received or invoiced by Vyera or its Affiliates for the sale of such Licensed Product among Vyera or its Affiliates for resale shall not be included in the computation of Net Sales hereunder; instead, the amounts invoiced or received by Vyera or its Affiliates, as applicable, on resale to a Third Party shall be included in the computation of Net Sales. In any event, any amounts received or invoiced by Vyera or its Affiliates shall be accounted for only once. For purposes of determining Net Sales, a Licensed Product shall be deemed to be sold when recorded as a sale by Vyera or its Affiliates in accordance with GAAP. For clarity, a particular deduction may only be accounted for once in the calculation of Net Sales. Net Sales shall exclude any samples of Licensed Product transferred or disposed of at no expense for promotional or educational purposes.

In the event that a Licensed Product is sold as a Combination Product, Net Sales shall be determined as follows:

(A) where all API(s) in such Combination Product are sold separately in the Territory, Net Sales shall be calculated by multiplying the Net Sales of the Combination Product by the fraction A/(A+B), where A is the weighted (by sales volume) average unit sale price of the Licensed Product, as sold separately in finished form in the Territory, where net sales is calculated in the same manner as Net Sales, and B is the sum of the weighted average unit sale price in the Territory (net sales being calculated in the same manner as Net Sales) of the other API(s) included in the Combination Product when sold separately in finished form at the same dosage levels, in each case during the applicable royalty reporting period, or, if sales of both the Licensed Product and the other API(s) did not occur in the same country in such period, then in the most recent royalty reporting period in which sales of both occurred, provided that such "recent royalty reporting period" shall not have been more than twenty-four (24) months earlier.

(B) In the event that such weighted average sale price of the Licensed Product component of the Combination Product cannot be determined, but the weighted average sale price of the other API(s) in the Combination Product can be determined, Net Sales shall be calculated by multiplying the Net Sales of the Combination Product by the fraction (C-D)/C, where C is the weighted (by sales volume) average unit sale price of the Combination Product, and D is the sum of the weighted (by sales volume) average unit sales prices charged for the other API(s) in the Combination Product when sold separately in finished form.

(C) In the event that such weighted average sale price of the other API(s) in the Combination Product cannot be determined, but the weighted average sale price of the Licensed Product component of the Combination Product can be determined, Net Sales shall be calculated by multiplying the Net Sales of the Combination Product by the fraction A/C, where A is the weighted (by sales volume) average unit sales price of such Licensed Product component as sold separately, and C is the weighted (by sales volume) average unit sales price of the Combination Product.

(D) In the event that neither the weighted average sale price of the Licensed Product nor the weighted average sales price of the other API(s) in the Combination Product can be determined, the Net Sales of the Licensed Product shall be calculated by multiplying the Net Sales of the Combination Product (determined as provided above for Licensed Products) by the fraction D/D+E where D is the fair market value of the portion of the Combination Product that includes the Licensed Product and E is the fair market value of the portion of the Combination Product containing the other API(s) in such Combination Product, and all such fair market values shall be determined in good faith by the Parties.

In the event either Party reasonably believes that the calculation set forth above does not fairly reflect the value of the Licensed Product, relative to the other API(s) in the Combination Product, the Parties shall negotiate, in good faith, other means of calculating Net Sales with respect to Combination Products to so reflect such value.

The weighted average sale price for a Licensed Product, any other API(s) used in a Combination Product, or any Combination Product shall be calculated once each Calendar Year, at the beginning of such Calendar Year, and such price shall be used during all applicable royalty reporting periods for such entire Calendar Year. When determining the weighted average sale price of a Licensed Product, other API(s), or Combination Product, the weighted average sale price shall be calculated by dividing the sales dollar (translated into U.S. dollars) by the units of active ingredient sold during the preceding Calendar Year (or the number of months sold in a partial Calendar Year) for the respective Licensed Product, other API(s), or Combination Product. In the initial Calendar Year, a forecasted weighted average sale price will be used for the Licensed Product, other API(s) or Combination Product.

1.78 "**Non-Breaching Party**" has the meaning set forth in Section 11.4.

1.79 "**Party(ies)**" has the meaning set forth in the introductory paragraph.

1.80 "**Patents**" means all: (a) patents, including any utility or design patent; (b) patent applications, including provisionals, substitutions, divisionals, continuations, continuations in-part or renewals; (c) patents of addition, restorations, extensions, supplementary protection certificates, registration or confirmation patents, patents resulting from post-grant proceedings, re-issues and re-examinations; (d) other patents or patent applications claiming priority directly or indirectly to: (i) any such specified patent or patent application specified in (a) through (c), or (ii) any patent or patent application from which a patent or patent application specified in (a) through (c) claim direct or indirect priority; (e) inventor's certificates; (f) other rights issued from a Governmental Authority similar to any of the foregoing; and (g) in each of (a) through (f), whether such patent, patent application or other right arises in the Territory.

1.81 "**Payments**" has the meaning set forth in Section 8.10.

1.82 "**Person**" means an individual, sole proprietorship, partnership, limited partnership, limited liability partnership, corporation, limited liability company, business trust, joint stock company, trust, incorporated association, joint venture or similar entity or organization, including a government or political subdivision, department or agency of a government.

1.83 "**Pharmacovigilance Agreement**" means the safety data exchange agreement that the Parties will use their Commercially Reasonable Efforts to agree and enter into within ninety (90) days after the Effective Date.

1.84 "**Promotional Materials**" means all training materials and all written, printed, graphic, electronic, audio or video matter, including journal advertisements, sales visual aids, leave items, formulary binders, reprints, direct mail, direct-to-consumer advertising, Internet postings and broadcast advertisements, in each case, created by Vyera or its Affiliates or on its behalf, and used or intended for use in connection with any promotion of the Licensed Product in the Field in the Territory under this Agreement.

1.85 "**Quality Agreement**" has the meaning set forth in Section 6.3.

1.86 "**Receiving Party**" has the meaning set forth in Section 10.1.

1.87 "**Regulatory Approval**" means any and all approvals (including supplements, amendments, pre- and post-approvals), licenses, registrations or authorizations of any national, regional, state or local Regulatory Authority, department, bureau, commission, council or other governmental entity, that are necessary for the commercialization of a Licensed Product under this Agreement in the Field in the Territory.

1.88 "**Regulatory Authority**" means: (a) any applicable Governmental Authority involved in granting Regulatory Approval in a country or jurisdiction in the Territory, including the FDA; and (b) any other applicable Governmental Authority having jurisdiction over a pharmaceutical Licensed Product.

1.89 "**Regulatory Documentation**" means, with respect to each Licensed Product, all: (a) Regulatory Materials, including all data contained therein and all supporting documents created for, submitted to or received from an applicable governmental agency or Regulatory Authority relating to such Regulatory Materials; and (b) other documentation Controlled by a Party which is reasonably necessary in order to Commercialize Licensed Product in the Field in the Territory, including any registrations and licenses, regulatory drug lists, advertising and promotion documents shared with Regulatory Authorities, adverse event files, complaint files and Manufacturing records.

1.90 "**Regulatory Exclusivity**" means, with respect to any Licensed Product in the Territory, any additional market protection, other than patent protection, granted by a Regulatory Authority in the Territory which confers an exclusive Commercialization period during which Vyera or its Affiliates have the exclusive right to market and sell such Licensed Product in the Field and in the Territory through a regulatory exclusivity right (e.g., new biologic entity exclusivity, new use or indication exclusivity, new formulation exclusivity, orphan drug exclusivity, pediatric exclusivity, or any applicable data exclusivity).

1.91 "**Regulatory Materials**" means, with respect to the Licensed Product, all documentation, correspondence, submissions and notifications submitted to or received from a Regulatory Authority that are necessary or reasonably useful in order to Commercialize such Licensed Product in the Field in the Territory. For the avoidance of doubt, Regulatory Materials shall include, with respect to each Licensed Product, all Investigational New Drug applications (INDs), BLAs, Regulatory Approvals, and amendments and supplements for any of the foregoing, as well as the contents of any minutes from meetings (whether in person or by audio conference or videoconference) with a Regulatory Authority.

1.92 "**Required Third Party License**" has the meaning set forth in Section 8.7.

1.93 "**Reserved Disputes**" has the meaning set forth in Section 12.4.

1.94 "**Royalty Term**" means the time period beginning with the First Commercial Sale of the Licensed Product in the Territory and continuing until the latest of (a) the expiration of the last Valid Claim Covering the Licensed Product and included in a CytoDyn Patent licensed to Vyera under this Agreement, (b) the date that is ten (10) years from the date of the First Commercial Sale, (c) the expiration of any Regulatory Exclusivity with respect to the Licensed Product and (d) the Biosimilar Entry Date.

1.95 "**SBL Agreement**" has the meaning set forth in Section 9.2(o).

1.96 "**Serious Adverse Event**" means any serious untoward medical occurrence in a patient or subject who is administered a Licensed Product, having reference to the provisions of 21 C.F.R 312.32(a), but only if and to the extent that such serious untoward medical occurrence is required under Applicable Laws to be reported to applicable Regulatory Authorities.

1.97 "**Sharp Agreement**" has the meaning set forth in Section 9.2(o).

1.98 "**Side Letter**" means that certain letter agreement, dated as of the date hereof, by and between CytoDyn and Vyera.

1.99 "**Step-Down Date**" means the later of (a) the expiration of the last Valid Claim Covering the Licensed Product and included in a CytoDyn Patent licensed to Vyera under this Agreement and (b) the expiration of any Regulatory Exclusivity with respect to the Licensed Product.

1.100 "**Supply Agreement**" has the meaning set forth in Section 6.2.

1.101 "**Supply Date**" has the meaning set forth in Section 11.3(b).

1.102 "**Subsequent Indication**" means each indication in the Field other than the Initial Indication, including the Monotherapy Indication; provided that Subsequent Indications must be distinct indications and broadening the use of a Licensed Product for a particular indication shall not be deemed a new indication. By way of illustration, extending the use of the Licensed Product to patients of different age parameters who have multi-drug resistant HIV infection shall not be deemed a new indication distinct from the Initial Indication. For clarity, indications outside of the Field, such as indications in connection with oncology are not included within the scope of this Agreement.

1.103 "**Term**" has the meaning set forth in Section 11.1.

1.104 "**Territory**" means the U.S.

1.105 "**Third Party**" means any Person other than (a) Vyera, (b) CytoDyn or (c) an Affiliate of either of Vyera or CytoDyn.

1.106 "**Trademarks**" has the meaning set forth in Section 5.4(a).

1.107 "**Transition Services**" has the meaning set forth in Section 11.7(e)(ii).

1.108 "**Transition Services Agreement**" has the meaning set forth in Section 11.7(e)(i).

1.109 "**U.S.**" means the United States of America, including its territories and possessions, including Puerto Rico.

1.110 "**Valid Claim**" means a claim of an issued and unexpired Patent included within the CytoDyn Patents to the extent such claim has not been revoked, held invalid or unenforceable by a patent office, court or other governmental agency of competent jurisdiction in a final order, from which no further appeal can be taken, and which claim has not been disclaimed, denied or admitted to be invalid or unenforceable through reissue, re-examination or disclaimer or otherwise.

1.111 "**Vyera**" has the meaning set forth in the introductory paragraph.

1.112 "**Vyera Indemnitee**" has the meaning set forth in Section 13.2.

1.113 "**Vyera Reserved Dispute**" has the meaning set forth in Section 12.4.

ARTICLE 2
LICENSES; PROPRIETARY RIGHTS

2.1 Grant of Licenses.

(a) **License to Vyera**. CytoDyn hereby grants to Vyera, and Vyera hereby accepts, an exclusive royalty-bearing license (or sublicense, as the case may be), under the CytoDyn Patents, the CytoDyn Know-How and the Inventions (if any) solely to Commercialize, use, have used, offer for sale and sell Licensed Products in the Field in the Territory.

(b) **Sublicense Rights**. The licenses granted to Vyera under this Agreement shall not be transferrable and/or sublicensable without CytoDyn's written consent, which it may grant, condition or withhold in its sole discretion.

2.2 Proprietary Rights.

(a) **Title.** This Agreement does not convey to Vyera any rights in any CytoDyn Patents, CytoDyn Know-How, Regulatory Approvals, Regulatory Materials, Regulatory Documentation, or Inventions by implication, estoppel or otherwise except for the rights expressly granted in Section 2.1(a). Title to the CytoDyn Patents, the CytoDyn Know-How, Regulatory Approvals, Regulatory Materials, Regulatory Documentation, and all Inventions shall at all times remain vested in CytoDyn. Except as otherwise provided in Section 2.2(b) with respect to Inventions, this Agreement does not convey to CytoDyn any rights in any Vyera Know-How or any Vyera Patents by implication, estoppel or otherwise.

(b) **Inventions.** All right, title and interest in and to any and all Inventions that would be necessary or useful to Develop, Manufacture or Commercialize a Licensed Product (and/or an improvement, modification or line extension thereof) will be owned by CytoDyn. To the fullest extent permitted by law, Vyera shall, and hereby does, assign all of its right title and interest in and to any and all Inventions to CytoDyn. In the event that such assignment would be unlawful, Vyera shall, and hereby does, grant to CytoDyn an exclusive, irrevocable, worldwide, sublicensable (including through multiple tiers), transferrable (without consent) royalty free license to any and all right, title and/or interest that it may have in or to an Invention. Vyera will, upon reasonable request of CytoDyn, and at CytoDyn's expense, execute or cause to be executed, any assignments, filings, applications or other documents that CytoDyn may require to evidence its rights in the Inventions.

2.3 Disclosure; Patent Prosecution.

(a) Each of CytoDyn and Vyera shall promptly disclose to the other in writing reasonably detailed written reports describing any Invention that might, under the applicable U.S. patent laws, be patentable and constitute an Invention.

(b) As between the Parties, CytoDyn shall be responsible, at its sole expense and in its sole discretion, for the preparation, filing, prosecution, and maintenance of any and all CytoDyn Patents (including, for clarity, any CytoDyn Patents that are the result of an Invention). CytoDyn will keep Vyera reasonably informed of the status of such efforts.

2.4 Enforcement and Defense of Patents.

(a) Each Party shall give the other Party notice, promptly after becoming aware, of any infringement of CytoDyn Patents, where such infringement concerns the Commercialization, manufacture, importation, use, offer for sale or sale of a Licensed Product in the Field in the Territory (a "**Licensed Product Infringement**"). CytoDyn shall have the sole right to initiate and prosecute any legal action at its sole expense in its name with respect to CytoDyn Patents, and to also control the defense of any declaratory judgment action relating to such Licensed Product Infringement; provided that no settlement, or consent judgment or other voluntary final disposition of the suit that relates to the Licensed Product in the Field in the Territory may be entered into without the consent of Vyera, which consent shall not be unreasonably withheld, conditioned or delayed.

(b) For any action to terminate any Licensed Product Infringement, Vyera will provide reasonable cooperation and will provide CytoDyn with any information or assistance that CytoDyn may reasonably request, at the expense of CytoDyn. CytoDyn shall keep Vyera informed of developments in any such action or proceeding as such may relate to Commercialization, including, to the extent permissible by Applicable Law, the status of any settlement negotiations.

(c) Any recovery obtained in connection with or as a result of any action to terminate any Licensed Product Infringement contemplated by this Section 2.4, whether by settlement or otherwise, shall be applied first in satisfaction of any costs and expenses incurred by CytoDyn in connection with the action; and next in satisfaction of any unreimbursed costs and expenses incurred by Vyera in connection with the action. The balance, if any remaining after the Parties have been compensated for such costs and expenses shall be allocated between the Parties with any recovery of ordinary damages based upon Licensed Product Infringement (whether awarded on a lost sales or lost profits basis) being deemed to be "Net Sales" and shared equally between the Parties and any recovery of special or punitive damages retained by CytoDyn.

2.5 Field and Territory Restrictions.

(a) Nothing in this Agreement is intended to, nor shall it, prevent CytoDyn from (i) Developing, Manufacturing and or Commercializing leronlimab inside or outside of the Territory for use outside of the Field or (ii) Developing or Manufacturing leronlimab inside or outside of the Territory for Commercialization within the Field outside of the Territory, in each case, to the extent such actions would not result in a breach of CytoDyn's obligations to use Commercially Reasonable Efforts to perform the activities set forth in the Development Plan.

(b) Vyera shall not Commercialize nor shall it authorize the Commercialization of any Licensed Product outside of the Field or outside of the Territory. Vyera shall not, itself or through other Persons, directly or indirectly, solicit, advertise, sell, distribute, ship, consign, or otherwise transfer any Licensed Product outside of the Field or outside of the Territory. Vyera shall use Commercially Reasonable Efforts to ensure that Licensed Products sold in its Territory are not exported or used outside such Territory. Without limiting the generality of the foregoing, Vyera will not sell any Licensed Product to a purchaser if Vyera knows, or has reason to believe, that such purchaser intends to remove such Licensed Product from the Territory or otherwise intends to facilitate the use of such Licensed Product outside of the Field or outside of the Territory. Vyera shall use Commercially Reasonable Efforts to ensure that its permitted sublicensees, Affiliates, distributors, and wholesalers comply with all of the foregoing obligations.

2.6 Competitive Products. Except as expressly required under this Agreement, Vyera hereby covenants not to Develop, Manufacture, Commercialize or otherwise exploit a Competitive Product in the Territory during the Royalty Term, including by means of an Affiliate. In the event that Vyera experiences a Change of Control with a Third Party that is actively engaged in the Development, Manufacture or Commercialization of a Competitive Product, then, Vyera shall either: (a) within ninety (90) days after the closing of such Change of Control, enter into a binding written agreement to sell, transfer, assign or divest all of Vyera's and/or its Affiliate's rights in and to such Competitive Product to a non-Affiliate Third Party and consummate such sale, transfer, assignment or divestiture of said rights not later than ninety (90) days following the date of the binding Agreement; or (b) within six (6) months after the closing of such Change of Control, terminate any and all Development, Manufacturing, Commercialization and/or other exploitation of such Competitive Product; or (c) terminate this Agreement in accordance with Section 11.2(c). For the avoidance of doubt, Vyera shall not be deemed to be in breach of this Section 2.6 (i) during the one hundred eighty (180) day period following a Change of Control described in thisSection 2.6 (the "**Disposition Period**") so long as it has complied with its obligations under the immediately preceding clause (a), (b) or (c) prior to the end of the Disposition Period and (ii) during the pendency of the one hundred eighty (180)day notice period required pursuant to Section 11.2(c) elects to terminate this Agreement pursuant to the immediately preceding clause (c) prior to the end of the Disposition Period.

ARTICLE 3
GOVERNANCE

3.1 Joint Committee.

(a) Within ten (10) days after the Effective Date, a Joint Committee ("**JC**") shall be established with the responsibilities and authority set forth in this Section 3.1. The JC shall consist of six (6) members, three (3) members to be appointed by each of CytoDyn and Vyera, and the Alliance Manager from each Party. Each Party may, with notice to the other, substitute any of its members serving on the JC and may invite ad hoc non-voting members as desired. The Parties may also, by mutual agreement, increase or (subject toSection 3.1(d)) decrease the number of members serving on the JC; provided that the number of members representing each Party remains equal. Prior to Regulatory Approval of a Licensed Product, CytoDyn will have the right to appoint one of its members to be the chairperson of the JC. Vyera and CytoDyn shall alternate appointing the chairperson of the JC in each year following Regulatory Approval.

(b) The JC shall have the responsibility and authority to: (i) provide a forum for exchange of information related to the Development and Commercialization of Licensed Products in the Field in the Territory; (ii) review and discuss any proposed material amendments or updates to the Development Plan and present the results of such discussions to the management or boards of the Parties for approval; (iii) review and discuss the Commercialization Plan for the Licensed Products in the Field in the Territory and any proposed material amendments or updates thereto and present the results of such discussions to the management or the boards of the Parties for approval; (iv) oversee the implementation of the Development Plan and the Commercialization Plan; (v) monitor the progress of the Development Plan and the Commercialization Plan against the metrics agreed to by the Parties (such as timeline, costs, and revenue) and report on such progress to the management or boards of the Parties; and (vi) perform any other functions as the Parties may agree in writing.

(c) The JC shall hold meetings as mutually agreed by the Parties, but in no event less than quarterly unless Vyera and CytoDyn mutually agree in writing (which may include email), no later than thirty (30) days in advance of any meeting following the initial meeting of the JC, that no new business has transpired that would require a meeting of the JC. The first meeting of the JC shall be held within forty-five (45) days of the Effective Date and shall be held in New York, NY. After the initial meeting, meetings may be held by telephone or video conference, provided that the Parties shall meet in person at least once per year, and such meetings shall alternate between New York, New York and Vancouver, Washington. Minutes of all meetings setting forth decisions of the JC shall be prepared by the chairperson and circulated to both Parties within thirty (30) days after each meeting, and shall not become official until approved by both Parties in writing; minutes shall be presented for approval as the first order of business at the subsequent JC meeting, or if it is necessary to approve the minutes prior to such subsequent meeting, then the Parties shall approve the minutes within thirty (30) days of receipt thereof.

(d) The quorum for JC meetings shall be four (4) members, provided there are at least two (2) members from each of CytoDyn and Vyera present. The JC will render decisions by unanimous vote. The members of the JC shall act in good faith to cooperate with one another and to reach agreement with respect to issues to be decided by the JC.

(e) Disagreements among the JC will be resolved via good-faith discussions; provided, that in the event of a disagreement that cannot be resolved within thirty (30) days after the date on which the disagreement arose, the matter shall be resolved pursuant to Section 12.2; and provided, further that if the Dispute cannot be resolved pursuant to Section 12.2, then if such Dispute is a Reserved Dispute, then such Reserved Dispute will be resolved in accordance with Section 12.4, and if such Dispute is not a Reserved Dispute, such dispute will be resolved in accordance with Section 12.3(a).

(f) At each JC meeting, CytoDyn will keep the JC informed regarding the progress and results of Development activities with respect to Licensed Product in the Territory in the Field and Vyera will keep the JC informed regarding the progress and results of Commercialization activities with respect to Licensed Product in the Territory in the Field.

3.2 Alliance Managers. Each Party shall appoint, within ten (10) days of the Effective Date, an Alliance Manager. The Alliance Managers shall have the right to attend all meetings of the JC, as non-voting participants and secretaries at such meetings, and may bring to the attention of the JC, any matters or issues either of them reasonably believes should be discussed and shall have such other responsibilities as the Parties may mutually agree in writing. Each Party may replace its Alliance Manager at any time upon notice to the other Party.

3.3 Operating Principles; Expenses. The Parties hereby acknowledge and agree that the deliberations and decision-making of the JC, and any subcommittee established by the JC shall be in accordance with the following operating principles: (a) decisions should be made in a prompt manner; and (b) the Parties' mutual objective is to maximize the clinical and commercial success of the Licensed Products in the Field in the Territory, consistent with sound and ethical business and scientific practices. The Parties shall each bear all expenses of their respective representatives on the JC, Alliance Managers and any other subcommittee established under this Agreement and such costs shall not be included in any other category of expenses under this Agreement, nor will they be deducted from Net Sales. The JC, the Alliance Managers and any other committees established pursuant to this Agreement or as determined by the foregoing committees, will have only such powers as are specifically delegated to it in this Agreement, and will have no power to amend this Agreement or waive a Party's rights or obligations under this Agreement. Either Party may propose topics for inclusion in the agenda for a meeting of the JC; provided that that the chairperson of the JC shall have the authority to determine in which order such topics are discussed in the subject meeting.

3.4 Information Disclosure. Information that otherwise falls under the definition of Confidential Information contained in reports made pursuant to Section 3.1 or otherwise communicated between the Parties will be subject to the confidentiality provisions of Section 10.1. Each Party shall have the right to use the Confidential Information disclosed by the other Party without charge, but only to the extent necessary to enable each Party to carry out its respective role defined in this Agreement or otherwise in exercise of rights granted to it pursuant to this Agreement.

ARTICLE 4
DEVELOPMENT

4.1 Development Plan and Development Activities. CytoDyn shall have sole responsibility for, and final decision-making authority with respect to, performance of Development of the Licensed Product for the Initial Indication and any Subsequent Indication. CytoDyn shall use Commercially Reasonable Efforts to execute and perform the activities set forth in the Development Plan. CytoDyn shall conduct the activities under the Development Plan, and shall ensure that its Affiliates and contractors conduct their activities under the Development Plan, in a good scientific manner and in material compliance with Applicable Law, including cGLP, cGCP, cGMP and applicable national and international guidelines. For clarity, the Development Plan will only include activities related to indications in the Field.

4.2 Development Reporting. CytoDyn shall provide the JC no later than five (5) Business Days prior to each scheduled JC meeting, with written materials that summarize, in reasonable detail, material Development activities performed in the Field during the immediately preceding period since the last meeting of the JC, and compare such performance with the goals and timelines set forth in the Development Plan. CytoDyn shall also promptly provide the JC with notice of any material delay in Development when compared to the Development Plan.

4.3 Amendments to the Development Plan. CytoDyn may decide from time to time to propose for approval by the JC updates to the Development Plan as necessary to reflect changes in the progress of Development for the Licensed Product for the Initial Indication or a Subsequent Indication in the Territory. Any proposed change to the Development Plan shall set forth all anticipated Development activities and timelines. The JC shall promptly review such proposed change and shall as soon as practicable but in any event within fifteen (15) days following submission either (a) approve it or (b) provide comments to CytoDyn for its consideration. CytoDyn shall consider such comments (if any) and revise the Development Plan to implement all such reasonable comments and provide such revised Development Plan to the JC. If Disputes remain with respect to such amendments to the Development Plan, then such dispute shall be referred to the JC for resolution thereof in accordance with Section 3.1(e). For the avoidance of doubt, the failure to agree on a proposed update to the Development Plan or any Development activities is a CytoDyn Reserved Dispute.

ARTICLE 5
COMMERCIALIZATION

5.1 General. Vyera shall have the exclusive right to implement, and subject to Section 5.5, final decision-making authority with respect to, Commercialization of all Licensed Products in the Field and the Territory. Vyera shall be solely and exclusively responsible for all costs and expenses associated with Commercialization of Licensed Products in the Field and the Territory. Vyera shall use Commercially Reasonable Efforts in connection with such Commercialization of Licensed Products in the Territory for each indication in the Field for which such Licensed Products have received Regulatory Approval, and shall conduct Commercialization activities in material compliance with Applicable Laws and shall ensure that its Third Party contractors conduct Commercialization activities in material compliance with Applicable Laws. Without limiting the foregoing, Vyera shall have the exclusive right and responsibility throughout the Territory for the following: (a) receiving and accepting orders for the Licensed Product from customers; (b) distributing the Licensed Product to customers; (c) controlling invoicing and collection of accounts receivable for Licensed Product sales; (d) recording Licensed Product sales in its books of account for sales (in accordance with Vyera's accounting standards consistently applied (currently GAAP)); (e) subject to Section 5.5, determining pricing for the Licensed Product and all aspects of the promotion (including promotional materials) to be used in Commercializing Licensed Products; (f) negotiating with Third Parties, including without limitation, payors, pharmacy benefit managers and distributors, with respect to sales and distribution of Licensed Product; and (g) paying all rebates, chargebacks and other amounts due to customers in respect of Licensed Products (it being understood that all such amounts shall be deducted in calculating Net Sales). Notwithstanding the foregoing, CytoDyn acknowledges and agrees that in the event Vyera delivers to CytoDyn a notice of termination pursuant to Sections 11.2(b) or (c), the use of Commercially Reasonable Efforts shall take into account Vyera's intent to cease its Commercialization activities as of the end of the applicable notice period and shall not require Vyera to take any action that is inconsistent with such intent.

5.2 Commercialization Plan. Attached as **Attachment C** is a written commercialization plan setting forth anticipated material Commercialization activities to be performed for the Licensed Product in the Initial Indication in the Territory (the "**Commercialization Plan**"). Vyera shall conduct the Commercialization activities in accordance with the Commercialization Plan and in performing such activities will ensure that it meets or exceeds the Minimum Requirements. No later than three (3) months prior to the anticipated First Commercial Sale in the Territory based upon the then most recent Development Plan, Vyera shall update the Commercialization Plan, and shall thereafter update the Commercialization Plan on an annual basis by providing the JC with such updates no later than November 1 of each Calendar Year. In each case, the Commercialization Plan shall, at a minimum, include the activities, investments and allocations set forth in the Minimum Requirements. To the extent that CytoDyn files any BLA with a Regulatory Authority to cover a Subsequent Indication in the Field not included within the then current Licensed Product target label and the FDA accepts such BLA filing for review on or before September 1 of any Calendar Year, the updated Commercialization Plan shall include the Commercialization activities, if any, to be performed with respect to the Licensed Product in such Subsequent Indication.

5.3 Commercialization Reports. With respect to Commercialization of Licensed Products in the Territory, Vyera shall keep the JC informed regarding the progress and results of such Commercialization. Such progress reports shall be provided at least quarterly and in a form reasonably acceptable to CytoDyn. Vyera shall also promptly provide the JC with any additional information regarding its Commercialization of the Licensed Product reasonably requested by the JC, including any material changes in any Commercialization Plan. Vyera shall inform the JC of any such material changes to a Commercialization Plan for the Licensed Product at the first JC meeting following such change.

5.4 Licensed Product Trademarks.

(a) CytoDyn shall be responsible for the selection, registration, defense and maintenance of the trademarks under which Vyera will market all Licensed Products in the Territory, as well as all expenses associated therewith (the "**Trademarks**"). CytoDyn shall own all Trademarks and any domain names incorporating such Trademarks used by Vyera in connection with the Commercialization of Licensed Products in the Field in the Territory under this Agreement and all goodwill associated therewith. Vyera shall not have, assert or acquire any right, title or interest in or to any of the Trademarks. If Vyera acquires any rights in the Trademarks, by operation of Applicable Law, or otherwise, such rights shall be deemed and are hereby irrevocably assigned to CytoDyn without further action by either Party. Vyera shall not grant or attempt to grant a security interest in, or otherwise encumber, the Trademarks or record any such security interest or encumbrance against any application or registration regarding the Trademarks. Vyera shall ensure that all Licensed Products sold in the Territory bear the Trademarks.

(b) CytoDyn shall have the right to select all trade dress, logos, slogans, designs and copyrights used on and in connection with the Licensed Products in the Field in the Territory. CytoDyn will be the sole owner of all trade dress, logos, slogans, designs and copyrights specifically created by or on behalf of Vyera or used by Vyera on or in connection with the Licensed Products in the Territory.

(c) Vyera shall be responsible, at its expense, for preparing and producing Promotional Materials subject to the review and comment of CytoDyn. Vyera shall make its core Promotional Materials available to CytoDyn for review and comment prior to use, such comments not to be unreasonably disregarded by Vyera. The Promotional Materials used by Vyera or its Affiliates or sublicensees in the Territory shall be consistent with the Regulatory Approval in the Territory and shall in any event comply in all material respects

with Applicable Law. Vyera shall use and distribute the Promotional Materials in accordance with the terms of this Agreement, the Commercialization Plan and the direction of the JC. To the extent that CytoDyn disagrees with promotional message or tactics proposed by Vyera for a Licensed Product in the Territory, it may raise such issues with Vyera for discussion, but Vyera is ultimately responsible for all decisions related to promotional message and tactics related to the sale of Licensed Products in the Field in the Territory; provided that, in each instance, such promotional message and/or tactics are in accordance in all material respects with Applicable Law. Notwithstanding anything to the contrary herein, prior to incorporating the Trademarks into any Promotional Materials, Vyera shall provide CytoDyn with mock-ups of the proposed trademark style of usage (i.e., a style sheet) for its review and consent of the trademark usage, such consent not to be unreasonably withheld, delayed or denied.

5.5 Decisions that are not Reserved. Notwithstanding anything to the contrary in this Article 5 or any other section of this Agreement: (a) the Minimum Requirements may not be modified, amended or otherwise changed without the written consent of CytoDyn, such consent not to be unreasonably withheld, conditioned or delayed; and [***].

ARTICLE 6
MANUFACTURE AND SUPPLY

6.1 Supply of Licensed Product. Vyera shall purchase all of its requirements for supply of Licensed Product exclusively from CytoDyn in accordance with the terms and conditions of the Supply Agreement. For clarity, in the event of a termination of the Supply Agreement, this Section 6.1 shall no longer apply to either Party.

6.2 Supply Agreement. The Parties shall enter into a Supply Agreement(s) for the commercial supply of Licensed Product on the Effective Date. The Supply Agreement(s) shall be in the form attached as **Attachment D**, with such changes (if any) mutually agreed by the Parties in writing.

6.3 Quality Agreement. Within ninety (90) days of the Effective Date, the Parties shall negotiate in good faith and enter into a quality agreement (a "**Quality Agreement**") setting forth the responsibilities of the Parties with respect to quality assurance matters for the Licensed Product. The Parties acknowledge and agree that: (a) CytoDyn shall have primary responsibility for all quality assurance matters as the holder of the BLA for the Licensed Product; and (b) Vyera shall not be directly responsible for quality assurance matters with respect to the Licensed Product.

ARTICLE 7
REGULATORY MATTERS

7.1 Regulatory Filings; Approvals. CytoDyn shall be responsible for preparing and filing all Regulatory Materials for the Licensed Product in the Territory and outside of the Territory and shall be the owner of all Regulatory Approvals issuing therefrom. CytoDyn shall be responsible for answering any queries from Regulatory Authorities, including those related to Manufacture of the Licensed Product. CytoDyn shall provide Vyera with a copy (which may be wholly or partly in electronic form) of all Regulatory Materials with respect to Licensed Product in the Field in the Territory. CytoDyn shall provide Vyera with reasonable advance notice of any scheduled meeting with the FDA relating to Development and/or the BLA for the Licensed Product in the Field in the Territory, and Vyera shall have the right to silently observe (if and to the extent permitted by the FDA) and, if the Parties mutually agree in writing in advance, participate in any such meeting. CytoDyn shall promptly furnish Vyera with copies of all material correspondence or minutes of material meetings with the FDA in each case relating to the Licensed Product in the Field in the Territory. For clarity, CytoDyn shall have no obligation to share information regarding its development activities, its regulatory meetings or other activities with respect to PRO 140 outside of the Field and/or outside of the Territory.

7.2 Inspections. To the extent permitted under Applicable Law and, if applicable, its relevant Third Party agreements,(a) CytoDyn shall provide Vyera with reasonable advance notice of any scheduled regulatory inspection of CytoDyn or Third Party Manufacturing facilities used for supply of the Licensed Product as contemplated by Article 6, and (b) Vyera shall be allowed to participate in anypre-approval readiness activities and audits for CytoDyn or its Third Party Manufacturing facilities. CytoDyn or its applicable Third Party manufacturer of Licensed Product shall control all interactions with Regulatory Authorities with respect to such inspection. To the extent permitted under Applicable Law and, if applicable, CytoDyn's relevant Third Party agreements, Vyera shall have the right to be present during such inspection. CytoDyn shall use its Commercially Reasonable Efforts to ensure that any applicable Third Party manufacturer of Licensed Product is obligated to provide such access to Vyera (to the extent that CytoDyn has such rights of access). So long as CytoDyn is supplying Vyera supplies of Licensed Products pursuant to the Supply Agreement, it shall use Commercially Reasonable Efforts to obtain and maintain such rights of access for Vyera.

7.3 Adverse Event Reporting; Pharmacovigilance Agreement. CytoDyn shall be responsible for all adverse event reporting, including any and all Serious Adverse Events with respect to all Licensed Products for all indications in the Territory. CytoDyn shall maintain the unified worldwide adverse event database for the Licensed Products. Within ninety (90) days of the Effective Date the Parties will enter into the Pharmacovigilance Agreement, setting forth guidelines and procedures for the receipt, investigation, recording, review, post-marketing surveillance, communication, reporting and exchange between the Parties of adverse event reports, technical complaints and any other information concerning the safety of the Licensed Products. Vyera shall be responsible for promptly (and in any event in sufficient time to permit CytoDyn to comply with its legal and regulatory reporting obligations) providing to CytoDyn any and all information relating to adverse events, including, without limitation, Serious Adverse Events, that comes into its possession.

7.4 Licensed Product Withdrawals and Recalls. In the event that either Party: (a) becomes aware of an event, incident or circumstance that has occurred which may result in the need for a recall or other removal of a Licensed Product or any lot or lots thereof from the market; (b) becomes aware that a Regulatory Authority is threatening or has initiated an action to remove a Licensed Product from the market; (c) is required by any Regulatory Authority to distribute a "Dear Doctor" letter or its equivalent, regarding use of Licensed Product; or (d) places a Clinical Trial for a Licensed Product in the Field on hold for clinical safety reasons, such Party shall promptly advise the other Party in writing with respect thereto, and shall provide to such other Party copies of all relevant correspondence, notices, and the like. CytoDyn shall have final authority to make all decisions relating to any recall, market withdrawal or other corrective action with respect to the Licensed Product in the Territory and shall be responsible for conducting any recalls or taking such other remedial action, and Vyera agrees, upon reasonable request by CytoDyn to assist with respect to such recalls or remedial actions. The costs of such recall or remedial action shall be apportioned as follows: (i) if the recall or remedial action is due to the nature of the Licensed Product and its specifications as documented in the approved BLA, then CytoDyn shall bear the cost of such recall, (ii) if such recall or remedial action is due to Vyera's Commercialization efforts (such as, without limitation, a false marketing claims triggering a "Dear Doctor" letter) then Vyera shall bear the costs of the recall. If the remedial action or recall is necessitated by a defect in the Manufacturing process for the applicable units of Licensed Product and CytoDyn (or its designee) is supplying the Licensed Product under the Supply Agreement, costs shall be borne as set forth in the Supply Agreement.

7.5 Other Safety Issues. At the request of either Party, the JC shall establish a subcommittee to handle the discussion of specific safety issues, advise each Party concerning the collection and evaluation of safety data, and respond to any significant safety issues raised, or requests made, by Regulatory Authorities.

7.6 Standards of Conduct. The Parties shall use Commercially Reasonable Efforts to perform, or shall use Commercially Reasonable Efforts to ensure that its Third Party contractors perform, all regulatory activities in good scientific manner and in compliance with Applicable Laws.

ARTICLE 8
CONSIDERATION

8.1 License Fee. Vyera shall pay CytoDyn a non-refundable, non-creditable license issue fee of $500,000 within three (3) Business Days following the date the Parties enter into this Agreement and the Supply Agreement.

8.2 Development and Commercial Milestone Payments. Vyera shall pay each of the following non-refundable, non-creditable payments to CytoDyn upon achievement of each of the following events with respect to the Licensed Product. Each milestone payment by Vyera pursuant to this Section 8.2 shall be payable only one time.

Milestone	Payment
Upon [***]	[***]
Upon the later of (i) [***] and (ii) the [***]	[***]
Upon [***]	[***]
Upon cumulative Net Sales for the Licensed Product equal to [***]	[***]
Upon cumulative Net Sales for the Licensed Product equal to [***]	[***]
Upon cumulative Net Sales for the Licensed Product equal to [***]	[***]
Upon cumulative Net Sales for the Licensed Product equal to [***]	[***]
Upon cumulative Net Sales for the Licensed Product equal to [***]	[***]
Upon cumulative Net Sales for the Licensed Product equal to [***]	[***]
Total	[***]

[***]

CytoDyn shall promptly notify Vyera in writing following the achievement of the first two (2) milestone events described in this Section 8.2 and submit to Vyera an invoice for the corresponding milestone payment set forth in this Section 8.2. Within thirty (30) days of Vyera's receipt of any such invoice, Vyera shall remit the milestone payment to CytoDyn in immediately available funds. Vyera shall promptly notify CytoDyn in writing following the achievement of each remaining milestone event described in this Section 8.2, but in no event will such notice be given to CytoDyn later than (a) five (5) Business Days after First Commercial Sale of Licensed Product and (b) twenty (20) Business Days after Vyera becomes aware of the achievement of any milestone related to cumulative Net Sales. Thereafter, CytoDyn shall submit to Vyera an invoice for the corresponding milestone payment set forth in this Section 8.2. Within thirty (30) days of Vyera's receipt of any such invoice, Vyera shall remit the applicable milestone payment to CytoDyn.

8.3 Milestone Payment for [***]**.** Vyera shall pay to CytoDyn [***] (the "[***] **Milestone Payment**") in the event that [***] (a "[***]") results in a [***]. Whether a [***] meets the criteria set forth in this Section 8.3 will be determined in good faith by the JC. The determination of whether a [***] results in [***] will not be a Reserved Dispute of either Party. In the event that the JC approves a proposed [***], the JC will discuss in good faith the details of the program that will be implemented to pursue the [***], including the budget, the timeline and any other items that the JC deems material. The proposed program will then be presented to the management of each Party for approval. In the event that the Parties agree to pursue a [***], CytoDyn shall promptly notify Vyera in writing following receipt of [***] and submit to Vyera an invoice for the [***]. Within thirty (30) days of Vyera's receipt of any such invoice, Vyera shall remit the [***] to CytoDyn. The [***] shall be non-refundable and non-creditable. Notwithstanding the foregoing, if the JC and/or the Parties are not able to come to agreement on a program to pursue a [***], the decision on whether to pursue a [***] shall be made by CytoDyn in its sole discretion provided, however, that such [***] will not be eligible for a [***].

8.4 Milestone Payment for [***]**.** If CytoDyn receives [***], then Vyera shall pay to CytoDyn [***] (the "[***]") in immediately available funds upon the receipt of [***]. CytoDyn shall promptly notify Vyera in writing following receipt of [***] and submit to Vyera an invoice for the corresponding milestone payment set forth in this Section 8.4. Within thirty (30) days of Vyera's receipt of any such invoice, Vyera shall remit the milestone payment to CytoDyn. The [***] shall be non-refundable and non-creditable.

8.5 Milestone Payment for [***]**.** With respect to any [***] for the Licensed Product within the Field other than the [***], the JC shall determine in good faith (which determination, for the avoidance of doubt, shall not be a Reserved Dispute of either Party) the amount of the payment, if any, payable by Vyera to CytoDyn in the event [***] is received. Such payment as recommended by the JC shall be approved by the management of each Party. CytoDyn shall promptly notify Vyera in writing following receipt [***] for which payment has been agreed and approved and submit to Vyera an invoice for the corresponding milestone payment that the Parties have agreed upon pursuant to this Section 8.5. Within thirty (30) days of Vyera's receipt of any such invoice, Vyera shall remit the milestone payment to CytoDyn. Each milestone payment for a [***] shall be non-refundable and non-creditable. Notwithstanding the foregoing, in the event that the JC is unable to agree on whether to pursue a [***], the decision as to whether to pursue a [***] shall be made by CytoDyn in its sole discretion provided, however, that such [***] will not be eligible for a milestone payment pursuant to this Section 8.5.

8.6 Royalty Obligation. Vyera shall pay to CytoDyn royalties equal to fifty percent (50%) of Net Sales of Licensed Products in the Territory during the Royalty Term; provided that, after the Step-Down Date, the royalty percentage will be reduced to [***] of Net Sales of Licensed Products in the Territory throughout the remaining period in the Royalty Term. Royalties shall be payable commencing upon the First Commercial Sale of the Licensed Product in the Territory until the expiration of the Royalty Term in the Territory. Following the expiration of the Royalty Term with respect to the Licensed Product, the licenses granted under Section 2.1 with respect to such Licensed Product in the Field and the Territory shall benon-exclusive, perpetual, irrevocable, fully-paid and royalty-free.

8.7 Required Licenses. If either Party receives a notice from a Third Party indicating that the Commercialization of a Licensed Product in the Field in the Territory infringes a Third Party Patent, it will promptly notify the other Party. The Parties will thereafter discuss a response in good faith. If the Parties agree in good faith that it is reasonable to enter into a license with such Third Party to avoid infringement of such Third Party patent(s)by the sale, offer for sale or use of a Licensed Product in the Field in the Territory (each such license, a "**Required Third Party License**"), then CytoDyn shall have the right to negotiate the terms of such Required Third Party License and the amounts payable under such Required Third Party License shall be deducted from the royalties payable to CytoDyn. If either of the Parties agree in good faith that it is not reasonable to enter into a license with a Third Party to avoid infringement by the sale, offer for sale or use of a Licensed Product in the Field in the Territory, any fees, costs or expenses incurred by either Party, including, without limitation, damages as a result of an infringement claim, will be borne by CytoDyn in accordance with Section 13.2. If the Parties agree in good faith that it is appropriate to bring an opposition, action for declaratory judgment, nullity action, interference, declaration for non-infringement, re-examination or other attack upon the validity, title or enforceability of a patent owned or controlled by a Third Party based on its' potential adverse impact on the patent freedom-to-operate with respect to the Commercialization of a Licensed Product in the Field in the Territory, then CytoDyn shall control such action and shall be responsible for the costs of such action. CytoDyn shall provide Vyera with copies of any substantive documents related to such proceedings and reasonable notice of all such proceedings. Vyera may itself or through its counsel offer comments and suggestions with respect to the matters that are the subject of this Section 8.7 and CytoDyn shall consider such comments and suggestions in good faith. If the Parties disagree in good faith as to whether it is reasonable to enter into a license agreement with a Third Party to avoid infringement by the sale, offer for sale or use of a Licensed Product in the Field in the Territory and such Third Party subsequently brings an infringement action (or an infringement action is brought on its behalf) that is solely related to the sale, offer for sale or use of a Licensed Product in the Field in the Territory, then the Party that did not agree to pursuing the Required Third Party License will be responsible for all costs, fees and damages incurred in connection with such infringement action in the event and to the extent any such infringement action is solely related to the sale, offer for sale or use of a Licensed Product in the Field in the Territory, and the provisions of Section 13.2 shall not apply if Vyera is the Party that did not agree to pursue such Required Third Party License solely for the sale, offer for sale or use of a Licensed Product in the Field in the Territory.

8.8 Royalty Report; Payment. Within forty-five (45) days following the end of each Calendar Quarter after the First Commercial Sale of each Licensed Product in the Territory, Vyera shall provide CytoDyn with a report in a form reasonably acceptable to CytoDyn containing the following information for the applicable Calendar Quarter for such Licensed Product: (a) the amount of gross sales of the Licensed Product in the Territory; (b) an itemized calculation of Net Sales in the Territory showing reasonably detailed deductions; provided for in the definition of "Net Sales"; (c) a reasonably detailed calculation of the royalty payment due on such sales; (d) an accounting of the number of units of the Licensed Product sold; and (e) the application of the reduction, if any, made in accordance with the terms of Section 8.7. Vyera shall pay all amounts due to CytoDyn with respect to Net Sales by Vyera or its Affiliates for such Calendar Quarter at the time of the submission of such quarterly report.

8.9 Third Party Financial Obligations. CytoDyn will be solely responsible for, and shall indemnify Vyera for, the payment of any royalties, sublicense revenues, milestones or other payments due to Third Party(ies) under Existing Licenses arising with respect to the Commercialization, under the licenses granted under this Agreement, of the Licensed Product, in the Field in the Territory.

8.10 Taxes. The amounts payable pursuant to this Agreement ("**Payments**") shall not be reduced on account of any taxes unless required by Applicable Law. Vyera shall deduct and withhold from the Payments any taxes that it is required by Applicable Law to deduct or withhold. Notwithstanding the foregoing, if CytoDyn is entitled under any applicable tax treaty to a reduction of rate of, or the elimination of, or recovery of, applicable withholding tax, it may deliver to Vyera or the appropriate Governmental Authority the prescribed forms necessary to reduce the applicable rate of withholding or to relieve Vyera of its obligation to withhold tax. In such case Vyera shall apply the reduced rate of withholding, or not withhold, as the case may be, provided that Vyera is in receipt of evidence, in a form reasonably satisfactory to Vyera, for example CytoDyn's delivery of all required documentation at least five (5) Business Days prior to the time that the Payments are due. If, in accordance with the foregoing, Vyera withholds any amount, it shall pay to CytoDyn the balance when due, make timely payment to the proper taxing authority of the withheld amount, and send CytoDyn proof of such payment within thirty (30) days following that payment.

8.11 Audit. Vyera shall maintain, and shall cause its Affiliates to maintain, complete and accurate records in sufficient detail to permit CytoDyn to confirm the accuracy of the calculation of royalties and milestones due under this Agreement. Upon reasonable prior notice, but not more than once per Calendar Year, such records of Vyera and its Affiliates shall be available during Vyera's and its Affiliates regular business hours for a period of three (3) years from the end of the Calendar Year to which they pertain for examination at the expense of CytoDyn by an independent certified public accountant selected by CytoDyn and reasonably acceptable to Vyera, for the sole purpose of verifying the accuracy of the financial reports and correctness of the payments furnished by Vyera pursuant to this Agreement. Any such auditor shall not disclose Vyera's Confidential Information, except to the extent such disclosure is necessary to verify the accuracy of the financial reports furnished by Vyera or the amount of payments due by Vyera under this Agreement. Any amounts shown to be owed but unpaid shall be paid within thirty (30) days from the accountant's report, plus interest, as set forth in Section 8.12 from the original due date. Any amounts shown to have been overpaid shall be refunded within thirty (30) days from the accountant's report. CytoDyn shall bear the full cost of such audit unless such audit discloses an underpayment by Vyera of more than five percent (5%) of the amount due, in which case Vyera shall bear the full cost of such audit. The audit rights set forth in this Section 8.11 shall survive the Term for a period of three (3) years.

8.12 Late Payment. All payments due to a Party under this Agreement shall be made in U.S. Dollars by wire transfer of immediately available funds into an account designated by the receiving Party. If a Party does not receive payment of any sum due to it on or before the due date, simple interest shall thereafter accrue on the sum due to such Party until the date of payment at the per annum rate of two percent (2%) over the then prime rate quoted by Citibank in New York City or the maximum rate allowable by Applicable Law, whichever is lower.

8.13 Equity Investment. Within seven (7) days of the Effective Date, Vyera shall make an equity investment of $4,000,000 in CytoDyn (the "**Equity Investment**"), pursuant to that certain Subscription Agreement substantially in the form attached hereto as **Attachment E** and that certain Warrant Agreement substantially in the form attached hereto as **Attachment F**.

ARTICLE 9
REPRESENTATIONS, WARRANTIES AND COVENANTS

9.1 Mutual Representations, Warranties and Covenants. Each of the Parties hereby represents and warrants to the other Party as of the Effective Date and hereinafter, as set forth below, covenants that:

(a) **Organization**. It is duly organized, validly existing, and in good standing under Applicable Law of the jurisdiction of its organization, and has all requisite power and authority, corporate or otherwise, to execute, deliver, and perform this Agreement.

(b) **Binding Agreement**. This Agreement is a legal and valid obligation binding upon such Party and enforceable in accordance with its terms, subject to the effects of bankruptcy, insolvency, or other Applicable Law of general application affecting the enforcement of creditor rights, judicial principles affecting the availability of specific performance, and general principles of equity (whether enforceability is considered a proceeding at law or equity).

(c) **Authorization**. The execution, delivery, and performance of this Agreement by such Party have been duly authorized by all necessary corporate action and do not conflict with any agreement, instrument, or understanding, oral or written, to which it is a party or by which it is bound, or violate any Applicable Law or any order, writ, judgment, injunction, decree, determination, or award of any court or governmental body, or administrative or other agency presently in effect applicable to such Party.

(d) **No Further Approval**. It is not aware of any government authorization, consent, approval, license, exemption of or filing or registration with any court or governmental department, commission, board, bureau, agency or instrumentality, domestic or foreign, under any Applicable Law, currently in effect, necessary for, or in connection with, the transactions contemplated by this Agreement or any other agreement or instrument executed in connection herewith, or for the performance by it of its obligations under this Agreement and such other agreements (save for Regulatory Approvals and similar authorizations from Governmental Authorities necessary for the Commercialization of the Licensed Products in the Field as contemplated hereunder).

(e) **No Inconsistent Obligations**. Neither Party is under any obligation, contractual or otherwise, to any Person that conflicts with or is inconsistent in any material respect with the terms of this Agreement, or that would impede the diligent and complete fulfillment of its obligations hereunder.

(f) **No Debarment**. Neither Party nor any of its respective Affiliates has been debarred by the FDA, is not subject to any similar sanction of other Governmental Authorities in the Territory, and, to its Knowledge, neither Party nor any of its respective Affiliates has used, or will engage, in any capacity, in connection with this Agreement or any ancillary agreements (if any), any Person who either has been debarred by such a Regulatory Authority, or is the subject of a conviction described in Section 306 of the FDCA. Each Party shall inform the other Party in writing promptly if it or any Person engaged by it or any of its Affiliates who is performing services under this Agreement or an ancillary agreement (if any) is debarred or is the subject of a conviction described in Section 306 of the FDCA, or if any action, suit, claim, investigation or legal or administrative proceeding is pending or, to such Party's Knowledge, is threatened, relating to the debarment or conviction of such Party, any of its Affiliates or any such Person performing services hereunder or thereunder.

(g) **Transparency Reporting**. Each Party shall be responsible for tracking and reporting transfers of value initiated and controlled by its and its Affiliates' employees, contractors, and agents pursuant to the requirements of the transparency laws of any Governmental Authority in the Territory, including Section 6002 of the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended, commonly referred to as the "Sunshine Act."

9.2 Additional Representations and Warranties of CytoDyn. CytoDyn represents and warrants as of the Effective Date, and hereinafter, as set forth below, covenants to Vyera that:

(a) CytoDyn has all rights necessary to grant the licenses under the CytoDyn Know-How and the CytoDyn Patents that it grants to Vyera in this Agreement. As of the Effective Date and thereafter for the duration of the Term, CytoDyn shall not, and shall cause its Affiliates not to, grant to any Third Party rights that conflict with the rights granted to Vyera under this Agreement; provided that, Vyera acknowledges and agrees that CytoDyn shall have the right to license the CytoDyn Know-How, the CytoDyn Patents and the Inventions (a) outside of the Field anywhere in the world and (b) within the Field but outside of the Territory.

(b) CytoDyn and its Affiliates have provided or made available to Vyera prior to the Effective Date, copies of all material and relevant information (including all material agreements) with respect to the CytoDyn Know-How and the CytoDyn Patents (other than information that is confidential information of a Third Party and subject to obligations of confidentiality) and such information is true, complete and correct. CytoDyn has provided to Vyera an accurate, current, copy of each of the agreements under which CytoDyn has licensed Patents or Know-How used in the Development of the Licensed Product (the "**Existing Licenses**"), including all amendments thereto. To CytoDyn's Knowledge, no material breach of any of the Existing Licenses exists as of the Effective Date which would give any party thereto the right to terminate the same. The Existing Licenses are identified on Schedule 9.2(b).

(c) The Patents set forth on **Attachment A** represent all Patents that CytoDyn or any of its Affiliates Controls that Cover or that disclose any Invention necessary or useful for the Commercialization of the Licensed Product in the Territory in the Field as of the Effective Date. CytoDyn is the sole and exclusive owner of the entire right, title and interest in the CytoDyn Patents owned by CytoDyn free of any encumbrance, lien, or claim of ownership by any Third Party. With respect to CytoDyn Patents Controlled but not owned by CytoDyn, CytoDyn has the right to grant the license granted to Vyera under Section 2.1 on the terms set forth herein, and such license does not conflict with the terms of any of the Existing Licenses.

(d) CytoDyn or one of its Affiliates Controls all CytoDyn Know-How which is necessary or useful for the Commercialization of the Licensed Product in the Territory in the Field.

(e) To CytoDyn's Knowledge, there is no actual or threatened infringement or misappropriation of the CytoDyn Know-How or the CytoDyn Patents by any Person in the Territory in derogation of the rights granted to Vyera in this Agreement.

(f) To CytoDyn's Knowledge as of the Effective Date and without any additional independent investigation by its outside patent counsel other than such freedom to operate analysis as have previously been performed and shared with CytoDyn, the Commercialization of the Licensed Product in the Field in the Territory will not infringe or misappropriate the Patents or other intellectual property or proprietary rights of any Third Party in the Territory.

(g) The CytoDyn Patents that are owned by CytoDyn have been filed and maintained properly and correctly and are being diligently prosecuted in the U.S. Patent Office in accordance with Applicable Law. All applicable fees related to the filing or maintenance of the CytoDyn Patents have been paid on or before the due date for payment.

(h) All current and former officers, employees, agents, advisors, consultants, contractors or other representatives of CytoDyn or any of its Affiliates who are inventors of or have otherwise contributed in a material manner to the creation or development of any CytoDyn Know-How or the CytoDyn Patents, that in each case, is owned by CytoDyn, have executed and delivered to CytoDyn or any such Affiliate an assignment or other agreement regarding the protection of proprietary Confidential Information and the assignment to CytoDyn or any such Affiliate of any CytoDyn Know-How and the CytoDyn Patents, the current form of which has been made available for review by Vyera. To CytoDyn's Knowledge, no current officer, employee, agent, advisor, consultant or other representative of CytoDyn or any of its Affiliates is in violation of any term of any assignment or other agreement regarding the protection of CytoDyn Patents or CytoDyn Know-How or of any employment contract or any other contractual obligation relating to the relationship of any such Person with CytoDyn or any such Affiliate.

(i) CytoDyn has used Commercially Reasonable Efforts to maintain the confidentiality of the CytoDynKnow-How. To CytoDyn's Knowledge and without any additional independent investigation by CytoDyn, no breach of such confidentiality has been committed by any Third Party.

(j) To the extent permissible under Applicable Law, all employees of CytoDyn or its Affiliates performing activities under this Agreement are and shall be under an obligation to assign all right, title and interest in and to their Inventions and other Know-How, whether or not patentable, and intellectual property rights therein, to CytoDyn or its Affiliate(s) as the sole owner thereof. Vyera shall have no obligation to contribute to any remuneration of any inventor employed or previously employed by CytoDyn or any of its Affiliates in respect of any such Inventions and other Know-How and intellectual property rights therein that are so assigned to CytoDyn or its Affiliate(s). CytoDyn will be responsible for any payments to all such remuneration due to such inventors with respect to such Inventions and other Know-How and intellectual property rights therein.

(k) There are no material claims, judgments or settlements against, or material amounts with respect thereto owed by, CytoDyn, or any of its Affiliates relating to the CytoDyn Know-How and the CytoDyn Patents. No claim or litigation has been brought or, to CytoDyn's Knowledge, threatened by any Person alleging, and CytoDyn has no Knowledge of any claim, whether or not asserted, that (i) any of the CytoDyn Patents is invalid or unenforceable, or (ii) the CytoDyn Know-How and the CytoDyn Patents, or the disclosing, copying, making, assigning, or licensing of the CytoDyn Know-How and the CytoDyn Patents, violates, infringes, or otherwise conflicts or interferes with, or would violate, infringe, or otherwise conflict or interfere with, any intellectual property or proprietary right of any Person.

(l) Neither CytoDyn nor any of its Affiliates has previously entered into any agreement, whether written or oral, with respect to, or otherwise assigned, transferred, licensed, conveyed, or otherwise encumbered its right, title, or interest in or to CytoDyn Know-How and the CytoDyn Patents (including by granting any covenant not to sue with respect thereto) or any Patent or other intellectual property or proprietary right that would be

CytoDyn Know-How and the CytoDyn Patents but for such assignment, transfer, license, conveyance, or encumbrance, and it will not enter into any such agreements or grant any such right, title, or interest to any Person that is inconsistent with the rights and non-exclusive licenses granted to Vyera under this Agreement.

(m) Neither CytoDyn nor any of its Affiliates, nor any of its or their respective officers, employees, agents, advisors, consultants or other representatives has made an untrue statement of material fact or fraudulent statement to the FDA or any other Regulatory Authority with respect to the Development or Commercialization of the Licensed Product, failed to disclose a material fact required to be disclosed to the FDA or any other Regulatory Authority with respect to the Development or Commercialization of the Licensed Product, or committed an act, made a statement, or failed to make a statement with respect to the Development or Commercialization of the Licensed Product that could reasonably be expected to provide a basis for the FDA to invoke its policy respecting "Fraud, Untrue Statements of Material Facts, Bribery, and Illegal Gratuities", set forth in 56 Fed. Reg. 46191 (September 10, 1991).

(n) CytoDyn and its Affiliates have conducted, and their respective contractors and consultants have conducted prior to the Effective Date, and shall thereafter during the Term continue to conduct, all Development of the Licensed Product in material compliance with Applicable Law. CytoDyn has conducted, and has caused its contractors and consultants to conduct, any and all pre-clinical and clinical studies related to the Licensed Product in material compliance with Applicable Law

(o) CytoDyn [***]

(p) CytoDyn has not breached in any material respect any agreements with any Third Party relating to the Licensed Product.

9.3 Additional Representations and Warranties of Vyera. Vyera represents and warrants as of the Effective Date and hereinafter covenants to CytoDyn that:

(a) To the extent permissible under Applicable Law, all employees, agents, advisors, consultants or contractors of Vyera or its Affiliates performing activities under this Agreement are and shall be under an obligation to assign all right, title and interest in and to any Inventions, whether or not patentable, and intellectual property rights therein, to Vyera or its Affiliate(s) as the sole owner thereof. CytoDyn shall have no obligation to contribute to any remuneration of any inventor employed or previously employed by Vyera or any of its Affiliates in respect of any such Inventions, Know-How and intellectual property rights therein that are so assigned to Vyera or its Affiliate(s). Vyera will pay all such remuneration due to such inventors with respect to such Inventions.

(b) Vyera has the financial capacity to meet its obligations under this Agreement, including, without limitation, the payment of the amounts due under Article 8 and the investments required under the Minimum Requirements.

(c) Neither Vyera, nor any of its Affiliates shall directly or indirectly, challenge, or assist any Third Party to dispute or challenge, in a legal or administrative proceeding the patentability, enforceability or validity of any CytoDyn Patents.

(d) Vyera will conduct all Commercialization activities in material compliance with all Applicable Laws.

(e) There is no pending, completed or, to Vyera's Knowledge, threatened, action (including any lawsuit, arbitration, or legal or administrative or regulatory proceeding, charge, complaint, or investigation) against Vyera or any of its Affiliates that would reasonably be expected to have a material adverse effect on Vyera's ability to meet its obligations under this Agreement. None of Vyera or any of its Affiliates have received any notice, warning letter or other communication from the FDA or any other governmental entity, which (i) contests the premarket clearance, licensure, registration, or approval of, the uses of, the distribution of, the manufacturing or packaging of, the testing of, the sale of, or the labeling and promotion of any pharmaceutical product, (ii) enters or proposes to enter into a consent decree with Vyera or any of its Affiliates, (iii) enjoins or prohibits Vyera or any of its Affiliates from undertaking Commercialization activities, or (iv) otherwise alleges any material violation of any Applicable Laws by Vyera or any of its Affiliates. The properties, business and operations of Vyera have been and are being conducted in all material respects in accordance with all Applicable Laws.

(f) **Financial Statements**. The Financial Statements provided by Vyera to CytoDyn were prepared in accordance with GAAP, applied on a consistent basis for all periods presented, unless listed otherwise in the notes to its Financial Statements. The Financial Statements accurately list and fairly present, in all material respects, the financial condition and operating results of Vyera's direct parent entity as of the date of the statements, and for the periods indicated in the statements, subject to normal year-end audit adjustments. As of October 21, 2019, Vyera had at least $23,613,459 in cash on hand.

9.4 No Other Representations or Warranties. EXCEPT AS EXPRESSLY SET FORTH IN THIS ARTICLE 9 AND SECTION 2.6 AND SECTION 14.11, NEITHER PARTY MAKES ANY REPRESENTATIONS OR WARRANTIES OF ANY KIND WHATSOEVER, EITHER EXPRESS OR IMPLIED, WRITTEN OR ORAL, EITHER IN FACT OR BY OPERATION OF LAW, BY STATUTE OR OTHERWISE, AND EACH PARTY SPECIFICALLY DISCLAIMS ANY OTHER WARRANTIES, INCLUDING ANY EXPRESS OR IMPLIED WARRANTY OF QUALITY, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR WARRANTY OF NON-INFRINGEMENT OR AS TO THE VALIDITY OF ANY PATENTS.

ARTICLE 10
CONFIDENTIALITY

10.1 Nondisclosure. Each Party agrees that, during the Term and for a period of ten (10) years thereafter, a Party (the "**Receiving Party**") receiving Confidential Information of the other Party (the "**Disclosing Party**") shall: (a) maintain in confidence such Confidential Information using not less than the efforts such Receiving Party uses to maintain in confidence its own confidential or proprietary information of similar kind and value; (b) not disclose such Confidential Information to any Third Party without the prior written consent of the Disclosing Party, except for disclosures expressly permitted below; and (c) not use such Confidential Information for any purpose except those permitted by this Agreement (it being understood that this Section 10.1 shall not create or imply any rights or licenses not expressly granted under this Agreement). Notwithstanding anything to the contrary in this Agreement, the obligations of confidentiality and non-use with respect to any Know-How or trade secret within such Confidential Information shall survive such ten (10) year period for so long as such Confidential Information remains Know-How and/or protected as a trade secret under Applicable Law.

10.2 Exceptions. The obligations in Section 10.1 shall not apply with respect to any portion of the Confidential Information to the extent that the Receiving Party can show by competent evidence:

(a) is publicly disclosed by the Disclosing Party, either before or after it is disclosed to the Receiving Party hereunder;

(b) is known to the Receiving Party or any of its Affiliates, without any obligation to keep it confidential or any restriction on its use, prior to disclosure by the Disclosing Party;

(c) is subsequently disclosed to the Receiving Party or any of its Affiliates on anon-confidential basis by a Third Party that, to the Receiving Party's knowledge, is not bound by a similar duty of confidentiality or restriction on its use;

(d) is now, or hereafter becomes, through no act or failure to act on the part of the Receiving Party or any of its Affiliates, generally known or available, either before or after it is disclosed to the Receiving Party;

(e) is independently discovered or developed by or on behalf of the Receiving Party or any of its Affiliates without the application or use of Confidential Information belonging to the Disclosing Party; or

(f) is the subject of written permission to disclose provided by the Disclosing Party.

10.3 Authorized Disclosure. The Receiving Party may disclose Confidential Information belonging to the Disclosing Party, provided that any such disclosure shall be made only to the extent such disclosure is reasonably necessary, and that, other than in the instances of clauses (c) and (d) below (and with respect to (c) and (d) below, only to the extent required as set forth in an opinion of counsel), such disclosure of Confidential Information by Vyera shall not include CytoDyn trade secrets, or non-public Regulatory Approval, Regulatory Documentation, and Regulatory Materials, or CytoDyn Know-How absent the advance express written approval from CytoDyn, and in the following instances:

(a) filing or prosecuting Patents as permitted by this Agreement; however, CytoDyn may not disclose any Vyera Confidential Information as it relates to a Licensed Product;

(b) preparing and submitting Regulatory Materials and obtaining and maintaining Regulatory Approvals for Licensed Products;

(c) prosecuting or defending litigation, including responding to a subpoena in a Third Party litigation;

(d) complying with Applicable Law or court or administrative orders;

(e) in communications with existing or bona fide prospective acquirers, merger partners, lenders or investors, and consultants and advisors of the Receiving Party in connection with transactions or bona fide prospective transactions with the foregoing, in each case on a "need-to-know" basis and under appropriate confidentiality provisions substantially similar to those of this Agreement (provided that the term of such confidentiality obligations in such other agreement may only extend for five (5) years); and

(f) to its Affiliates, (with respect to CytoDyn only) sublicensees or prospective sublicensees, subcontractors or prospective subcontractors, consultants, agents and advisors on a "need-to-know" basis in order for the Receiving Party to exercise its rights or fulfill its obligations under this Agreement, each of whom prior to disclosure must be bound by obligations of confidentiality and restrictions on use of such Confidential Information that are substantially similar to those set forth in this Article 10 (provided that the term of such confidentiality obligations in such other agreement may only extend for five (5) years); provided, however, that, the Receiving Party shall remain responsible for any failure by any Person who receives Confidential Information pursuant to Section 10.3(e) or this Section 10.3(f) to treat such Confidential Information as required under this Article 10.

(g) If and whenever any Confidential Information is disclosed in accordance with this Section 10.3, such disclosure shall not cause any such information to cease to be Confidential Information except to the extent that such disclosure results in a public disclosure of such information (other than by breach of this Agreement). Notwithstanding the foregoing, in the event a Party is required to make a disclosure of the other Party's Confidential Information pursuant to clauses (a) through (e) of this Section 10.3, it will, except where impracticable or prohibited by Applicable Law, give reasonable advance notice to the other Party of such disclosure and use not less than the same efforts to secure confidential treatment of such information as it would to protect its own confidential information from disclosure. Each Receiving Party shall notify the Disclosing Party promptly on discovery of any unauthorized use or disclosure of the Disclosing Party's Confidential Information by the Receiving Party or any of its Affiliates, agents or representatives.

10.4 Terms of this Agreement. The Parties acknowledge that this Agreement and all of the respective terms of this Agreement shall be treated as Confidential Information of both Parties subject to the provisions of Sections 10.3, 10.5 and 10.6.

10.5 Publicity. Each Party agrees not to issue any press release or other public statement disclosing information relating to this Agreement or the transactions contemplated hereby that contains information not previously publicly disclosed in accordance with this Section 10.5 without the prior written consent of the other Party, such consent not to be unreasonably withheld, delayed or conditioned.

10.6 Securities Filings. Notwithstanding anything to the contrary in this Article 10, in the event either Party proposes to file with the Securities and Exchange Commission or the securities regulators of any state or other jurisdiction a registration statement or any other disclosure document that describes or refers to the terms and conditions of this Agreement or any related agreements between the Parties, or requires the filing of this Agreement as an exhibit to such registration, statement or disclosure document, such Party shall notify the other Party of such intention and shall provide the other Party with a copy of relevant portions of the proposed filing at least ten (10) Business Days prior to such filing (and any revisions to such portions of the proposed filing at a reasonable time prior to the filing thereof), including any exhibits thereto that refer to the other Party or the terms and conditions of this Agreement or any related Agreements between the Parties. The Party making such filing shall cooperate in good faith with the other Party to obtain confidential treatment of the terms and conditions of this Agreement or any related Agreements between the Parties that the other Party reasonably requests be kept confidential or otherwise afforded confidential treatment, and shall only disclose Confidential Information that it is reasonably advised by outside counsel is legally required to be disclosed. Each Party acknowledges that the other Party may be required by securities regulators, including the Securities and Exchange Commission, or advised by such other Party's outside counsel that the financial terms, including the milestone amounts and/or royalty rates must be included in such filings. No such notice shall be required if the description of or reference to this Agreement or a related agreement between the Parties contained in the proposed filing has been included in any previous filing made by either Party in accordance with this Section 10.6 or otherwise approved by the other Party.

10.7 Equitable Relief. Given the nature of the Confidential Information and the competitive damage that could result to a Party upon unauthorized disclosure, use or transfer of its Confidential Information to any Third Party, the Parties agree that monetary damages may not be a sufficient remedy for any breach of this Article 10. In addition to all other remedies, a Party shall be entitled to seek specific performance and injunctive and other equitable relief as a remedy for any breach or threatened breach of this Article 10.

10.8 Publications. CytoDyn, in its sole discretion, may publish results of allnon-clinical studies conducted with respect to any Licensed Product and in its reasonable discretion may publish Clinical Trials conducted with respect to any Licensed Product; provided that the results of CytoDyn's Phase III Clinical Trial with respect to the Licensed Product in the Initial Indication meets all legal and industry standards for publication, CytoDyn shall publish such results on the clinicaltrials.gov website and CytoDyn shall provide Vyera with notification of any such publications. Should Vyera propose to make any publication relating to the Licensed Product, CytoDyn shall have the right to review all proposed publications prior to submission of such publication. Vyera shall provide CytoDyn with a copy of the applicable proposed abstract, manuscript, or presentation no less than thirty (30) days (fifteen (15) days in the case of abstracts) prior to its intended submission for publication. CytoDyn shall respond in writing promptly and in no event later than thirty (30) days (fifteen (15) days in the case of abstracts) after receipt of the proposed material with any concerns regarding patentability or protection of any Confidential Information or other comments that it may have. In the event of concern over patent protection of any intellectual property right, Vyera agrees not to submit such publication or to make such presentation that contains such information until CytoDyn is given a reasonable period of time, and in no event more than sixty (60) days, to seek patent protection in accordance with the terms of this Agreement, for any material in such publication or presentation which it believes is patentable. Subject to Section 10.3, any Confidential Information shall, if requested by CytoDyn, be removed by Vyera. Vyera will reasonably consider other comments made by CytoDyn.

ARTICLE 11
TERM AND TERMINATION

11.1 Term. The term of this Agreement ("**Term**") shall commence upon the Effective Date and, unless earlier terminated pursuant to this Article 11, shall expire on the last day of the Royalty Term. Upon the expiration of the Royalty Term, the license granted to Vyera under Section 2.1 of this Agreement shall become non-exclusive, fully-paid, royalty free, perpetual and irrevocable. Notwithstanding the foregoing, if Vyera exercises the Continuation Right (as defined in the Supply Agreement), then Vyera shall continue to purchase Licensed Product from CytoDyn pursuant to the Supply Agreement and shall pay CytoDyn for such Licensed Product the price specified in the Supply Agreement and a royalty equal to [***], provided that after the exercise of the Continuation Right, CytoDyn will not be obligated to supply Licensed Product exclusively to Vyera in the Field in the Territory.

11.2 Unilateral Termination by Vyera. Vyera shall have the right to terminate this Agreement in its entirety:

(a) on or after the second (2nd) anniversary of the Effective Date, upon written notice to CytoDyn in the event the approval by the FDA of the BLA for the Licensed Product for the Manufacture and sale of the Licensed Product in the U.S. for the Initial Indication has not been received by such second (2nd) anniversary; provided, however, that in the event of a delay that would reasonably be expected to result in the receipt of BLA approval on or after such second (2nd) anniversary, then Vyera may terminate this Agreement pursuant to this Section 11.2(a) prior to the second (2nd) anniversary upon [***] notice to CytoDyn;

(b) following the occurrence of a Commercial Failure, upon [***] written notice to CytoDyn; provided, however, that Vyera's right to terminate this Agreement pursuant to this Section 11.2(b) shall only be exercisable during the [***] period following the date when sales data with respect to a Commercial Failure becomes available to Vyera; and

(c) at any time following the second (2nd) anniversary of the First Commercial Sale of the Licensed Product, for any reason or no reason, upon one hundred eighty (180) days' written notice to CytoDyn.

11.3 Unilateral Termination by CytoDyn. CytoDyn shall have the right to terminate this Agreement in its entirety upon written notice to Vyera on the occurrence of any of the following:

(a) Vyera or any of its Affiliates directly or indirectly, challenges, disputes, or assists any Third Party to dispute or challenge, in a legal or administrative proceeding the patentability, enforceability or validity of any CytoDyn Patents;

(b) Vyera fails to make a First Commercial Sale within sixty (60) days following the later of (i) the date Regulatory Approval is obtained and (ii) the date CytoDyn supplies (or is ready to supply) Vyera with the Licensed Product for sale pursuant to the Supply Agreement (the "**Supply Date**");

(c) Vyera breaches its obligations or covenants under Section 2.6 (Competitive Products);

(d) Upon [***] written notice, in the event Vyera fails to meet any of the Minimum Requirements and has not cured such failure, to the extent curable, within such notice period; or

(e) Vyera fails to make the Equity Investment within seven (7) days of the Effective Date, as required by Section 8.13.

CytoDyn's right to terminate this Agreement pursuant to this Section 11.3 must be exercised within [***] following the occurrence of the applicable event or circumstance under the immediately preceding clauses (a)-(d) giving rise to CytoDyn's right to terminate this Agreement.

11.4 Termination for Material Breach. Either Party (the "**Non-Breaching Party**") may terminate this Agreement in the event the other Party (the "**Breaching Party**") commits a material breach of this Agreement, and such material breach (excluding breaches of payment obligations) has not been cured within [***] after receipt of written notice of such breach by the Breaching Party from the Non-Breaching Party (the "**Cure Period**"). The Cure Period shall be [***] after receipt of written notice of such breach by the Breaching Party from the Non-Breaching Party for breaches of payment obligations (except with respect to Section 8.13, which is covered by Section 11.3(d) above). The written notice describing the alleged material breach shall provide sufficient detail to put the Breaching Party on notice of such material breach. Any termination of this Agreement pursuant to this Section 11.4 shall become effective at the end of the Cure Period, unless the Breaching Party has cured any such material breach prior to the expiration of such Cure Period, or, if such material breach is not reasonably susceptible to cure within the Cure Period, then, the Non-Breaching Party's right of termination shall be suspended only if, and for so long as, the Breaching Party has provided to the Non-Breaching Party a written plan that is reasonably calculated to effect a cure of such material breach, such plan is accepted by the Non-Breaching Party (such acceptance not to be unreasonably withheld, delayed or conditioned), and the Breaching Party commits to and carries out such plan as provided to the Non-Breaching Party. The right of either Party to terminate this Agreement as provided in this Section 11.4 shall not be affected in any way by such Party's waiver of or failure to take action with respect to any previous breach under this Agreement.

11.5 Termination for Safety Concerns. Either Party shall have the right to terminate this Agreement upon written notice to the other Party upon the occurrence of Serious Adverse Events related to the use of the Licensed Product that causes such Party to conclude based upon specific and verifiable information that the Licensed Product is unsafe for human use.

11.6 Termination for Bankruptcy.

(a) Either Party may terminate this Agreement in its entirety upon providing written notice to the other Party on or after the time that such other Party makes a general assignment for the benefit of creditors, files an insolvency petition in bankruptcy, petitions for or acquiesces in the appointment of any receiver, trustee or similar officer to liquidate or conserve its business or any substantial part of its assets, commences under the laws of any jurisdiction any proceeding involving its insolvency, bankruptcy, reorganization, adjustment of debt, dissolution, liquidation or any other similar proceeding for the release of financially distressed debtors, or becomes a party to any proceeding or action of the type described above, and such proceeding or action remains un-dismissed or un-stayed for a period of more than [***].

(b) All rights and licenses granted under or pursuant to this Agreement are, and shall otherwise be deemed to be, for purposes of Section 365(n) of Title 11 of the U.S. Code and other similar laws in any jurisdiction outside the U.S. (collectively, the "**Bankruptcy Laws**"), licenses of rights to "intellectual property" as defined under the Bankruptcy Laws. If a case is commenced during the Term by or against a Party under Bankruptcy Laws then, unless and until this Agreement is rejected as provided pursuant to such Bankruptcy Laws, such Party (in any capacity, including debtor-in-possession) and its successors and assigns (including a Title 11 trustee) shall perform all of the obligations in this Agreement intended to be performed by such Party. If a case is commenced during the Term by or against a Party under the Bankruptcy Laws, this Agreement is rejected as provided for under the Bankruptcy Laws, and the non-bankrupt Party elects to retain its rights hereunder as provided for under the Bankruptcy Laws, then the Party subject to such case under the Bankruptcy Laws (in any capacity, including debtor-in-possession) and its successors and assigns (including a Title 11 trustee), shall continue to provide whatever rights held by and granted to the non-bankrupt Party with respect to and as licensee of the Patents and Know How licensed hereunder as such rights existed hereunder immediately before the commencement of the case under the Bankruptcy Laws. All rights, powers and remedies of the non-bankrupt Party as provided herein are in addition to and not in substitution for any and all other rights, powers and remedies now or hereafter existing at law or in equity (including the Bankruptcy Laws) in the event of the commencement of a case by or against a Party under the Bankruptcy Laws.

11.7 Effects of Termination. All of the following effects of termination are in addition to the other rights and remedies that may be available to either of the Parties under this Agreement and shall not be construed to limit any such rights or remedies. In the event of termination of this Agreement by either Party:

(a) Without limiting the effect that such termination shall have on any provisions of this Agreement, other than those provisions that this Agreement expressly provides shall survive such termination, all rights and licenses granted herein with respect to the Licensed Product shall terminate, and Vyera shall cease any and all Commercialization activities

with respect to the Licensed Product as soon as is reasonably practicable under Applicable Law; provided that such licenses shall continue as necessary for the Parties to complete the orderly wind-down of their activities under this Agreement in accordance with Applicable Law and on a schedule mutually agreed by the Parties;

(b) All payment obligations hereunder with respect to the Licensed Product shall terminate, other than those that are accrued and unpaid as of the effective date of such termination and those due in respect of sales pursuant to Section 11.7(d);

(c) each Receiving Party shall, in accordance with the Disclosing Party's request, either return to the Disclosing Party or certify in writing to the Disclosing Party that it has destroyed all documents and other tangible items containing the Confidential Information of the Disclosing Party; provided, that a Receiving Party shall be permitted to retain one copy of such materials in its legal files to be used to verify compliance with its obligations hereunder and as otherwise required to comply with Applicable Law or such Party's bona fide document retention policy;

(d) Vyera shall have the right to sell or otherwise dispose of any inventory of any Licensed Product on hand at the time of such termination or in the process of manufacturing provided that, Vyera shall be responsible for the payment of all obligations under Article 8 with respect to any sales of Licensed Product that occur during the subject wind-down period (including, without limitation, all royalties and milestones that may be triggered); and

(e) In the event of a termination by Vyera under Section 11.2, the following terms shall apply:

(i) at CytoDyn's request, the Parties will negotiate in good faith a transition services agreement (the "**Transition Services Agreement**"), under which Vyera will provide certain Commercialization services to CytoDyn in connection with CytoDyn efforts to Commercialize the Licensed Product in the Field in the Territory;

(ii) the services to be provided by Vyera pursuant to the Transition Services Agreement (the "**Transition Services**") will be negotiated in good faith taking into account (A) the activities undertaken by Vyera in connection with the Commercialization of Licensed Product during the Term and (B) Vyera's then-existing resources and capabilities (it being understood and agreed that Vyera shall not (x) be required to hire any new employees or enter into any new agreements with Third Parties in order to provide the Transition Services or (y) terminate any employee or agreement the primary purpose of which is to circumvent its obligations to provide the Transition Services);

(iii) the Transition Services Agreement will require Vyera to provide Transition Services for a period of up to six (6) months from the effective date of termination; provided that CytoDyn will have the ability to terminate Transition Services on aservice-by-service basis as they are transitioned; and

(iv) Transition Services will be reimbursed at Vyera's actual cost plus ten percent (10%) by CytoDyn.

(v) At CytoDyn's reasonable request and subject to the terms of the applicable agreement, Vyera will use its reasonable best efforts to assign to CytoDyn any Third Party agreements that relate to the Transition Services matters solely for Licensed Product in the Territory in the Field.

(vi) Notwithstanding anything to the contrary set forth in this Section 11.7, neither Party shall be required to return Confidential Information or other tangible items or documents to the other which are useful to the performance or receipt of the Transition Services until after the expiration or termination of the Transition Services Agreement.

11.8 Remedies. Notwithstanding anything to the contrary in this Agreement, except as otherwise explicitly set forth in this Agreement, termination or expiration of this Agreement shall not relieve the Parties of any Liability or obligation which accrued hereunder prior to the effective date of such termination or expiration, nor prejudice either Party's right to obtain performance of any obligation. Each Party shall be free, pursuant to Article 12, to seek, without restriction as to the number of times it may seek, damages, costs and remedies that may be available to it under Applicable Law or in equity and shall be entitled to offset the amount of any damages and costs obtained against the other Party in a final determination under Section 12.3, against any amounts otherwise due to such other Party under this Agreement.

11.9 Survival. In the event of the expiration or termination of this Agreement (including the expiration of the Royalty Term under circumstances in which the Parties maintain a supply relationship in accordance with the Supply Agreement), in addition to the provisions of this Agreement that continue in effect in accordance with their terms, the following provisions of this Agreement shall survive: Article 1, 10, 12 and 13, and Sections 2.2, 2.3(a), 2.5(a), 3.4, 5.4(a), 8.6 (last sentence only), 8.8, 8.10, 8.11, 8.12, 9.4, 11.1 (last two sentences only), 11.6, 11.7, 11.8, 11.9, 14.1-14.2, 14.4-14.5, 14.7-14.8, and 14.10-14.13.

ARTICLE 12
DISPUTE RESOLUTION

12.1 Exclusive Dispute Resolution Mechanism. The Parties agree that the procedures set forth in this Article 12 shall be the exclusive mechanism for resolving any dispute, controversy, or claim between the Parties that may arise from time to time pursuant to this Agreement relating to either Party's rights or obligations hereunder (each, a "**Dispute**", and collectively, the "**Disputes**") that is not resolved through good faith negotiation between the Parties.

12.2 Resolution by Executive Officers. Except as otherwise provided in this Section 12.2, in the event of any Dispute, regarding the construction or interpretation of this Agreement, or the rights, duties or Liabilities of either Party hereunder, the Parties shall first attempt in good faith to resolve such Dispute by negotiation and consultation between themselves. In the event that such Dispute is not resolved on an informal basis within ten (10) Business Days, either Party may, by written notice to the other Party, refer the Dispute to a senior executive officer (or his/her delegate) of the other Party for attempted resolution by good faith negotiation within thirty (30) days after such notice is received. Each Party may, in its sole discretion, seek resolution of any Dispute that are not resolved under this Section 12.2 in accordance with Section 12.3; provided that if the Dispute is a Reserved Dispute it shall be resolved in accordance with Section 12.4.

12.3 Arbitration.

(a) Any unresolved Dispute which was subject to Section 12.2 and is not a Reserved Dispute, shall be finally resolved by binding arbitration in accordance with the Commercial Arbitration Rules and Supplementary Procedures for Large Complex Disputes of the American Arbitration Association ("**AAA**") and otherwise as set forth in this Section 12.3, and judgment on the arbitration award may be entered in any court having jurisdiction thereof.

(b) If a Party intends to begin an arbitration to resolve a dispute arising under this Agreement after the provisions of Section 12.2 have been exhausted, such Party shall provide written notice (the "**Arbitration Request**") to the other Party of such intention and the issues for resolution. From the date of the Arbitration Request and until such time as the dispute has become finally settled, the running of the time periods as to which a Party must cure a breach of this Agreement becomes suspended as to the subject matter of the dispute. Unless the Parties otherwise agree in writing, during the period of time that any arbitration proceeding is pending under this Agreement, the Parties shall continue to comply with all those terms and provisions of this Agreement that are not the subject of the pending arbitration proceeding.

(c) Within ten (10) Business Days after the receipt of the Arbitration Request, the other Party may, by written notice, add additional issues for resolution; provided, that such issues have been subject to Section 12.2 and relate directly to the matter that is the subject of the applicable Arbitration Request.

(d) The arbitration shall be conducted by one arbitrator selected in accordance with the AAA Commercial Arbitration Rules and Supplementary Procedures for Large Complex Disputes as modified below, unless the matter in dispute has a value of at least $50,000,000 and either Party wishes to have the arbitration conducted by a panel of three (3) arbitrators. The arbitrator(s) shall be experienced in the subject matter of the Arbitration Request as it applies to the biotechnology or pharmaceutical business. The Parties shall cooperate to attempt to select the arbitrator(s) by agreement within twenty (20) days of the initiation of arbitration. If agreement cannot be reached within such twenty (20) days, then that AAA will submit a list of twenty (20) qualified arbitrators from which each Party shall strike unacceptable entries; provided that each Party shall not strike more than thirty-five percent (35%) of the names without cause, and rank the remaining names. The AAA shall appoint the arbitrator(s) with the highest combined ranking(s). If these procedures fail to result in selection of the required number of arbitrators, the AAA shall appoint the arbitrator(s), allowing each side challenges for cause. The arbitration shall be held in New York, New York and all proceedings and communications shall be conducted in English. The Parties shall each use their best efforts to have the arbitration hearing held as soon as practicable and in any event within sixty (60) days after the selection of the arbitrator(s). At least five (5) Business Days prior to the arbitration hearing, each Party shall submit to the other Party and the arbitrator(s) a copy of all exhibits on which such Party intends to rely at the hearing, a pre-hearing brief (up to twenty (20) pages), and a proposed ruling (up to five (5) pages). The proposed ruling shall be limited to proposed rulings and remedies on each issue, and shall contain no argument on or analysis of the facts or issues. Within five (5) Business Days after close of the hearing, each Party may submit a post-hearing brief (up to five (5) pages) to the arbitrator(s).

(e) Either Party may apply first to the arbitrator(s) for interim injunctive relief until the arbitration decision is rendered or the arbitration matter is otherwise resolved; provided, that if such Party determines that such injunctive relief cannot be awarded in a timeframe adequate to protect such Party's interests, then a Party may, without waiving any right or remedy under this Agreement, seek from any court having jurisdiction any injunctive or provisional relief necessary to protect the rights or property of that Party pending resolution of the arbitration matter pursuant to this Section 12.3. The arbitrators shall have no

authority to award punitive or any other type of damages not measured by a Party's compensatory damages. The Parties further agree that the decision of the arbitrators shall be the sole, exclusive and binding remedy between them regarding determination of arbitration matters presented.

(f) The Parties hereby agree that any disputed performance or suspended performance pending the resolution of an arbitration matter that the arbitrators determine to be required to be performed by a Party must be completed within a reasonable time period following the final decision of the arbitrators.

(g) Each Party shall bear its own attorneys' fees, costs, and disbursements arising out of the arbitration, and shall pay an equal share of the fees and costs of the arbitrators; provided, however, that the arbitrators shall be authorized to determine whether a Party is the prevailing Party, and if so, to award to that prevailing Party reimbursement for its reasonable attorneys' fees, costs and disbursements (including, for example, expert witness fees and expenses, photocopy charges and travel expenses), and/or the fees and costs of the arbitrators.

(h) Except to the extent necessary to confirm an award or decision or as may be required by Applicable Laws, neither a Party nor an arbitrator may disclose the existence, content, or results of an arbitration without the prior written consent of both Parties.

(i) By agreeing to this binding arbitration provision, the Parties understand that they are waiving certain rights and protections which may otherwise be available if a dispute between the Parties were determined by litigation in court, including the right to seek or obtain certain types of damages precluded by this provision, the right to a jury trial, certain rights of appeal, and a right to invoke formal rules of procedure and evidence.

12.4 Reserved Disputes. Certain disputes that are specifically defined below shall be finally decided by the executive officer of one of the Parties ("**Reserved Disputes**"). In such cases, the executive officer of that Party shall make his or her decision with regard to the Reserved Dispute within twenty (20) days of its referral and such decision shall be final and binding and shall not be subject to Section 12.3. Reserved Disputes shall not include disputes with respect to the interpretation, breach, termination or invalidity of this Agreement. [***]

12.5 Preliminary Injunctions. Notwithstanding anything in this Agreement to the contrary, a Party may seek a temporary restraining order or a preliminary injunction from any court of competent jurisdiction in order to prevent immediate and irreparable injury, loss, or damage on a provisional basis.

12.6 Patent and Trademark Disputes. Notwithstanding anything in this Article 12 or Section 14.2 of this Agreement to the contrary, as between the Parties, and pursuant to Section 9.3(c) (with respect to matters subject to Section 9.3(c)), any and all issues regarding the scope, construction, validity, and enforceability of any Patent or trademark relating to a Licensed Product that is the subject of this Agreement shall be determined in a court or other tribunal, as the case may be, of competent jurisdiction under applicable Federal patent or trademark laws.

12.7 Tolling. During the pendency of any Dispute resolution proceeding between the Parties under this Article 12, the obligation to make any payment under this Agreement from one Party to the other Party, which payment is the subject, in whole or in part, of a proceeding under this Article 12, shall be tolled until the final outcome of such Dispute has been established. Any undisputed payment obligations (including undisputed portions of a payment obligation that is subject to a proceeding under this Article 12) shall not be tolled during such Dispute.

12.8 Confidentiality. Any and all activities conducted under this Article 12, including any and all proceedings and decisions hereunder, shall be deemed Confidential Information of each of the Parties, and shall be subject to Article 10.

12.9 WAIVER OF RIGHT TO JURY TRIAL. In connection with the Parties' rights under this Article 12, EACH PARTY, TO THE EXTENT PERMITTED BY LAW, KNOWINGLY, VOLUNTARILY, AND INTENTIONALLY WAIVES ITS RIGHT TO A TRIAL BY JURY IN ANY ACTION OR OTHER LEGAL PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT AND THE TRANSACTIONS IT CONTEMPLATES. THIS WAIVER APPLIES TO ANY ACTION OR LEGAL PROCEEDING, WHETHER SOUNDING IN CONTRACT, TORT, OR OTHERWISE.

ARTICLE 13
INDEMNIFICATION AND INSURANCE

13.1 Indemnification by Vyera. Vyera hereby agrees to defend, indemnify and hold harmless CytoDyn and its Affiliates, and each of their respective directors, officers, employees, agents and representatives (each, a "**CytoDyn Indemnitee**") from and against any and all claims, suits, actions, demands, liabilities, expenses and/or losses, including reasonable legal expenses and attorneys' fees (collectively, the "**Losses**"), to which any CytoDyn Indemnitee may become subject as a result of any claim, demand, action or other proceeding by any Third Party (each, a "**Claim**") to the extent such Losses arise directly or indirectly out of: (a) the breach by Vyera of any warranty, representation, covenant or agreement made by Vyera in this Agreement; (b) Commercialization activities undertaken by or on behalf of Vyera or its Affiliates; (c) the negligence, gross negligence, illegal conduct or willful misconduct of Vyera or its Affiliate, or any officer, director, employee, agent or representative thereof; except, with respect to each of subsections (a), (b) and (c) above, to the extent such Losses arise directly or indirectly from the negligence, gross negligence, illegal conduct or willful misconduct of any CytoDyn Indemnitee or the breach by CytoDyn of any warranty, representation, covenant or agreement made by CytoDyn in this Agreement.

13.2 Indemnification by CytoDyn. CytoDyn hereby agrees to defend, indemnify and hold harmless Vyera and its Affiliates and each of their respective directors, officers, employees, agents and representatives (each, a "**Vyera Indemnitee**") from and against any and all Losses to which any Vyera Indemnitee may become subject as a result of any Claim to the extent such Losses arise directly or indirectly out of: (a) the breach by CytoDyn of any warranty, representation, covenant or agreement made by CytoDyn in this Agreement; (b) the negligence, gross negligence, illegal conduct, or willful misconduct of CytoDyn or its Affiliate or its licensee (other than Vyera or its Affiliate), or any officer, director, employee, agent or representative thereof; or (c) subject to Section 8.7, the infringement of Third Party Patents or the misappropriation of Third PartyKnow-How by the sale, offer for sale or use of any Licensed Product in the Field in the Territory; except, with respect to each of subsections (a), (b) or (c) above, to the extent such Losses arise directly or indirectly from the negligence, gross negligence, illegal conduct or willful misconduct of any Vyera Indemnitee or the breach by Vyera of any warranty, representation, covenant or agreement made by Vyera in this Agreement.

13.3 Indemnification Procedures.

(a) **Notice**. Promptly after a CytoDyn Indemnitee or a Vyera Indemnitee (each, an '**Indemnitee**") receives notice of a pending or threatened Claim, such Indemnitee shall give written notice of the Claim to the Party from whom the Indemnitee is entitled to receive indemnification pursuant to Sections 13.1 or 13.2, as applicable (the "**Indemnifying Party**"). However, an Indemnitee's delay in providing or failure to provide such notice shall not relieve the Indemnifying Party of its indemnification obligations, except to the extent it can demonstrate actual prejudice due to the delay or lack of notice.

(b) **Defense**. Upon receipt of notice under this Section 13.3 from the Indemnitee, the Indemnifying Party will have the duty to either compromise or defend, at its own expense and by counsel (reasonably satisfactory to Indemnitee) such Claim. The Indemnifying Party will promptly (and in any event not more than twenty (20) days after receipt of the Indemnitee's original notice) notify the Indemnitee in writing that it acknowledges its obligation to indemnify the Indemnitee with respect to the Claim pursuant to this Article 13 and of its intention either to compromise or defend such Claim. Once the Indemnifying Party gives such notice to the Indemnitee, the Indemnifying Party is not liable to the Indemnitee for the fees of other counsel or any other expenses subsequently incurred by the Indemnitee in connection with such defense, other than the Indemnitee's reasonable out of pocket Third Party expenses related to its investigation and cooperation, except as otherwise provided in the next sentence. As to all Claims as to which the Indemnifying Party has assumed control under this Section 13.3(b), the Indemnitee shall have the right to employ separate counsel and to participate in the defense of a Claim (as reasonably directed by the Indemnifying Party) at its own expense; provided, however, that if the Indemnitee shall have reasonably concluded, based upon a written opinion from outside legal counsel, that there is a conflict of interest between the Indemnifying Party and the Indemnitee in the defense of such Claim, in which case the Indemnifying Party shall pay the fees and expenses of one (1) law firm serving as counsel for the Indemnitee in relation to such Third Party Claim.

(c) **Cooperation**. The Indemnitee shall reasonably cooperate with the Indemnifying Party and its legal representatives in the investigation and defense of any Claim. The Indemnifying Party shall keep the Indemnitee informed on a reasonable and timely basis as to the status of such Claim (to the extent the Indemnitee is not participating in the defense of such Claim) and conduct the defense of such Claim in a prudent manner.

(d) **Settlement**. If an Indemnifying Party assumes the defense of a Claim, no compromise or settlement of such Claim may be effected by the Indemnifying Party without the Indemnitee's written consent (such consent not to be unreasonably withheld, delayed or conditioned). Notwithstanding the foregoing, the Indemnitee's consent shall not be required of a settlement where: (i) there is no finding or admission of any violation of law or any violation of the rights of any person and no effect on any other claims that may be made against the Indemnitee; (ii) the sole relief provided is monetary damages that are paid in full by the Indemnifying Party; (iii) the Indemnitee's rights under this Agreement are not adversely affected; and (iv) there is a full release of the Indemnitee from such Claim. If the Indemnifying Party fails to assume defense of a Claim within a reasonable time, the Indemnitee may settle such Claim on such terms as it deems appropriate with the consent of the Indemnifying Party (such consent not to be unreasonably withheld, delayed or conditioned), and the Indemnifying Party shall be obligated to indemnify the Indemnitee for such settlement as provided in this Article 13. It is understood that only Vyera and CytoDyn may claim indemnification under this Agreement (on its own behalf or on behalf of its Indemnitees), and other Indemnitees may not directly claim indemnity under this Agreement.

13.4 Insurance. Each Party, at its own expense, shall maintain comprehensive general liability, product liability and other appropriate insurance for the activities such Party undertakes pursuant to this Agreement, from reputable and financially secure insurance carriers in a form and at levels consistent with sound business practice and adequate in light of its obligations under this Agreement. Each Party shall provide a certificate of insurance (or evidence of self-insurance) evidencing such coverage to the other Party upon request. Such insurance will not create a limit to a Party's liability with respect to its indemnification obligations under this Article 13 or otherwise. This Section 13.4 will survive expiration or termination of this Agreement for the period in which the Licensed Product is being Commercialized by or on behalf of Vyera plus six (6) years. Each Party shall provide the other Party with prompt written notice of any cancellation, non-renewal or material change in such insurance that could materially adversely affect the rights of the other Party hereunder, and shall provide such notice within thirty (30) days after any such cancellation, non-renewal or material change.

13.5 Limitation of Liability. EXCEPT FOR A PARTY'S OBLIGATIONS SET FORTH IN THIS ARTICLE 13, AND ANY BREACH OF ARTICLE 10 (CONFIDENTIALITY), IN NO EVENT WILL EITHER PARTY BE LIABLE TO THE OTHER PARTY (OR THE OTHER PARTY'S AFFILIATES OR SUBLICENSEES) IN CONNECTION WITH THIS AGREEMENT FOR LOST REVENUE, LOST PROFITS, LOST ROYALTIES, LOST SAVINGS, LOSS OF USE, DAMAGE TO GOODWILL, OR ANY CONSEQUENTIAL, INCIDENTAL, SPECIAL, EXEMPLARY, PUNITIVE OR INDIRECT DAMAGES IN CONNECTION WITH THIS AGREEMENT, HOWEVER CAUSED, UNDER ANY THEORY OF LIABILITY, INCLUDING CONTRACT, NEGLIGENCE, OR STRICT LIABILITY, EVEN IF THAT PARTY HAS BEEN PLACED ON NOTICE OF THE POSSIBILITY OF SUCH DAMAGES. FOR CLARITY AND NOTWITHSTANDING THE PROVISIONS OF THE FIRST SENTENCE OF THIS SECTION 13.5, ROYALTIES AND MILESTONES PAYABLE TO CYTODYN IN CONNECTION WITH VYERA'S COMMERCIALIZATION OF LICENSED PRODUCTS IN ACCORDANCE WITH THE TERMS OF THIS AGREEMENT COULD CONSTITUTE DIRECT DAMAGES TO THE EXTENT AWARDED IN ACCORDANCE WITH ARTICLE 12.

ARTICLE 14
MISCELLANEOUS

14.1 Notices. All notices and other communications given or made pursuant hereto shall be in writing and shall be deemed to have been duly given on the date delivered, if delivered personally, or on the next Business Day after being sent by reputable international overnight courier (with delivery tracking provided, signature required and delivery prepaid), in each case, to the Parties at the following addresses, each as may be specified below (or at such other address for a Party as shall be specified by notice given in accordance with this Section 14.1).

If to Vyera:

Vyera Pharmaceuticals, LLC
600 Third Avenue, 10th Floor
New York, NY 10016
Attention: Legal Department
Email: [***]

with a copy to:

Morgan, Lewis & Bockius LLP
101 Park Avenue
New York, NY 10178-0060
Attention: [***]
Email: [***]

If to CytoDyn:

CytoDyn Inc.
1111 Main Street, Suite 660
Vancouver, WA 98660
Attention: Nader Pourhassan, CEO
Email: [***]

with a copy to:

Lowenstein Sandler LLP
One Lowenstein Drive
Roseland, NJ 07068
Attention: [***]
Email: [***]

14.2 Governing Law. This Agreement and all disputes arising out of or related to this Agreement or any breach hereof shall be governed by and construed in accordance with the laws of the State of New York, without giving effect to any choice of law principles that would result in the application of the laws of any other jurisdiction. The United Nations Convention on Contracts for the International Sale of Goods shall not apply to the transactions contemplated by this Agreement

14.3 Designation of Affiliates. Each Party may discharge any obligation and exercise any right hereunder through delegation of its obligations or rights to any of its Affiliates. Each Party hereby guarantees the performance by its Affiliates of such Party's obligations under this Agreement, and shall cause its Affiliates to comply with the provisions of this Agreement in connection with such performance. Any breach by a Party's Affiliate of any of such Party's obligations under this Agreement shall be deemed a breach by such Party, and the other Party may proceed directly against such Party without any obligation to first proceed against such Party's Affiliate.

14.4 Relationship of the Parties. It is expressly agreed that CytoDyn, on the one hand, and Vyera, on the other hand, shall be independent contractors and that the relationship between the two Parties shall not constitute a partnership, joint venture or agency, including for tax purposes. Neither CytoDyn nor Vyera shall have the authority to make any statements, representations or commitments of any kind, or to take any action which shall be binding on the other, without the prior written consent of the other Party to do so. All persons employed by a Party shall be employees of that Party and not of the other Party and all costs and obligations incurred by reason of such employment shall be at the expense of such Party.

14.5 Force Majeure. Both Parties shall be excused from the performance of their obligations under this Agreement to the extent that such performance is prevented by Force Majeure and the nonperforming Party promptly provides notice of the prevention to the other Party. Such excuse shall be continued so long as the condition constituting Force Majeure continues and the nonperforming Party takes reasonable efforts to remove the condition. Notwithstanding the foregoing, a Party shall not be excused from making payments owed hereunder because of a Force Majeure affecting such Party. If a Force Majeure persists for more than [***], then the Parties shall discuss in good faith the modification of the Parties' obligations under this Agreement in order to mitigate the delays caused by such Force Majeure.

14.6 Assignment. Vyera may not assign this Agreement, or any rights or obligations hereunder without the prior written consent of CytoDyn, not to be unreasonably withheld or delayed provided that Vyera may assign this Agreement without CytoDyn's consent to an Affiliate or to a successor to substantially all of the business of Vyera to which this Agreement relates. A Change of Control shall be deemed an assignment for purposes of this Agreement. Any permitted successor or assignee of rights and/or obligations permitted hereunder shall, in writing to the other Party, expressly assume performance of such rights and/or obligations. Any permitted assignment shall be binding on the successors of the assigning Party. Any assignment or attempted assignment by Vyera in violation of the terms of this Section 14.6 shall be null, void and of no legal effect. For clarity, nothing in this Agreement shall prohibit Vyera from undergoing any Change of Control, but if Vyera undergoes a Change of Control, it will be subject to Section 2.6. CytoDyn may assign this Agreement and its rights and obligations hereunder, in whole but not in part, to any Third Party not in a materially worse (financially and otherwise) of performing CytoDyn's obligations hereunder without the prior written consent of Vyera (it being understood that any other assignment of this Agreement or any rights or obligations hereunder shall require the prior written consent of Vyera, not to be unreasonably withheld or delayed).

14.7 Severability. If any one (1) or more of the provisions of this Agreement is held to be invalid or unenforceable by any court of competent jurisdiction from which no appeal can be or is taken, the provision(s) shall be considered severed from this Agreement and shall not serve to invalidate any remaining provisions hereof. The Parties shall make a good faith effort to replace any invalid or unenforceable provision with a valid and enforceable provision such that the objectives contemplated by the Parties when entering this Agreement may be realized.

14.8 Waiver and Non-Exclusion of Remedies. Any term or condition of this Agreement may be waived at any time by the Party that is entitled to the benefit thereof, but no such waiver shall be effective unless set forth in a written instrument duly executed by or on behalf of the Party waiving such term or condition. The waiver by either Party hereto of any right hereunder or of the failure to perform or of a breach by the other Party shall not be deemed a waiver of any other right hereunder or of any other breach or failure by such other Party whether of a similar nature or otherwise. The rights and remedies provided herein are cumulative and do not exclude any other right or remedy provided by Applicable Law or otherwise available except as expressly set forth herein.

14.9 Further Assurance. Each Party shall duly execute and deliver, or cause to be duly executed and delivered, such further instruments and do and cause to be done such further acts and things, including the filing of such assignments, agreements, documents, and instruments, as may be necessary or as the other Party may reasonably request in connection with this Agreement or to carry out more effectively the provisions and purposes hereof.

14.10 Headings. The headings of each Article and Section in this Agreement have been inserted for convenience of reference only and are not intended to limit or expand on the meaning of the language contained in the particular Article or Section.

14.11 Construction. Except where the context otherwise requires, wherever used, the singular shall include the plural, the plural shall include the singular, and the use of any gender shall be applicable to all genders. Whenever this Agreement refers to a number of days without using a term otherwise defined herein, such number refers to calendar days. The terms "including," "include," "includes" or "for example" shall not limit the generality of any description preceding such term and, as used herein, shall have the same meaning as "including, but not limited to," and/or "including, without limitation." The language of this Agreement shall be deemed to be the language mutually chosen by the Parties and no rule of strict construction shall be applied against either Party hereto. Each Party represents that it has been represented by legal counsel in connection with this Agreement and acknowledges that it has participated in the drafting hereof. In interpreting and applying the terms and provisions of this Agreement, the Parties agree that no presumption will apply against the Party which drafted such terms and provision.

14.12 Entire Agreement. This Agreement, including the Attachments hereto, sets forth the complete, final and exclusive agreement and all the covenants, promises, agreements, warranties, representations, conditions and understandings between the Parties hereto with respect to the subject matter hereof and supersedes, as of the Effective Date, all prior and contemporaneous agreements and understandings between the Parties with respect to the subject matter hereof; including the Mutual Confidential Disclosure Agreement between the Parties dated as of January 31, 2019. There are no covenants, promises, agreements, warranties, representations, conditions or understandings, either oral or written, between the Parties other than as are set forth herein and therein. No subsequent alteration, amendment, change or addition to this Agreement shall be binding upon the Parties unless reduced to writing and signed by an authorized officer of each Party. In the event of any inconsistency between the body of this Agreement and either any Attachments to this Agreement or any subsequent agreements ancillary to this Agreement, unless otherwise express stated to the contrary in such Attachment or ancillary agreement, the terms contained in this Agreement shall control.

14.13 Counterparts. This Agreement may be executed in two (2) or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. This Agreement may be executed by .pdf or other electronically transmitted signatures and such signatures shall be deemed to bind each Party hereto as if they were the original signatures.

[Remainder of this page intentionally left blank—signature page follows]

IN WITNESS WHEREOF, the Parties have entered into this Agreement as of the Effective Date.

CYTODYN INC.

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

VYERA PHARMACEUTICALS, LLC

By: /s/ Averill L. Powers
Name: Averill L. Powers
Title: Chief Strategy Officer and General Counsel

Attachment A

CytoDyn Patents

[See attached.]

Attachment B

Development Plan

[See attached.]

Attachment C

Commercialization Plan

[See attached.]

Attachment D

Form of Supply Agreement

[See attached.]

Attachment E

Form of Subscription Agreement

[See attached.]

Attachment F

Form of Warrant Agreement

[See attached.]

Certain identified information has been excluded because it is both not material and would likely cause competitive harm if publicly disclosed.

SUPPLY AGREEMENT

This Supply Agreement (this "**Agreement**") is made effective as of December 17, 2019 (the "**Effective Date**") by and between Vyera Pharmaceuticals, LLC, a Delaware limited liability company ("**Vyera**"), and CytoDyn Inc., a Delaware corporation ("**CytoDyn**"). CytoDyn and Vyera are sometimes referred to herein individually as a "**Party**" and collectively as the "**Parties**."

RECITALS

WHEREAS, Vyera is a pharmaceutical company engaged in, inter alia, the commercialization of products useful in the amelioration, treatment or prevention of certain human diseases and conditions.

WHEREAS, CytoDyn has developed leronlimab (PRO 140), a monoclonal antibodyC-C chemokine receptor type 5 receptor antagonist and is pursuing the clinical development of its PRO 140 drug candidate for the treatment of multi-drug resistant Human Immunodeficiency Virus ("**HIV**") infection, as well as related HIV infection indications.

WHEREAS, the Parties are entering into a Commercialization and License Agreement as of the Effective Date (the "**Commercialization Agreement**") concerning the completion of clinical development of PRO 140 and, upon regulatory approval of PRO 140, the commercialization of Products (as defined below) in the Field (as defined below) and the Territory (as defined below).

WHEREAS, the Commercialization Agreement provides for Vyera to purchase from CytoDyn and for CytoDyn to supply Vyera with Vyera's requirements for Product and the Parties have agreed to enter into this Agreement as a condition to the consummation of the transactions contemplated by the Commercialization Agreement.

NOW, THEREFORE, in consideration of the foregoing and the premises and conditions set forth herein, the Parties agree as follows:

ARTICLE 1
DEFINITIONS

1.1 "**AAI**" has the meaning set forth in Section 2.3(a).

1.2 "**AAI Agreement**" has the meaning set forth in Section 2.3(a).

1.3 "**Affected Party**" has the meaning set forth in Section 12.5.

1.4 "**Affiliate**" means, with respect to a particular Party, a person, corporation, partnership, or other entity that controls, is controlled by or is under common control with such Party. For the purposes of this definition, the word "control" (including, with correlative meaning, the terms "controlled by" or "under the common control with") means the actual power, either directly or indirectly through one (1) or more intermediaries, to direct or cause the direction of the management and policies of such entity, whether by the ownership of fifty percent (50%) or more of the voting stock of such entity, by contract or otherwise.

1.5 "**AGC**" has the meaning set forth in Section 2.3(a).

1.6 "**AGC Agreement**" has the meaning set forth in Section 2.3(a).

1.7 "**Agency**" means any applicable local, national or supranational government regulatory authority involved in granting approvals and/or exercising authority with respect to the Manufacturing of a Product, including the FDA, and any successor governmental authority having substantially the same function.

1.8 "**Agreement**" has the meaning set forth in the introductory paragraph.

1.9 "**Applicable Law**" means all applicable statutes, ordinances, regulations, rules, or orders of any kind whatsoever of any Governmental Authority, including the FDCA, Prescription Drug Marketing Act, the Generic Drug Enforcement Act of 1992 (21 U.S.C. §335a et seq.), U.S. Patent Act (35 U.S.C. §1 et seq.), Federal Civil False Claims Act (31 U.S.C. §3729 et seq.), and Anti-Kickback Statute (42 U.S.C. §1320a-7b et seq.), all as amended from time to time, together with any rules, regulations, and compliance guidance promulgated thereunder.

1.10 "**Batch**" means the Product that results from a single Manufacturing process, inclusive of Materials and testing.

1.11 "**BLA**" means a Biologics License Application (as defined in the FDCA), including all supplements, amendments, variations, extensions and renewals thereof.

1.12 "**Breaching Party**" has the meaning set forth in Section 9.2.

1.13 "**Business Day**" means a day other than Saturday, Sunday or any other day on which commercial banks located in the State of New York or the State of Washington, U.S., are authorized or obligated by Applicable Law to close.

1.14 "**Calendar Quarter**" means the respective periods of three (3) consecutive calendar months ending on March 31, June 30, September 30 and December 31; provided, however, that (a) the first Calendar Quarter of the Term shall extend from the Effective Date to the end of the first complete Calendar Quarter thereafter; and (b) the last Calendar Quarter of the Term shall end upon the expiration or termination of this Agreement.

1.15 "**Calendar Year**" means the twelve (12) month period ending on December 31; provided, however, that (a) the first Calendar Year of the Term shall begin on the Effective Date and end on December 31, 2019; and (b) the last Calendar Year of the Term shall end on the effective date of expiration or termination of this Agreement.

1.16 "**cGMP**" means the then-current good manufacturing practices required by the FDA, as set forth in the FDCA, as amended, and the regulations promulgated thereunder, for the manufacture and testing of pharmaceutical materials.

1.17 "**Claim**" has the meaning set forth in Section 11.1.

1.18 "**Commercialization Agreement**" has the meaning set forth in the Recitals.

1.19 "**Commercially Reasonable Efforts**" means: (a) with respect to the efforts to be expended, or considerations to be undertaken, by a Party or its Affiliate with respect to any objective, activity or decision to be undertaken hereunder, reasonable, good faith efforts to accomplish such objective, activity or decision as such Party would normally use to accomplish a similar objective, activity or decision under similar circumstances; and (b) with respect to Development and Commercialization (each, as defined in the Commercialization Agreement) of any Product for any indication by a Party, efforts and resources consistent with those efforts and resources commonly used by a similarly situated biotechnology company

with respect to a product owned by it or to which it has similar rights, which product is at a similar stage in its development or product life and is of similar market potential taking into account: (i) issues of efficacy, safety, and expected and actual approved labeling; (ii) the expected and actual competitiveness of alternative products sold by Third Parties in the marketplace; (iii) the expected and actual product profile of the Product; (iv) the expected and actual patent and other proprietary position of the Product; (v) the likelihood of Regulatory Approval given the regulatory structure involved; and (vi) the expected and actual profitability and return on investment of the Product.

1.20 "**Confidential Information**" means, subject to Section 8.2, all non-public or proprietary information disclosed by either Party to the other Party in connection with the activities contemplated by this Agreement, which may include ideas, inventions, discoveries, concepts, compounds, compositions, formulations, formulas, practices, procedures, processes, methods, knowledge, know-how, trade secrets, technology, inventories, machines, techniques, development, designs, drawings, computer programs, skill, experience, documents, apparatus, results, clinical and regulatory strategies, Regulatory Documentation, and submissions pertaining to, or made in association with, filings with any Governmental Authority, data, including pharmacological, toxicological and clinical data, analytical and quality control data, manufacturing data and descriptions, patent and legal data, market data, financial data or descriptions, devices, assays, chemical formulations, specifications, material, product samples and other samples, physical, chemical and biological materials and compounds, and the like, without regard as to whether any of the foregoing is marked "confidential" or "proprietary," or disclosed in oral, written, graphic, or electronic form. Confidential Information shall include the terms and conditions of this Agreement.

1.21 "**Continuation Right**" has the meaning set forth in Section 9.1.

1.22 "**Cost of Goods**" [***]

1.23 "**Cost of Manufacture**" [***]

1.24 "**Cure Period**" has the meaning set forth in Section 9.2.

1.25 "**CytoDyn**" has the meaning set forth in the introductory paragraph.

1.26 "**CytoDyn Indemnitee**" has the meaning set forth in Section 11.1.

1.27 "**CytoDyn Know-How**" means, with respect to Product, proprietary information, know-how and data, in any form, owned or otherwise controlled by CytoDyn (or its Affiliate) (including (i) information owned by CytoDyn or (ii) licensed to CytoDyn by a Third Party (to the extent that CytoDyn is able to sublicense such information, know-how and data), in each case that CytoDyn has determined to be necessary to Manufacture Product, as the same may be modified from time to time by CytoDyn in its sole discretion.

1.28 "**Deficiency**" has the meaning set forth in Section 7.3.

1.29 "**Delivery**" or "**Deliver**" or "**Delivered**" means CytoDyn's delivery of Product pursuant to a given Firm Order in accordance with the Delivery Terms and the provisions of this Agreement.

1.30 "**Delivery Address**" means, with respect to a given order of Product, the address where the quantities of Product under such order are to be shipped, as set forth in the applicable order.

1.31 "**Delivery Date**" means the date by which Vyera shall take delivery of Product as set forth in a Firm Order.

1.32 "**Delivery Terms**" means Ex Works (Incoterms 2010) CytoDyn's designated Facility for the finished, packaged and labelled Product. Vyera will be responsible for arranging, and all costs of, transport of Product from CytoDyn's designated Facility.

1.33 "**Dispute**" has the meaning set forth in Section 10.1.

1.34 "**DMF**" means a Drug Master File (or similar file) on file (or to be filed) with an Agency with respect to a Product (including any active substances master files, certificate of suitability or other suitable chemical pharmaceutical documentation containing factual information on a Product registered with an Agency).

1.35 "**DSCSA**" means the United States Drug Supply Chain Security Act (21 U.S.C. §581 et seq.) and applicable regulations promulgated thereunder, as amended from time to time.

1.36 "**Effective Date**" has the meaning set forth in the introductory paragraph.

1.37 "**Equipment**" means all equipment and machinery used to (or otherwise necessary for), directly or indirectly, Manufacture Product.

1.38 "**Facility**" means (a) the SBL facility specified in the SBL Agreement, (b) the AGC facility specified in the AGC Agreement, (c) the AAI facility specified in the AAI Agreement, (d) the Sharp facility specified in the Sharp Agreement, and (e) such other facility(ies) where Product may be Manufactured as approved by the FDA.

1.39 "**FDA**" means the U.S. Food and Drug Administration and any successor agency(ies) or authority having substantially the same function.

1.40 "**FDCA**" means the United States Federal Food, Drug and Cosmetic Act of 1938 (21 U.S.C. §301 et seq.) and applicable regulations promulgated thereunder, as amended from time to time.

1.41 "**Field**" means the treatment of HIV in humans.

1.42 "**Firm Order**" means a purchase order for Product issued by Vyera under this Agreement. Each Firm Order shall specify the quantity of Product ordered, the required Delivery Date, and the Delivery Address (as well as any specific shipping instructions, if applicable), in each instance in accordance with this Agreement.

1.43 "**Force Majeure Event**" has the meaning set forth in Section 12.5.

1.44 "**GAAP**" means generally accepted accounting principles current in the U.S.

1.45 "**Governmental Authority**" means any multi-national, national, federal, state, local, municipal or other government authority of any nature (including any governmental division, subdivision, department, instrumentality, agency, bureau, branch, office, commission, council, court or other tribunal).

1.46 "**HIV**" has the meaning set forth in the Recitals to this Agreement.

1.47 "**Indemnifying Party**" has the meaning set forth in Section 11.3(a).

1.48 "**Indemnitee**" has the meaning set forth in Section 11.3(a).

1.49 "**Initial Supply Period**" has the meaning set forth in Section 6.1.

1.50 "**Invoice**" means CytoDyn's invoice (in U.S. Dollars) for a given quantity of Product Delivered pursuant to this Agreement. A complete Invoice shall contain the following (and any other relevant information specifically requested by Vyera, acting reasonably): (a) name of CytoDyn and "Remit to" address; (b) Vyera's Firm Order number; (c) invoice number; (d) invoice date; (e) description and quantity of Product; (f) country of origin / country of Manufacture; (g) total invoice amount with any miscellaneous charges (in accordance with this Agreement) each listed separately; (h) payment terms (which payment terms shall be consistent with the payment terms set forth in this Agreement); (i) a valid tax invoice meeting applicable invoicing requirements from a tax perspective and; (j) any other information required under the Applicable Law. The Invoice shall be in English.

1.51 "**Latent Defect**" means any Deficiency (including any Product that fails to meet the representations, warranties or other quality requirements set forth in this Agreement) that is not readily determinable upon a reasonable inspection of the Product (based on physical inspection, identity test and review of the certificate of analysis).

1.52 "**Liability**" or "**Liabilities**" means losses, damages, fees, costs and other liabilities incurred by a Party related to such Party's performance or conduct, or by virtue of being a "Party", under this Agreement.

1.53 "**Losses**" has the meaning set forth in Section 11.1.

1.54 "**Manufacture**" or "**Manufacturing**" or "**Manufactured**" means, with respect to Product, all operations performed by or on behalf of CytoDyn for the manufacture and supply of Product pursuant to this Agreement, including, as applicable, receipt (including testing) and storage of Materials, production, visual inspection, packaging, labeling, handling, warehousing, quality control testing (including in-process, release and stability testing), release, as applicable, and shipping of Product, and also including such activities as may be specified in the master batch records.

1.55 "**Materials**" means all raw materials, components, and other potential substance-contacting items necessary for, or otherwise used in, the Manufacture of Product pursuant to this Agreement, as applicable.

1.56 "**Minimum Remaining Shelf-Life**" means the minimum remaining of the maximum shelf-life (i.e., for purposes of this Agreement, the maximum shelf-life for Product shall be the stated shelf-life for the Product) for Product that is required to be remaining at the time of Delivery of such Product pursuant to this Agreement. Subject to Section 3.13, the Minimum Remaining Shelf-Life for the Product will be [***].

1.57 "**Non-Affected Party**" has the meaning set forth in Section 12.5.

1.58 "**Non-Breaching Party**" has the meaning set forth in Section 9.2.

1.59 "**Party(ies)**" has the meaning set forth in the introductory paragraph.

1.60 "**Payments**" has the meaning set forth in Section 6.3.

1.61 "**Permitted Variance Deficient Quantities**" has the meaning set forth in Section 3.4.

1.62 "**Permitted Variance Excess Quantities**" has the meaning set forth in Section 3.4.

1.63 "**Person**" means an individual, sole proprietorship, partnership, limited partnership, limited liability partnership, corporation, limited liability company, business trust, joint stock company, trust, incorporated association, joint venture or similar entity or organization, including a government or political subdivision, department or agency of a government.

1.64 "**Pharmacovigilance Agreement**" means the safety data exchange agreement that the parties will use their Commercially Reasonable Efforts to agree and enter into within ninety (90) days after the Effective Date.

1.65 "**Price Cap**" has the meaning set forth in Section 6.1.

1.66 "**Product**" means the leronlimab (PRO-140) pharmaceutical product to be supplied pursuant to this Agreement. For clarity, unless the context otherwise requires, references to "Product" in this Agreement shall be construed to refer to each given Product (and thus understood to mean a given Product on a "Product-by-Product" basis); provided, that to the extent the term "Product" is used more than one time in a given provision herein, the first such reference shall be understood to mean "a given Product" and each successive reference shall be understood to mean "such Product".

1.67 "**Quality Agreement**" means that certain quality agreement to be executed by the Parties setting out the roles and responsibilities related to the Manufacturing of Product within ninety (90) days of the Effective Date.

1.68 "**Records**" means CytoDyn's (or its Affiliate's or Subcontractor's, as applicable) records related to the performance of this Agreement, which shall include Manufacturing documents, batch records, test results, financial records (provided that such financial records shall be limited to Materials invoices and services providers invoices relative to support provided by CytoDyn to Vyera), reports, correspondence, memoranda, and any other similar documentation related to the performance of this Agreement.

1.69 "**Regulatory Approval**" means any and all approvals (including supplements, amendments, pre- and post-approvals), licenses, registrations or authorizations of any national, regional, state or local Regulatory Authority, department, bureau, commission, council or other governmental entity, that are necessary for the commercialization of a Product under this Agreement in the Territory.

1.70 "**Regulatory Authority**" means: (a) any applicable Governmental Authority involved in granting Regulatory Approval in a country or jurisdiction in the Territory, including the FDA; and (b) any other applicable Governmental Authority having jurisdiction over a pharmaceutical Product.

1.71 "**Regulatory Documentation**" means, with respect to Product, all: (a) Regulatory Materials, including all data contained therein and all supporting documents created for, submitted to or received from an applicable governmental agency or Regulatory Authority relating to such Regulatory Materials; and (b) other documentation Controlled by a Party which is reasonably necessary in order to Commercialize (as defined in the Commercialization Agreement) Product in the Field in the Territory, including any registrations and licenses, regulatory drug lists, advertising and promotion documents shared with Regulatory Authorities, adverse event files, complaint files and Manufacturing records.

1.72 "**Regulatory Materials**" means, with respect to the Product, all documentation, correspondence, submissions and notifications submitted to or received from a Regulatory Authority that are necessary or reasonably useful in order to Commercialize (as defined in the Commercialization Agreement) such Product in the Field in the Territory. For the avoidance of doubt, Regulatory Materials shall include, with respect to each Product, all Investigational New Drug applications (INDs), BLAs, Regulatory Approvals, and amendments and supplements for any of the foregoing, as well as the contents of any minutes from meetings (whether in person or by audio conference or videoconference) with a Regulatory Authority.

1.73 "**Retention Period**" has the meaning set forth in Section 5.1.

1.74 "**Safety Stock**" means those quantities of inventory of such Product to be held by CytoDyn as safety stock under this Agreement.

1.75 "**SBL**" has the meaning set forth in Section 2.3(a).

1.76 "**SBL Agreement**" has the meaning set forth in Section 2.3(a).

1.77 "**Sharp**" has the meaning set forth in Section 2.3(a).

1.78 "**Sharp Agreement**" has the meaning set forth in Section 2.3(a).

1.79 "**Shortage**" means an actual or anticipated shortage of Product (based upon the amount ordered in the corresponding Firm Order and based upon the Delivery Date set forth in the corresponding Firm Order) or other failure to Deliver such Product in accordance with this Agreement (based upon the amount ordered in the corresponding Firm Order and based upon the Delivery Date set forth in the corresponding Firm Order), including as a result of a shortage of Materials required for Manufacturing such Product or a shortage of capacity to Manufacture such Product, or as a result of the Delivery of Product that does not comply with the terms of this Agreement (including any non-compliance with the representations, warranties or quality requirements set forth in this Agreement), or as a result of Delivery of Product that is delayed beyond the required Delivery Date set forth in the corresponding Firm Order, in each case even if as a result of Force Majeure Event.

1.80 "**Specifications**" means the specifications for the Product set forth in the BLA approved by the FDA, as such specifications may be modified from time to time in response to actions by the FDA or another Regulatory Authority without the need to amend this Agreement. The current proposed Product specifications are attached at **Attachment A**, which shall be modified promptly upon receipt of BLA approval from the FDA to reflect the specifications set forth in the BLA approval without the need to amend this Agreement.

1.81 "**Subcontractor**" means any person that, as a subcontractor or agent of CytoDyn, performs any of the services or functions required to be performed by CytoDyn under this Agreement.

1.82 "**Supply Price**" means the Cost of Goods plus [***] on all elements of Cost of Goods except Transport Cost as defined in clause (c) of Cost of Goods.

1.83 "**Taxes**" has the meaning set forth in Section 6.3.

1.84 "**Term**" has the meaning set forth in Section 9.1.

1.85 "**Territory**" means the U.S.

1.86 "**Third Party**" means any Person other than (a) Vyera, (b) CytoDyn or (c) an Affiliate of either of Vyera or CytoDyn.

1.87 "**Transport Cost**" has the meaning set forth in Section 1.22.

1.88 "**Upstream Supply Agreement(s)**" has the meaning set forth in Section 2.3.

1.89 "**U.S.**" means the United States of America, including its territories and possessions, including the District of Columbia and Puerto Rico.

1.90 "**Validation**" or "**Validated**" means documented evidence that provides a high degree of assurance that the Manufacturing process controls are adequate to consistently produce Product, in accordance with cGMPs and CytoDyn Know-How, and that meets the Specifications.

1.91 "**Violation**" means that either CytoDyn, or any of its officers, directors, employees or Subcontractors has been: (a) convicted of any of the felonies identified among the exclusion authorities listed on the U.S. Department of Health and Human Services, Office of Inspector General website, including 42 U.S.C. 1320a-7(a) (https://oig.hhs.gov/exclusions/authorities.asp); (b) identified in the OIG List of Excluded Individuals/Entities (LEIE) database (https://oig.hhs.gov/exclusions/index.asp) on said website or the U.S. General Services Administration's list of Parties Excluded from Federal Programs (http://www.sam.gov); or (c) listed by any U.S. Federal agency as being suspended, debarred, excluded, or otherwise ineligible to participate in Federal procurement or non-procurement programs, including under 21 U.S.C. 335a (http://www.fda.gov/ora/compliance_ref/debar/) (each of (a), (b) and (c) collectively the "**Exclusions Lists**").

1.92 "**Vyera**" has the meaning set forth in the introductory paragraph.

1.93 "**Vyera Indemnitee**" has the meaning set forth in Section 11.2.

ARTICLE 2
SUPPLY OF PRODUCT

2.1 Manufacture and Supply of Product. Subject to the terms and conditions of this Agreement and the receipt of BLA approval of the Product by the FDA, CytoDyn shall Manufacture and supply to Vyera, and Vyera shall purchase from CytoDyn, its requirements for Product. Product shall be Manufactured and supplied by CytoDyn in accordance with this Agreement and the relevant Firm Order submitted to CytoDyn by Vyera in accordance with Section 3.2. Subject to the terms and conditions of this Agreement, each Firm Order shall be considered a separate Firm Order and shall be valid and binding upon its submission by Vyera in accordance with this Agreement. Vyera shall purchase the Products exclusively from CytoDyn and CytoDyn shall Manufacture and supply the Products for use in the Field in the Territory exclusively for Vyera and not for any Third Party. Vyera acknowledges and agrees that CytoDyn may Manufacture and supply Products for its own use or for the use of other Third Parties: (a) outside of the Field for development or sale anywhere in the world, (b) within the Field in the Territory for CytoDyn development purposes only or for the development purposes of a partner solely for use outside of the Territory (it being understood that CytoDyn shall not grant any Third Party rights for such Third Party's own development purposes for use in the Territory), or (c) within the Field for development or sale outside of the Territory. Product Manufactured under this Agreement pursuant to Firm Orders shall be the exclusive property of Vyera upon payment by Vyera of amounts owing in respect of the subject Product. In the event that CytoDyn continues to supply Product to Vyera after the Royalty Term (as defined in the Commercialization Agreement), CytoDyn shall have right to supply Product to any Third Party within the Territory or outside the Territory for any use, including, without limitation, within the Field.

2.2 Supply Interruption. If, after Vyera has submitted a Firm Order, a Shortage arises or CytoDyn becomes aware of an anticipated Shortage, CytoDyn shall notify Vyera in writing within five (5) Business Days thereof, and, within ten (10) Business Days thereof, CytoDyn shall notify Vyera in writing of the relevant circumstances, including, to the extent then known by CytoDyn, the underlying reasons for such Shortage (e.g., available quantities of Materials, Manufacturing capacity or other resources needed in the Manufacture of Product), proposed remedial measures, and the date such Shortage is expected to end; and CytoDyn shall use Commercially Reasonable Efforts to implement or to cause to be implemented remedial measures to end the Shortage at its sole cost.

2.3 Subcontracting.

(a) Vyera acknowledges that the Product that CytoDyn will supply to Vyera pursuant to this Agreement [***].

(b) Notwithstanding Section 2.3(a) above, CytoDyn shall remain fully responsible and liable for all obligations hereunder, including any responsibilities subcontracted to a Subcontractor, and the performance of all of its obligations under this Agreement, whether performed by CytoDyn, an Affiliate or a Subcontractor.

(c) [***] Any and all costs associated with engaging a new Third Party Subcontractor (including any technology transfer to such Third Party Subcontractor) that result in a Supply Price above the Price Cap shall be borne by CytoDyn, unless Vyera consents in writing to such increase. CytoDyn shall also follow the procedures specified in this Section 2.3(c) in the event that it elects to Manufacture Product itself rather than use the Subcontractor(s) then performing such Manufacture.

2.4 Samples. Upon Vyera's request, CytoDyn will provide to Vyera, at no additional cost, samples of Product from a Vyera-specified Batch in quantities reasonably requested by Vyera for inspection, testing and analysis. CytoDyn will ship such samples, at Vyera's cost, as requested by Vyera to a Vyera designated address.

ARTICLE 3
PRODUCT ORDERS; DELIVERY

3.1 Forecasts.

(a) Vyera's initial forecast setting forth its anticipated need for Product at commercial launch (the "**Initial Forecast**") will be provided to CytoDyn within ten (10) days following BLA approval by the FDA of the BLA for the Product. The Initial Forecast will cover the [***] months post launch. The [***] of the Initial Forecast will be [***] binding on Vyera on a take-or-pay basis.

(b) During the [***] after Regulatory Approval of the Product in the Territory, within five (5) days of the start of each month, Vyera will provide CytoDyn a forecast setting forth its Product requirements for the next [***], the first [***] of which will be [***] binding on Vyera on a take-or-pay basis.

(c) Starting on the [***] of the date of Regulatory Approval of the Product in the Territory, within five (5) days of the start of each month, Vyera will provide CytoDyn with a forecast setting forth its Product requirements for the next [***], the first [***] of which will be [***] binding on Vyera on a take-or-pay basis. Starting on the [***] of the date of Regulatory Approval of the Product in the Territory and thereafter for the remainder of the Term, within five (5) days of the start of each month Vyera will provide CytoDyn a forecast setting forth its Product requirements for the next [***], the [***] of which will be [***] binding on Vyera on a take-or-pay basis.

3.2 Firm Orders. Vyera shall place Firm Orders for its requirements of Product in accordance with the binding portion of its forecast for the relevant period at least [***] before the requested Delivery Date. Firm Orders will be made on such form of purchase order or document as Vyera may specify from time to time in writing; provided that the terms and conditions of this Agreement shall be controlling over any terms and conditions included in any Firm Order. Any term or condition of such Firm Order that is different from or contrary to the terms and conditions of this Agreement shall be void, unless otherwise agreed between the Parties in writing.

3.3 Additional Quantities of Product. If Vyera requires additional Product at any time (in addition to the quantities ordered in accordance with Section 3.2), Vyera shall notify CytoDyn in writing (and shall deliver a Firm Order to CytoDyn for such additional quantities) and CytoDyn shall use Commercially Reasonable Efforts to supply such additional quantities of Product for Vyera, subject to its or its Subcontractors' existing commitments.

3.4 Delivery Against Firm Orders. CytoDyn will acknowledge all Firm Orders within two (2) Business Days following receipt of same. CytoDyn shall Deliver Product only against specific Firm Orders. CytoDyn shall Deliver Product under each Firm Order no later than the Delivery Date specified in the applicable Firm Order; provided, however, that no Delivery of Product shall be made more than seven (7) days in advance of the date specified for Delivery in a Firm Order without Vyera's prior written approval. CytoDyn shall Deliver Product under each Firm Order in the quantities set forth in such Firm Order; provided that CytoDyn shall be deemed to have satisfied its obligations with respect to quantity of a given Product if the actual quantity of Product is within plus or minus [***] of the quantity of such Product set forth in the applicable Firm Order (the amount of such excess quantity of Product actually Delivered that is above the amount requested in the Firm Order, if any, the "**Permitted Variance Excess Quantities**", and the amount of such deficient quantity of Product actually Delivered that is below the amount requested in the Firm Order, if any, the "**Permitted Variance Deficient Quantities**"). The Facility shall be indicated on documents accompanying each Delivery of Product. In the event CytoDyn will fail to meet a Delivery Date set forth in a Firm Order, CytoDyn shall bear the incremental costs required for expedited transport above and beyond the cost incurred by the method outlined in the Delivery Terms. In the event that Vyera fails to take delivery of the Product on the Delivery Date, Vyera will be responsible for any costs incurred by CytoDyn in connection with a delay in delivery.

3.5 Delivery. CytoDyn shall effect Delivery of each Firm Order in accordance with the CytoDynKnow-How, Applicable Laws (including cGMPs) and the Product Specifications (and for clarity, CytoDyn shall only effect Delivery of Product pursuant to a Firm Order). CytoDyn shall Deliver or arrange for Delivery of Product in accordance with the Delivery Terms, in order to fill such Firm Order. Each container shall be marked as to the identity of the Product, the quantity of Product, the related Firm Order number, and any other information required by the Firm Order. CytoDyn shall bear all risk of loss or damage with respect to Product(s) until such Product(s) are Delivered to Vyera at CytoDyn's designated Facility in accordance with the Delivery Terms. Each Delivery of Product shall be accompanied by a packing slip and a Material Safety Data Sheet, and CytoDyn's quality release statement for such Product (described in Section 3.9).

3.6 Transfer of Title. Title to Product supplied hereunder shall pass to Vyera contemporaneously with the transfer of risk of loss, as established by the Delivery Terms.

3.7 Packaging. All Product supplied hereunder shall be packaged in accordance with the Product Specifications and the Quality Agreement, and CytoDyn shall ensure that such packaging is otherwise in accordance with the CytoDyn Know-How and Applicable Law (including cGMPs and DSCSA). Without limiting the foregoing, all Product supplied hereunder shall also be labeled with a traceable batch number and the date of Manufacture.

3.8 Handling and Storage. Prior to Delivery of Product to Vyera, CytoDyn shall handle and store all Product (including all Materials used in the Manufacture of such Product) in accordance with the CytoDyn Intellectual Property and Applicable Laws (including cGMPs), as well as the Product Specifications.

3.9 Product Release Statement. CytoDyn shall provide Vyera with a release statement signed and dated by CytoDyn indicating that the Product: (a) meets the Product Specifications; (b) was Manufactured in accordance with cGMPs, BLA, Applicable Laws, DMF (if applicable), the CytoDyn Know-How, and the controlled Validated process; and (c) used only Materials that met their specifications. CytoDyn shall not Deliver Product unless and until such Product has been quality released by CytoDyn. It is also CytoDyn's responsibility at its own cost to collect all necessary information for the Annual Reports for FDA. The copy of each Annual Report to be provided to Vyera.

3.10 Handling and Storage of Product Following Delivery. Upon the receipt from CytoDyn, it is Vyera's responsibility to ensure that Product is transported and maintained at the storage condition specified in the Product Specifications and in accordance with Applicable Law.

3.11 Vyera Requirements Obligation. Subject to Applicable Law, Vyera shall obtain from CytoDyn pursuant to this Agreement all of its requirements for the Product.

3.12 Safety Stock. CytoDyn shall maintain, at all times during the Term, Safety Stock of the Product equal to Vyera's requirements for the Product for the following [***] based on the average of the [***] most recent monthly forecasts delivered by Vyera to CytoDyn pursuant to Section 3.1. Such Safety Stock shall be maintained with the balance of the inventory on a "First-In First-Out" (FIFO) basis and shall be stored, handled and maintained in accordance with all applicable cGMPs, the CytoDyn Know-How and Applicable Law. CytoDyn shall draw on such Safety Stock to supply Firm Orders in the ordinary course under this Agreement (provided that such Safety Stock otherwise satisfies all requirements in this Agreement, including the representations, warranties and covenants set forth in Section 7.2); provided that such Safety Stock shall be replaced as soon as reasonably practicable. The Safety Stock shall be maintained by CytoDyn for the sole benefit of Vyera and shall not be subject to allocation to any other person or entity.

3.13 Launch Stock. Notwithstanding the requirement that Product have a Minimum Remaining Shelf-Life of [***] months at delivery, solely with respect to stock of the Product existing as of the Effective Date, CytoDyn shall have the right to fulfil orders with Product that has at least [***]of shelf life remaining; provided that, if Vyera is not able to sell such Product, [***]. For clarity, CytoDyn will not be in breach of any provision of this Agreement and/or the Commercialization Agreement for supplying Product with at least [***] shelf life as permitted by this Section 3.13.

ARTICLE 4
QUALITY

4.1 Notification of Agency Action. Each Party shall immediately notify the other Party of any information such Party receives regarding any threatened or pending action by any Agency that has the potential to impact Product supplied to Vyera hereunder, including and not limited to any Agency non-approval, regulatory action or Out of Specification or Out of Trend (upon stability testing). Upon receipt of any such information, the Parties shall consult in an effort to arrive at a mutually acceptable procedure for taking appropriate action; provided, however, that nothing contained herein shall be construed as restricting the right of either Party to make a timely report of such matter to any Agency or take other action that it deems to be appropriate or required by Applicable Law.

4.2 Safety or Efficacy Claims. Each Party shall immediately (and in any event within twenty four (24) hours) notify the other Party of any information of which it is aware concerning Product supplied to Vyera which may affect the safety or efficacy claims or the continued marketing of the Product. Any such notification will include all related information in detail. Upon receipt of any such information, the Parties shall consult in an effort to arrive at a mutually acceptable procedure for taking appropriate action; provided, however, that nothing contained herein shall be construed as restricting the right of either Party to make a timely report of such matter to any Agency or take other action that it deems to be appropriate or required by Applicable Law. Each Party will notify the other immediately of any health hazards with respect to Product which may impact employees involved in the Manufacturing of Product.

4.3 Complaints. Each Party shall immediately notify the other Party of any complaints received by such Party concerning a Product supplied hereunder. Each Party shall investigate complaints and shall take corrective action to avoid future occurrences.

4.4 Agency Inspection. In each case, to the extent permitted under its Upstream Supply Agreements, (a) CytoDyn hereby agrees to immediately notify Vyera in writing in the event that CytoDyn is notified of any proposed visit or inspection by any Governmental Authority, including, any Agency (such as the FDA) or any environmental regulatory authority if such visit or inspection has the potential to impact Product, and (b) CytoDyn shall promptly (and in no event later than one (1) Business Day) furnish Vyera summaries of all reports, documents or correspondence with respect to any Agency requests or inspections of the Facility related to the Manufacture of the Product as well as a copy of each such report, document or correspondence, including but not limited to any Form 483 or Establishment Inspection Report (EIR). To the extent permitted under its Upstream Supply Agreements, CytoDyn shall also provide Vyera any proposed corrective actions, responses and other changes arising out of such review or inspection by such Agency.

4.5 Restricted Categories. [***]

4.6 Labeling. CytoDyn will comply with all specified labeling as to the Product and each component and container as required by Applicable Law.

4.7 Quality Agreement. The Parties shall negotiate in good faith and enter into a Quality Agreement and a Pharmacovigilance Agreement in accordance with the Commercialization Agreement.

ARTICLE 5
RECORDS; AUDITS; RECALLS; REGULATORY MATTERS

5.1 Records. CytoDyn shall retain all records related to the (a) Manufacture of Product(s) for a period of not less than ten (10) years from the date of Manufacture of each Batch of Product(s) to which said records pertain (or such longer period as required by applicable Law) and (b) Manufacture of Validation batches for ten (10) years past the effective date of termination of this Agreement (or such longer period as required by Applicable Law) (each such period shall be referred to as the "**Retention Period**"). To the extent permitted by its Upstream Supply Agreements, CytoDyn shall provide Vyera with complete and accurate copies of the appropriate documents for each production Batch, upon Vyera's request.

5.2 Audit Rights. To the extent permitted by its Upstream Supply Agreements, the Records shall be open to inspection and subject to audit and/or reproduction, during normal working hours (but not more than once per calendar year except in the case of emergency or for-cause in which case such once per year limit shall not apply) by Vyera or its authorized representative (a) as required by governmental authorities or (b) as may be desirable by Vyera for any other valid business purpose related to (i) the Commercialization (as defined in the Commercialization Agreement) of Product or (ii) verification of CytoDyn's compliance with its obligations under this Agreement. CytoDyn shall preserve such Records for a period of ten (10) years after the end of the Term or for such longer period as may be required by Applicable Law. For the purpose of such audits, inspections, examinations and evaluations, Vyera or its authorized representative shall have access to such records beginning on the Effective Date and continuing until five (5) years after the expiration or termination of this Agreement. In addition, CytoDyn shall provide adequate and appropriate workspace for Vyera or its authorized representatives to conduct such audit. Vyera and/or its

authorized representative will be required to follow all rules, regulations and standard operating procedures of CytoDyn when on site. Vyera or its authorized representative shall give CytoDyn at least four (4) weeks' advanced written notice of an intent to audit (except in the case of emergency or for-cause). CytoDyn may require that any Person performing an audit on Vyera's behalf, including, but not limited to, an employee of Vyera, execute a confidentiality agreement in a form acceptable to CytoDyn.

5.3 Decisions on Recalls. As between the Parties, CytoDyn shall have the ultimate responsibility as to whether to institute a recall or withdrawal of Product (whether instituted at the request of an Agency, out of specification upon stability, or voluntarily instituted by CytoDyn for any reason); provided that, to the extent practical, CytoDyn shall notify Vyera thereof prior to implementation.

5.4 Recalls. In the event that Product(s) are recalled or withdrawn, Vyera shall fully cooperate with CytoDyn in connection with such recall or withdrawal. In the event a Product is recalled or withdrawn as the result of a Manufacturing issue as to which CytoDyn is obligated to provide indemnification hereunder, CytoDyn shall reimburse Vyera for (a) all costs associated with the recalled or withdrawn Product, including the Supply Price for Product and (b) all expenses incurred in connection with such recall or withdrawal, in each case subject to the limitation of liability provisions set forth in Sections 11.4 and 11.5 of this Agreement.

5.5 Disclosure of Audits. Vyera acknowledges that governmental authorities (including Agencies) may, in conducting an inspection of CytoDyn, request copies of reports of CytoDyn audits of its suppliers. For clarity, in response to such a request, CytoDyn may provide to the Governmental Authority (including any Agency) the report of any compliance audit conducted in accordance with this Agreement or the Quality Agreement.

ARTICLE 6
CONSIDERATION

6.1 Supply Price. For each unit of Product ordered by Vyera under Firm Orders and supplied by CytoDyn to Vyera in accordance with the terms and conditions of this Agreement, Vyera shall pay CytoDyn the Supply Price, which payments shall be made in accordance with Section 6.2. The Parties agree and acknowledge, the Supply Price shall be the total fees payable by Vyera under this Agreement (and for clarity such amounts shall be the overall compensation for all fees and expenses required for the performance of this Agreement by CytoDyn). The Supply Price shall not exceed [***] per unit dose of Product (the "**Price Cap**") with respect to Firm Orders placed by Vyera pursuant to Section 3.2 on or after the Effective Date and prior to January 1, 2022; provided, however, that solely to the extent Vyera's Firm Orders for Delivery during the period commencing upon BLA approval and ending on the date that is [***] thereafter (the "**Initial Supply Period**") exceeds [***] unit doses of Product, the Price Cap for any additional unit doses (in excess of the [***]) Delivered during the Initial Supply Period shall be [***] per unit dose of Product. Beginning on [***] the Price Cap will be increased on an annual basis by a percentage amount equal to the percentage change in the Producer Price Index for Pharmaceutical Preparation Manufacturing published by the United States Department of Labor, Bureau of Labor Statistics, or comparable successor index over the preceding 12-month period.

6.2 Invoicing; Payment. Upon Delivery of Product ordered by Vyera pursuant to Firm Orders in accordance with this Agreement, to Vyera, CytoDyn shall provide to Vyera an Invoice therefor which will be based on the then current Supply Price. Vyera shall pay each Invoice within thirty (30) days from the date the Invoice is delivered. All payments under this Agreement shall be made in U.S. Dollars.

6.3 Taxes. The amounts payable pursuant to this Agreement ("**Payments**") shall not be reduced on account of any taxes unless required by Applicable Law. Vyera shall deduct and withhold from the Payments any taxes that it is required by Applicable Law to deduct or withhold. Notwithstanding the foregoing, if CytoDyn is entitled under any applicable tax treaty to a reduction of rate of, or the elimination of, or recovery of, applicable withholding tax, it may deliver to Vyera or the appropriate Governmental Authority the prescribed forms necessary to reduce the applicable rate of withholding or to relieve Vyera of its obligation to withhold tax. In such case Vyera shall apply the reduced rate of withholding, or not withhold, as the case may be, provided that Vyera is in receipt of evidence, in a form reasonably satisfactory to Vyera, for example CytoDyn's delivery of all applicable documentation at least two (2) weeks prior to the time that the Payments are due. If, in accordance with the foregoing, Vyera withholds any amount, it shall pay to CytoDyn the balance when due, make timely payment to the proper taxing authority of the withheld amount, and send CytoDyn proof of such payment within sixty (60) days following that payment. CytoDyn shall be liable for all income and other taxes (including interest) ("**Taxes**") imposed upon any payments made by Vyera to CytoDyn under this Agreement.

6.4 Audit. CytoDyn shall maintain, and shall cause its Affiliates and use Commercially Reasonable Efforts to cause its Subcontractors to maintain, complete and accurate records in sufficient detail to permit Vyera to confirm the accuracy of the calculation of Supply Price due under this Agreement. Upon reasonable prior notice, but not more than once per Calendar Year, such records of CytoDyn and its Affiliates shall be available during Vyera's and its Affiliates regular business hours for a period of three (3) years from the end of the Calendar Year to which they pertain for examination at the expense of Vyera by an independent certified public accountant selected by Vyera and reasonably acceptable to the CytoDyn, for the sole purpose of verifying the accuracy of the Supply Price furnished by CytoDyn pursuant to this Agreement. The records for any given calendar year may not be audited more than once. Any such auditor shall not disclose CytoDyn's Confidential Information, except to the extent such disclosure is necessary to verify the accuracy of the financial reports furnished by CytoDyn or the amount of payments due by CytoDyn under this Agreement. Any amounts shown to be owed but unpaid shall be paid within thirty (30) days from the accountant's report, plus interest, as set forth in Section 6.5 from the original due date. Any amounts shown to have been overpaid shall be refunded within thirty (30) days from the accountant's report. Vyera shall bear the full cost of such audit unless such audit discloses an underpayment by CytoDyn of more than five percent (5%) of the amount due, in which case CytoDyn shall bear the full cost of such audit. The audit rights set forth in this Section 6.4 shall survive the Term for a period of one (1) year. Upon Vyera's request and at Vyera's expense, to the extent permitted under the applicable Upstream Supply Agreement, CytoDyn shall audit its Subcontractors to confirm the accuracy of the calculation of such Subcontractor's pricing; provided that Vyera shall be subject to the limitations specified above with respect to the frequency of any such audit requests. CytoDyn may require that any individual or entity performing an audit on CytoDyn's behalf, including, but not limited to, an employee of CytoDyn, execute a confidentiality agreement in a form acceptable to CytoDyn.

6.5 Late Payment. All payments due to a Party under this Agreement shall be made in U.S. Dollars by wire transfer of immediately available funds into an account designated by the receiving Party. If a Party does not receive payment of any sum due to it on or before the due date, simple interest shall thereafter accrue on the sum due to such Party until the date of payment at the per annum rate of two percent (2%) over the then-current prime rate quoted by Citibank in New York City or the maximum rate allowable by Applicable Law, whichever is lower.

ARTICLE 7
REPRESENTATIONS, WARRANTIES AND COVENANTS

7.1 Mutual Representations, Warranties and Covenants. Each of the Parties hereby represents and warrants to the other Party as of the Effective Date and hereinafter, as set forth below, covenants that:

(a) **Organization**. It is duly organized, validly existing, and in good standing under Applicable Law of the jurisdiction of its organization, and has all requisite power and authority, corporate or otherwise, to execute, deliver, and perform this Agreement.

(b) **Binding Agreement**. This Agreement is a legal and valid obligation binding upon such Party and enforceable in accordance with its terms, subject to the effects of bankruptcy, insolvency, or other Applicable Law of general application affecting the enforcement of creditor rights, judicial principles affecting the availability of specific performance, and general principles of equity (whether enforceability is considered a proceeding at law or equity).

(c) **Authorization**. The execution, delivery, and performance of this Agreement by such Party have been duly authorized by all necessary corporate action and do not conflict with any agreement, instrument, or understanding, oral or written, to which it is a party or by which it is bound, nor violate any Applicable Law or any order, writ, judgment, injunction, decree, determination, or award of any court or governmental body, or administrative or other agency presently in effect applicable to such Party.

(d) **No Further Approval**. It is not aware of any government authorization, consent, approval, license, exemption of or filing or registration with any court or governmental department, commission, board, bureau, agency or instrumentality, domestic or foreign, under any Applicable Law, currently in effect, necessary for, or in connection with, the transactions contemplated by this Agreement or any other agreement or instrument executed in connection herewith, or for the performance by it of its obligations under this Agreement and such other agreements (save for Regulatory Approvals and similar authorizations from Governmental Authorities necessary for the Commercialization (as defined in the Commercialization Agreement) of the Products as contemplated hereunder).

(e) **No Inconsistent Obligations**. Neither Party is under any obligation, contractual or otherwise, to any Person that conflicts with or is inconsistent in any material respect with the terms of this Agreement, or that would impede the diligent and complete fulfilment of its obligations hereunder.

7.2 Representations and Warranties for Product. CytoDyn represents and warrants as of the Effective Date, and hereinafter, as set forth below, covenants to Vyera that all Product shall, at the time of Delivery:

(a) be Manufactured in accordance with, and shall meet, the Product Specifications;

(b) be Manufactured in accordance with all Applicable Laws (including cGMPs and DSCSA) in effect on the day of Delivery;

(c) not be adulterated or misbranded within the meaning of FDCA;

(d) not be an article that may not, under the provisions of the FDCA, or any similar Applicable Law of any other jurisdiction, be introduced into stream of commerce; and

(e) have at least the Minimum Remaining Shelf-Life, as evidenced by expiry dating, remaining.

7.3 Inspection. Within [***] of Delivery of a given shipment of Product, Vyera (or its agent) shall verify on the basis of a visual inspection the quantity of, and reasonably visible external damage to the container of (but without any obligation to open any drums or other external packaging), Product delivered.

In addition, Vyera (or its agent) shall review the Product following Delivery at Vyera's discretion (based minimally on physical inspection, review of the quality release documentation provided by CytoDyn pursuant to Section 3.9 and review of the temperature monitoring record to ensure that the appropriate storage temperature was maintained during shipment); and if Vyera claims that a shipment of Product did not, at the time of Delivery, meet the representations, warranties or covenants specified in Section 7.2 or the quality requirements set forth in Article 4 (a "**Deficiency**"), Vyera shall notify CytoDyn based on the foregoing inspection within [***] after Delivery of such Product, which notice shall provide the quantities affected, the basis for the claim and other information reasonably necessary for CytoDyn to assess the claim. Notwithstanding the foregoing, if Vyera claims that the Deficiency is a Latent Defect, Vyera shall have the obligation to provide such notification to CytoDyn in writing within [***] after Vyera's discovery of such Latent Defect (or within [***] after Vyera is notified in writing by a Third Party of such Latent Defect, if later). CytoDyn shall at its expense and at no further cost to Vyera replace any Product that has a Deficiency; provided that, in the event that Vyera has not notified CytoDyn of (a) Deficiency within [***] of delivery or (b) a Latent Defect within [***] of delivery, CytoDyn shall have no obligation to Vyera with respect to the subject Product that is claimed to have a Deficiency and/or a Latent Defect, as applicable. All affected units of Product that have a Deficiency and/or Latent Defect for which CytoDyn is responsible under this Section 7.3 shall be returned to CytoDyn at CytoDyn's cost. If any rejected Product is determined by CytoDyn to not have a Deficiency, Vyera shall reimburse CytoDyn for all costs and expenses related to the inspection and return of such Product to CytoDyn. If Vyera and CytoDyn disagree as to whether Product contains a Deficiency, the Parties shall resolve such Dispute in accordance with Article 10.

7.4 Return or Destruction. Any Product that is determined to contain a Deficiency and that is in Vyera's possession shall, at Vyera's option, either be returned to CytoDyn or destroyed in accordance with Applicable Laws, in each case, at CytoDyn's expense.

7.5 Excluded Entities. CytoDyn represents and warrants that, as of the date of this Agreement, neither it, nor any of its officers, directors, employees, or, to CytoDyn's knowledge, Subcontractors has been in Violation. CytoDyn shall notify Vyera in writing immediately if any Violation occurs or comes to its attention at any time during the Term. If a Violation exists with respect to any of CytoDyn's officers, directors, employees, or Subcontractors, CytoDyn shall promptly remove such individual(s) or entities from performing any service, function or capacity related to the Manufacturing of Product. Vyera shall have the right, in its sole discretion, to terminate this Agreement in the event of any such Violation.

7.6 Compliance with Laws. CytoDyn shall comply with and give all notices required by Applicable Law bearing on the performance of this Agreement as existing on the Effective Date and as enacted or amended during the Term. CytoDyn shall notify Vyera if it becomes aware of any non-compliance in connection with this Agreement and shall take all appropriate action necessary to comply with such Applicable Laws.

7.7 Encumbrances. CytoDyn represents, warrants and covenants that it will have good and marketable title, free and clear of any pledge, lien, restriction, claim, charge, security interest and/or other encumbrance, to all Product to be Delivered under this Agreement, and all Product supplied to Vyera shall be free and clear of all pledges, liens, restrictions, claims, charges, security interests and/or other encumbrances at the time of Delivery.

7.8 No Other Representations or Warranties. EXCEPT AS EXPRESSLY SET FORTH IN THIS ARTICLE 7, NEITHER PARTY MAKES ANY REPRESENTATIONS OR WARRANTIES OF ANY KIND WHATSOEVER, EITHER EXPRESS OR IMPLIED, WRITTEN OR ORAL, EITHER IN FACT OR BY OPERATION OF LAW, BY STATUTE OR OTHERWISE, AND EACH PARTY SPECIFICALLY DISCLAIMS ANY OTHER WARRANTIES, INCLUDING ANY EXPRESS OR IMPLIED WARRANTY OF QUALITY, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR WARRANTY OF NON-INFRINGEMENT OR AS TO THE VALIDITY OF ANY PATENTS.

ARTICLE 8
IP MATTERS; CONFIDENTIALITY

8.1 Intellectual Property Matters. Vyera acknowledges and agrees that the Products supplied to it under this Agreement are subject to the licenses granted to Vyera by CytoDyn under the Commercialization Agreement and that Vyera shall only use, have used, offer for sale, sell, have sold and import Products in the Field in the Territory. The Parties hereby acknowledge and agree that the provisions of Sections 2.2-2.5 of the Commercialization Agreement regarding intellectual property matters apply to this Agreement.

8.2 Confidentiality Obligations. The Parties hereby acknowledge and agree that the confidentiality provisions set forth in Article 10 of the Commercialization Agreement apply to this Agreement and to information furnished hereunder.

ARTICLE 9
TERM AND TERMINATION

9.1 Term. The term of this Agreement (the "**Term**") shall commence upon the Effective Date and, unless earlier terminated pursuant to this Article 9, shall remain in effect until the expiration of the Royalty Term (as defined in the Commercialization Agreement); provided, however, that following the Royalty Term, Vyera shall have the right (the "**Continuation Right**"), in its sole discretion, to extend the Term for so long as Vyera agrees to pay CytoDyn the royalty payments required to be paid pursuant to Section 11.1 of the Commercialization Agreement with respect to Products supplied to it under this Agreement following the Royalty Term. If Vyera elects to exercise the Continuation Right, it shall deliver a notice to CytoDyn at least [***] prior to the initial slated expiration of the Term. In the event that Vyera decides to terminate this Agreement after its exercise of the Continuation Right, it will provide CytoDyn with written notice at least [***] prior to such termination.

9.2 Termination for Material Breach. Either Party (the "**Non-Breaching Party**") may terminate this Agreement in the event the other Party (the "**Breaching Party**") commits a material breach of this Agreement, and such material breach (excluding breaches of payment obligations) has not been cured within [***] after receipt of written notice of such breach by the Breaching Party from the Non-Breaching Party (the "**Cure Period**"). The Cure Period shall be [***] after receipt of written notice of such breach by the Breaching Party from the Non-Breaching Party for breaches of payment obligations. The written notice describing the alleged material breach shall provide sufficient detail to put the Breaching Party on notice of such material breach. Any termination of this Agreement pursuant to this Section 9.2 shall become effective at the end of the Cure Period, unless the Breaching Party has cured any such material breach prior to the expiration of such Cure Period, or, if such material breach is not reasonably susceptible to cure within the Cure Period, then, the Non-Breaching Party's right of termination shall be suspended only if, and for so long as, the Breaching Party has provided to the Non-Breaching Party a written plan that is reasonably calculated to effect a cure of such material breach, such plan is accepted by the Non-Breaching Party (such acceptance not to be unreasonably withheld, delayed or conditioned), and the Breaching Party commits to and carries out such plan as provided to the Non-Breaching Party. The right of either Party to terminate this Agreement as provided in this Section 9.2 shall not be affected in any way by such Party's waiver of or failure to take action with respect to any previous breach under this Agreement.

9.3 Termination of Commercialization Agreement; Force Majeure Event. This Agreement shall terminate upon the termination of the Commercialization Agreement in the event that the termination of the Commercialization Agreement occurs prior to the expiration of the Royalty Term. Each Party, as a Non-Affected Party, may also terminate this Agreement in accordance with Section 12.5.

9.4 Termination by Vyera. Vyera shall have the right to terminate this Agreement in its entirety at any time after the Effective Date if any of the following occurs and, to the extent curable, is not cured to Vyera's reasonable satisfaction within [***]: (a) if (i) any required BLA, DMF or other permit or license relating to a Product is not issued or is deactivated, by any Agency or other Governmental Authority, or (ii) CytoDyn fails to satisfy Validation or other cGMP requirements; (b) if any required license, permit or certificate of CytoDyn related to the Facility or the Manufacture of Product is not approved or not issued, or is deactivated or withdrawn, by any Agency or other Governmental Authority; or (c) pursuant to Section 7.5.

9.5 Termination for Bankruptcy. Either Party may terminate this Agreement in its entirety upon providing written notice to the other Party on or after the time that such other Party makes a general assignment for the benefit of creditors, files an insolvency petition in bankruptcy, petitions for or acquiesces in the appointment of any receiver, trustee or similar officer to liquidate or conserve its business or any substantial part of its assets, commences under the laws of any jurisdiction any proceeding involving its insolvency, bankruptcy, reorganization, adjustment of debt, dissolution, liquidation or any other similar proceeding for the release of financially distressed debtors, or becomes a party to any proceeding or action of the type described above, and such proceeding or action remains un-dismissed or un-stayed for a period of more than [***].

9.6 Effects of Termination. All of the following effects of termination are in addition to the other rights and remedies that may be available to either of the Parties under this Agreement and shall not be construed to limit any such rights or remedies.

(a) In the event that this Agreement is terminated by Vyera in accordance with Section 9.2, Section 9.4 or Section 9.5, Vyera shall (in its discretion) either: (i) keep any or all outstanding Firm Orders in place (on a Firm Order-by-Firm Order basis as determined by Vyera), in which case CytoDyn shall Manufacture and Deliver, in accordance with this Agreement, all quantities of Products ordered pursuant to such Firm Orders (regardless of whether the Delivery Date for such Products is before or after such termination) and Vyera shall pay the Supply Price with respect to such Products which meet the representations, warranties and covenants set forth in this Agreement; or (ii) cancel any or all outstanding Firm Orders (on a Firm Order-by-Firm Order basis as determined by Vyera), and with respect to any such cancelled Firm Orders, Vyera shall have no further liability with respect thereto; provided that Vyera shall only have the right to cancel Firm Orders pursuant to this clause (ii) if this Agreement is terminated by Vyera pursuant to Section 9.2 or Section 9.4.

(b) In the event that this Agreement is terminated by CytoDyn pursuant to Section 9.2 or by Vyera pursuant to Section 9.4 or Section 9.3 (second sentence), Vyera shall purchase the quantity of Safety Stock of Product existing as of the time of such termination (if any) that is in finished, packaged and labelled form (provided that all such Product meets the representations, warranties and covenants set forth in this Agreement), and in connection therewith, CytoDyn shall Deliver all such quantities of Safety Stock in accordance with this Agreement, and Vyera shall pay the applicable Supply Price with respect to such Product. Notwithstanding the foregoing or anything to the contrary contained herein, from and after the delivery of any notice of termination pursuant to this Agreement, CytoDyn shall not replenish (or otherwise add any additional quantities of Product to) any Safety Stock then being held for Vyera.

(c) Upon expiration or termination of this Agreement, Vyera and CytoDyn shall immediately settle all outstanding invoices and other monies owed to the other pursuant to this Agreement. The termination or expiration of this Agreement shall not affect the rights and obligations of the Parties accruing prior to such termination or expiration. Subject to the foregoing, expiration or termination of this Agreement shall relieve and release the Parties from any liabilities and obligations under this Agreement, other than those specifically set forth in this Article 9 and those that survive termination in accordance with Section 9.8.

9.7 Remedies. Notwithstanding anything to the contrary in this Agreement, except as otherwise explicitly set forth in this Agreement, termination or expiration of this Agreement shall not relieve the Parties of any Liability or obligation which accrued hereunder prior to the effective date of such termination or expiration, nor prejudice either Party's right to obtain performance of any obligation. Each Party shall be free, pursuant to Article 10, to seek, without restriction as to the number of times it may seek, damages, costs and remedies that may be available to it under Applicable Law or in equity.

9.8 Survival. In the event of termination of this Agreement, in addition to the provisions of this Agreement that continue in effect in accordance with their terms, the following provisions of this Agreement shall survive: Articles 1, 8, 10 and 11, and Sections 4.2, 4.3, 5.1, 5.2, 5.3, 5.4, 5.5, 6.3, 6.4, 6.5, 7.3, 7.4, 7.8, 9.6, 9.7, 9.8, 12.1-12.2, 12.4-12.5, 12.7-12.8, and 12.10-12.13.

ARTICLE 10
DISPUTE RESOLUTION

10.1 Disputes. The Parties acknowledge and agree that this Agreement and any dispute, controversy, or claim between the Parties that may arise from time to time pursuant to this Agreement relating to either Party's rights or obligations hereunder (each, a "**Dispute**", and collectively, the "**Disputes**") that is not resolved through good faith negotiation between the Parties shall be subject to and governed by the dispute resolution provisions set forth in Article 12 of the Commercialization Agreement; provided that each Party acknowledges and agrees that no Dispute arising under this Agreement shall be deemed a Reserved Dispute (as defined in the Commercialization Agreement).

ARTICLE 11
INDEMNIFICATION

11.1 Indemnification by Vyera. Vyera hereby agrees to defend, indemnify and hold harmless CytoDyn and its Affiliates, and each of their respective directors, officers, employees, agents and representatives (each, a "**CytoDyn Indemnitee**") from and against any and all claims, suits, actions, demands, liabilities, expenses and/or losses, including reasonable legal expenses and attorneys' fees (collectively, the "**Losses**"), to which any CytoDyn Indemnitee may become subject as a result of any claim, demand, action or other proceeding by any Third Party (each, a "**Claim**") to the extent such Losses arise directly or indirectly out of: (a) the breach by Vyera of any warranty, representation, covenant or agreement made by Vyera in this Agreement; (b) Commercialization (as defined in the Commercialization Agreement) activities undertaken by or on behalf of Vyera or its Affiliates; or (c) the negligence, gross negligence, illegal conduct or willful misconduct of Vyera or its Affiliate or sublicensee, or any officer, director, employee, agent or representative thereof; except, with respect to each of subsections (a), (b) and (c) above, to the extent such Losses arise directly or indirectly from the negligence, gross negligence, illegal conduct or willful misconduct of any CytoDyn Indemnitee or the breach by CytoDyn of any warranty, representation, covenant or agreement made by CytoDyn in this Agreement.

11.2 Indemnification by CytoDyn. CytoDyn hereby agrees to defend, indemnify and hold harmless Vyera and its Affiliates and each of their respective directors, officers, employees, agents and representatives (each, a "**Vyera Indemnitee**") from and against any and all Losses to which any Vyera Indemnitee may become subject as a result of any Claim to the extent such Losses arise directly or indirectly out of: (a) the breach by CytoDyn of any warranty, representation, covenant or agreement made by CytoDyn in this Agreement; (b) the negligence, gross negligence, illegal conduct, or willful misconduct of CytoDyn or its Affiliate or its Subcontractor, or any officer, director, employee, agent or representative thereof; (c) the labeling, packaging, or package insert with respect to any Product; (d) the Manufacture of any Product; or (e) the infringement of Third Party Patents (as defined in the Commercialization Agreement) or the misappropriation of Third Party Know-How (as defined in the Commercialization Agreement) by the Manufacture of the Product; except, with respect to each of subsections (a), (b), (c) (d) or (e) above, to the extent such Losses arise directly or indirectly from the negligence, gross negligence, illegal conduct or willful misconduct of any Vyera Indemnitee or the breach by Vyera of any warranty, representation, covenant or agreement made by Vyera in this Agreement.

11.3 Indemnification Procedures.

(a) **Notice**. Promptly after a CytoDyn Indemnitee or a Vyera Indemnitee (each, an '**Indemnitee**") receives notice of a pending or threatened Claim, such Indemnitee shall give written notice of the Claim to the Party from whom the Indemnitee is entitled to receive indemnification pursuant to Sections 11.1 or 11.2, as applicable (the "**Indemnifying Party**"). However, an Indemnitee's delay in providing or failure to provide such notice shall not relieve the Indemnifying Party of its indemnification obligations, except to the extent it can demonstrate actual prejudice due to the delay or lack of notice.

(b) **Defense**. Upon receipt of notice under this Section 11.3 from the Indemnitee, the Indemnifying Party will have the duty to either compromise or defend, at its own expense and by counsel (reasonably satisfactory to Indemnitee) such Claim. The Indemnifying Party will promptly (and in any event not more than twenty (20) days after receipt of the Indemnitee's original notice) notify the Indemnitee in writing that it acknowledges its obligation to indemnify the Indemnitee with respect to the Claim pursuant to this Article 11 and of its intention either to compromise or defend such Claim. Once the Indemnifying Party gives such notice to the Indemnitee, the Indemnifying Party is not liable to the Indemnitee for the fees of other counsel or any other expenses subsequently incurred by the Indemnitee in connection with such defense, other than the Indemnitee's reasonable out of pocket Third Party expenses related to its investigation and cooperation, except as otherwise provided in the next sentence. As to all Claims as to which the Indemnifying Party has assumed control under this Section 11.3(b), the Indemnitee shall have the right to employ separate counsel and to participate in the defense of a Claim (as reasonably directed by the Indemnifying Party) at its own expense; provided, however, that if the Indemnitee shall have reasonably concluded, based upon a written opinion from outside legal counsel, that there is a conflict of interest between the Indemnifying Party and the Indemnitee in the defense of such Claim, the Indemnifying Party shall pay the fees and expenses of one law firm serving as counsel for the Indemnitee in relation to such Third Party Claim.

(c) **Cooperation**. The Indemnitee shall reasonably cooperate with the Indemnifying Party and its legal representatives in the investigation and defense of any Claim. The Indemnifying Party shall keep the Indemnitee informed on a reasonable and timely basis as to the status of such Claim (to the extent the Indemnitee is not participating in the defense of such Claim) and conduct the defense of such Claim in a prudent manner.

(d) **Settlement**. If an Indemnifying Party assumes the defense of a Claim, no compromise or settlement of such Claim may be effected by the Indemnifying Party without the Indemnitee's written consent (such consent not to be unreasonably withheld, delayed or conditioned). Notwithstanding the foregoing, the Indemnitee's consent shall not be required of a settlement where: (i) there is no finding or admission of any violation of law or any violation of the rights of any person and no effect on any other claims that may be made against the Indemnitee; (ii) the sole relief provided is monetary damages that are paid in full by the Indemnifying Party; (iii) the Indemnitee's rights under this Agreement are not adversely affected; and (iv) there is a full release of the Indemnitee from such Claim. If the Indemnifying Party fails to assume defense of a Claim within a reasonable time, the Indemnitee may settle such Claim on such terms as it deems appropriate with the consent of the Indemnifying Party (such consent not to be unreasonably withheld, delayed or conditioned), and the Indemnifying Party shall be obligated to indemnify the Indemnitee for such settlement as provided in this Article 11. It is understood that only Vyera and CytoDyn may claim indemnification under this Agreement (on its own behalf or on behalf of its Indemnitees), and other Indemnitees may not directly claim indemnity under this Agreement.

11.4 Limitation of Liability. EXCEPT FOR A PARTY'S OBLIGATIONS SET FORTH IN THIS ARTICLE 11 AND ANY BREACH OF SECTION 8.2, IN NO EVENT WILL EITHER PARTY BE LIABLE TO THE OTHER PARTY (OR THE OTHER PARTY'S AFFILIATES OR SUBLICENSEES) IN CONNECTION WITH THIS AGREEMENT FOR LOST REVENUE, LOST PROFITS, LOST ROYALTIES, LOST SAVINGS, LOSS OF USE, DAMAGE TO GOODWILL, OR ANY CONSEQUENTIAL, INCIDENTAL, SPECIAL, EXEMPLARY, PUNITIVE OR INDIRECT DAMAGES IN CONNECTION WITH THIS AGREEMENT, HOWEVER CAUSED, UNDER ANY THEORY OF LIABILITY, INCLUDING CONTRACT, NEGLIGENCE, OR STRICT LIABILITY, EVEN IF THAT PARTY HAS BEEN PLACED ON NOTICE OF THE POSSIBILITY OF SUCH DAMAGES.

11.5 Damages Cap. IN ADDITION TO THE LIMITATION OF LIABILITY IN SECTION 11.4 EXCEPT FOR (a) EACH PARTY'S INDEMNIFICATION OBLIGATIONS SET FORTH IN THIS ARTICLE 11; (b) FOR ANY BREACH OF SECTION 8.2 BY SUCH PARTY; AND (c) DAMAGES ARISING OUT OF SUCH PARTY'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, EACH PARTY'S MAXIMUM AGGREGATE LIABILITY TO COMPENSATE THE OTHER PARTY FOR ALL DAMAGES UNDER THIS AGREEMENT WILL BE SET ON A PER CALENDAR YEAR BASIS AND FOR THE CALENDAR YEAR IN WHICH THE CAUSE OF SUCH LIABILITY LIES OR EXISTS (WHETHER IN CONTRACT, TORT, STRICT LIABILITY, STATUTE, OR OTHERWISE) AND SHALL BE LIMITED TO [***]

ARTICLE 12
MISCELLANEOUS

12.1 Notices. All notices and other communications given or made pursuant hereto shall be in writing and shall be deemed to have been duly given on the date delivered, if delivered personally, or on the next Business Day after being sent by reputable international overnight courier (with delivery tracking provided, signature required and delivery prepaid), in each case, to the Parties at the following addresses, each as may be specified below (or at such other address for a Party as shall be specified by notice given in accordance with this Section 12.1).

If to Vyera:

Vyera Pharmaceuticals, LLC
600 Third Avenue, 10th Floor
New York, NY 10016
Attention: Legal Department
Email: [***]

with a copy to:

Morgan, Lewis & Bockius LLP
101 Park Avenue
New York, NY 10178-0060
Attention: [***]
Email: [***]

If to CytoDyn:

CytoDyn Inc.
1111 Main Street, Suite 660
Vancouver, WA 98660
Attention: Chief Executive Officer
Email: [***]

with a copy to:

Lowenstein Sandler LLP
One Lowenstein Drive
Roseland, NJ 07068
Attention: [***]
Email: [***]

12.2 Governing Law. This Agreement and all disputes arising out of or related to this Agreement or any breach hereof shall be governed by and construed in accordance with the laws of the State of New York, without giving effect to any choice of law principles that would result in the application of the laws of any other jurisdiction. The United Nations Convention on Contracts for the International Sale of Goods shall not apply to the transactions contemplated by this Agreement

12.3 Designation of Affiliates. Each Party may discharge any obligation and exercise any right hereunder through delegation of its obligations or rights to any of its Affiliates. Each Party hereby guarantees the performance by its Affiliates of such Party's obligations under this Agreement, and shall cause its Affiliates to comply with the provisions of this Agreement in connection with such performance. Any breach by a Party's Affiliate of any of such Party's obligations under this Agreement shall be deemed a breach by such Party, and the other Party may proceed directly against such Party without any obligation to first proceed against such Party's Affiliate.

12.4 Relationship of the Parties. It is expressly agreed that CytoDyn, on the one hand, and Vyera, on the other hand, shall be independent contractors and that the relationship between the two Parties shall not constitute a partnership, joint venture or agency, including for tax purposes. Neither CytoDyn nor Vyera shall have the authority to make any statements, representations or commitments of any kind, or to take any action which shall be binding on the other, without the prior written consent of the other Party to do so. All persons employed by a Party shall be employees of that Party and not of the other Party and all costs and obligations incurred by reason of such employment shall be at the expense of such Party.

12.5 Force Majeure. Except as set forth in this Section 12.5, neither Party (the "**Affected Party**") shall be liable to the other Party (the "**Non-Affected Party**") for failure or delay to perform its obligation under Agreement when such failure or delay is due to riots, storms, fires, explosions, floods, earthquakes, war, embargoes, blockades, insurrections, an act of God or any other cause which is beyond the reasonable control of the Affected Party ("**Force Majeure Event**"). A Force Majeure Event will include, without limitation, events that would otherwise qualify as Force Majeure Events that affect CytoDyn's upstream suppliers and/or that may be considered a force majeure event under the applicable Upstream Supply Agreement. The Affected Party shall provide the Non-Affected Party prompt written notice of the occurrence of any Force Majeure Event, the nature thereof, and the extent to which the Affected Party will be unable fully to perform its obligations under this Agreement. If a condition constituting a Force Majeure Event exists for more than (a) [***] or (b) [***] in any twelve (12) month period, the Parties shall negotiate a mutually satisfactory solution to the Force Majeure Event, if practicable, including the use of a Third Party to fulfil the obligations hereunder of the Affected Party. If the Parties are unable to resolve the Force Majeure Event within [***] then the Non-Affected Party may terminate this Agreement with notice to the Affected Party; provided that, in the event of a Force Majeure Event affecting an upstream supplier that exists for more than (a) [***] or (b) [***] in any twelve (12) month period, CytoDyn will have an additional [***] to arrange for an alternate upstream supplier prior to Vyera having the right to terminate this Agreement.

12.6 Assignment. Either Party may assign or transfer this Agreement to a Third Party in connection with an assignment of the Commercialization Agreement to such Third Party, to the extent such assignment is permitted under the terms of the Commercialization Agreement. Any permitted assignment shall be binding on the successors of the assigning Party. Any assignment or attempted assignment by either Party in violation of the terms of this Section 12.6 shall be null, void and of no legal effect.

12.7 Severability. If any one (1) or more of the provisions of this Agreement is held to be invalid or unenforceable by any court of competent jurisdiction from which no appeal can be or is taken, the provision(s) shall be considered severed from this Agreement and shall not serve to invalidate any remaining provisions hereof. The Parties shall make a good faith effort to replace any invalid or unenforceable provision with a valid and enforceable provision such that the objectives contemplated by the Parties when entering this Agreement may be realized.

12.8 Waiver and Non-Exclusion of Remedies. Any term or condition of this Agreement may be waived at any time by the Party that is entitled to the benefit thereof, but no such waiver shall be effective unless set forth in a written instrument duly executed by or on behalf of the Party waiving such term or condition. The waiver by either Party hereto of any right hereunder or of the failure to perform or of a breach by the other Party shall not be deemed a waiver of any other right hereunder or of any other breach or failure by such other Party whether of a similar nature or otherwise. The rights and remedies provided herein are cumulative and do not exclude any other right or remedy provided by Applicable Law or otherwise available except as expressly set forth herein.

12.9 Further Assurance. Each Party shall duly execute and deliver, or cause to be duly executed and delivered, such further instruments and do and cause to be done such further acts and things, including the filing of such assignments, agreements, documents, and instruments, as may be necessary or as the other Party may reasonably request in connection with this Agreement or to carry out more effectively the provisions and purposes hereof.

12.10 Headings. The headings of each Article and Section in this Agreement have been inserted for convenience of reference only and are not intended to limit or expand on the meaning of the language contained in the particular Article or Section.

12.11 Construction. Except where the context otherwise requires, wherever used, the singular shall include the plural, the plural shall include the singular, and the use of any gender shall be applicable to all genders. Whenever this Agreement refers to a number of days without using a term otherwise defined herein, such number refers to calendar days. The terms “including,” “include,” “includes” or “for example” shall not limit the generality of any description preceding such term and, as used herein, shall have the same meaning as “including, but not limited to,” and/or “including, without limitation.” The language of this Agreement shall be deemed to be the language mutually chosen by the Parties and no rule of strict construction shall be applied against either Party hereto. Each Party represents that it has been represented by legal counsel in connection with this Agreement and acknowledges that it has participated in the drafting hereof. In interpreting and applying the terms and provisions of this Agreement, the Parties agree that no presumption will apply against the Party which drafted such terms and provision.

12.12 Entire Agreement. This Agreement (including the provisions of the Commercialization Agreement referenced in this Agreement, as well as any other provisions of the Commercialization Agreement referenced in such provisions of the Commercialization Agreement), including the Attachments hereto, sets forth the complete, final and exclusive agreement and all the covenants, promises, agreements, warranties, representations, conditions and understandings between the Parties hereto with respect to the subject matter hereof and supersedes, as of the Effective Date, all prior and contemporaneous agreements and understandings between the Parties with respect to the subject matter hereof; including the Mutual Confidential Disclosure Agreement between the Parties effective January 31, 2019. There are no covenants, promises, agreements, warranties, representations, conditions or understandings, either oral or written, between the Parties other than as are set forth herein and therein. No subsequent alteration, amendment, change or addition to this Agreement shall be binding upon the Parties unless reduced to writing and signed by an authorized officer of each Party. In the event of any inconsistency between the body of this Agreement and either any Attachments to this Agreement or any subsequent agreements ancillary to this Agreement, unless otherwise expressly stated to the contrary in such Attachment or ancillary agreement, the terms contained in this Agreement shall control.

12.13 Counterparts. This Agreement may be executed in two (2) or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. This Agreement may be executed by .pdf or other electronically transmitted signatures and such signatures shall be deemed to bind each Party hereto as if they were the original signatures.

[Remainder of this page intentionally left blank —signature page follows]

IN WITNESS WHEREOF, the Parties have entered into this Agreement as of the Effective Date.

CYTODYN INC.

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

VYERA PHARMACEUTICALS, LLC

By: /s/ Averill L. Powers
Name: Averill L. Powers
Title: Chief Strategy Officer and General Counsel

Attachment A

Product Specifications

[See attached.]

Exhibit 10.7

EMPLOYMENT AGREEMENT

This EMPLOYMENT AGREEMENT (this "Agreement"), dated as of November 13, 2019 (the "Effective Date"), is by and between CYTODYN INC., a Delaware corporation (the "Company") and Craig Eastwood (the "Employee").

W I T N E S S E T H:

WHEREAS, the Executive has been employed by the Company as Vice President and Controller; and

WHEREAS, the Company desires to continue to employ the executive as its Chief Financial Officer and Treasurer, and the Executive desires to accept such employment, on the terms and conditions set forth in this Agreement. This position serves as a named executive officer of the company.

NOW, THEREFORE, in consideration of the promises and the mutual covenants and agreements contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto, intending to be legally bound hereby, agree as follows:

ARTICLE 1

EMPLOYMENT; TERMINATION OF PRIOR AGREEMENT; TERM OF AGREEMENT

Section 1.1 Employment and Acceptance. During the Term (as defined in Section 1.2), the Company shall employ the Executive, and the Executive shall accept such employment and serve the Company, in each case, subject to the terms and conditions of this Agreement.

Section 1.2 Term. The employment relationship hereunder shall be for the period (such period of the employment relationship shall be referred to herein as the "Term") commencing on the Effective Date and ending upon the Employee's employment hereunder by either party hereto pursuant to the terms of Section 4.1, Section 4.2, Section 4.3 or Section 4.4. In the event that the Executive's employment with the Company terminates, the Company's obligation to continue to pay, after the Termination Date (as defined in Section 4.3(b)), Base Salary (as defined in Section 3.1(a)), Annual Bonus (as defined in Section 3.1(b)) and other un-accrued benefits shall terminate except as may be provided for in ARTICLE 4.

ARTICLE 2

TITLE; DUTIES AND OBLIGATIONS; LOCATION

Section 2.1 Title. The Company shall employ the Executive to render exclusive and full-time services to the Company. The Executive shall serve in the capacity of Chief Financial Officer and Treasurer.

Section 2.2 Duties. Subject to the direction and authority of the Board of Directors of the Company (the "Board"), the Executive shall have direct responsibility for the day to day financial and treasury operations of the Company. The Executive shall report to, and be subject to the lawful direction of the Chief Executive Officer (CEO). The Executive agrees to perform to the best of his ability, experience, and talent those acts and duties, consistent with the position of Chief Financial Officer and Treasurer of the Company, as the CEO shall from time to time direct. During the Term, the Executive also shall serve in such other executive-level positions or capacities as may, from time to time, be reasonably requested by the Board, including, without limitation (subject to election, appointment, re-election or re-appointment, as applicable) as (a) a member of the Board and/or as a member of the board of directors or similar governing body of any of the Company's subsidiaries or other Affiliates (as defined below), (b) an officer of any of the Company's subsidiaries or other Affiliates, and/or (c) a member of any committee of the Company and/or any of its subsidiaries or other Affiliates, in each case, for no additional compensation. As used in this Agreement, "Affiliate" of any individual or entity means any other individual or entity that directly or individual controls, is controlled by, or is under common control with, the individual or entity.

Section 2.3. Compliance with Policies, etc. During the Term, the Executive shall be bound by, and comply fully with, all of the Company's 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, compliance manual, codes of conduct and any other memoranda and communications applicable to the Executive pertaining to the policies, procedures, rules and regulations, as currently in effect and as may be amended from time to time. These policies and procedures include, among other things and without limitation, the Executive's obligations to comply with the Company's rules regarding confidential and proprietary information and trade secrets.

Section 2.4. 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) and shall devote all of his business time, ability and attention to the performance of his duties for the Company and shall not, directly or indirectly, render any services to any other person or organization, whether for compensation or otherwise, except with the Board's prior written consent, provided that the foregoing shall not prevent the Executive from (i) participating in charitable, civic, educational, professional, community or industry affairs, (ii) managing the Executive's passive personal investments, or (iii) serving on the board of directors (or similar governing bodies) of not more than two (2) other corporations (or other business entities) that are not competitors of the Company, its subsidiaries or any of its other Affiliates (as determined by the Board), so long as, in each case, such activities individually or in the aggregate do not materially interfere or conflict with the Executive's duties hereunder or create a potential business or fiduciary conflict (in each case, as determined by the Board).

Section 2.5. Location. The Executive's principal place of business for the performance of his duties under this Agreement shall be at the principal executive office of the Company (currently located in Vancouver, Washington). 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 $225,000, 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, 2015), 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 reasonable 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 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. The Annual Bonus shall not be deemed earned until the date that it is paid. Accordingly, in order for the Executive to receive an Annual Bonus, the Executive must be actively employed by the Company at the time of such payment.

(c) Equity Compensation. Subject to the terms of the 2012 Plan, the Executive was granted options to purchase shares of the Company's common stock (the "Prior Grants") pursuant to the terms of stock option agreements between the parties hereto entered into as of April 29, 2019 and June 18, 2019 (collectively, the "Prior Grant Agreements"). For purposes of clarification, except as otherwise provided in Section 4.2(d)(ii)(C) hereof, nothing in this Agreement shall be deemed to alter, limit or abrogate the terms of the Prior Grant Agreements or the Executive's rights with respect to the Prior Grants. During the Term, subject to the terms and conditions established within the Plan and separate Award Agreements (as defined in the Plan), the Executive also shall be eligible to receive from time to time additional Options, Stock Appreciation Rights, Restricted Awards or Other Stock-Based Awards (as such capitalized terms are defined in the Plan), in amounts, if any, to be approved by the Board or the Compensation Committee in its discretion.

(d) Benefit Plans. The Executive shall be entitled to participate in all employee benefit plans and programs (excluding severance plans, if any) generally made available by the Company to senior 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.

(e) Paid Vacation. The Executive shall be entitled to paid vacation days in accordance with the Company's vacation policies in effect from time to time for its 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.

(a) The Company may terminate the Executive's employment hereunder at any time without Cause (other than by reason of death or Disability) upon written notice to the Executive.

(b) As used in this Agreement, "Cause" means: (i) a material act, or act of fraud, committed by the Executive that is intended to result in the Executive's personal enrichment to the detriment or at the expense of the Company or any of its Affiliates; (ii) the Executive is convicted of a felony; (iii) willful and continued failure by the Executive to perform the duties or obligations reasonably assigned to the Executive by the Board from time to time, which failure is not cured upon ten (10) days prior written notice (unless such failure is not susceptible to cure, as determined in the reasonable discretion of the Board); or (iv) the Executive violates the Covenants Agreement (as defined in Section 5.1 below).

(c) If the Executive's employment is terminated pursuant to Section 4.1(a), the Executive shall, in full discharge of all of the Company's obligations to the Executive, be entitled to receive, and the Company's sole obligation to the Executive under this Agreement or otherwise shall be to pay or provide to the Executive, the following:

(i) the Accrued Obligations (as defined in Section 4.3(b)); and

(ii) subject to Section 4.5 and Section 4.6:

(A) payments equal to twelve (12) months of the Executive's Base Salary at the rate in effect immediately prior to the Termination Date (less applicable withholdings and authorized deductions), to be paid in accordance with the Company's customary payroll practices, commencing on the first regular payroll date on or following the date that is sixty (60) days following such termination of employment (the "Severance Payments"); and

(B) 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.

(d) Notwithstanding anything in Section 4.1(c) to the contrary, the Severance Payments may be made, in the Board's sole discretion, in whole or in part through the issuance of shares of the Company's Common Stock, in each case with a Fair Market Value (as defined in the Company's Amended and Restated 2012 Equity Incentive Plan) equal to the amount to be paid on the applicable date.

Section 4.2. Termination without Cause or for Good Reason within 12 Months following a Change in Control.

(a) Notwithstanding the provisions of Section 4.1, if the Company terminates the Executive's employment hereunder without Cause (other than by reason of death or Disability) within twelve (12) months following a Change in Control of the Company, or the Executive resigns for Good Reason within twelve (12) months following a Change in Control of the Company, the provisions of this Section 4.2 shall control.

(b) As used in this Agreement, "Change in Control" means (x) a change in ownership of the Company under clause (i) below or (y) a change in the ownership of a substantial portion of the assets of the Company under clause (ii) below:

(i) 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 (iii) 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.

(ii) 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 (iii) 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 (ii) 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 (ii). 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 (ii)(c) of this paragraph. For purposes of this clause (ii), a person's status is determined immediately after the transfer of the assets. Notwithstanding anything in this clause (ii) 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.

(iii) Persons Acting as a Group. For purposes of clauses (i) and (ii) 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.

(iv) Each of clauses (i) through (iii) above shall be construed and interpreted consistent with the requirements of Section 409A and any Treasury Regulations or other guidance issued thereunder.

(c) As used in this Agreement, "Good Reason" means the occurrence of any of the following: (1) a material breach by the Company of the terms of this Agreement; (2) a material reduction in the Executive's Base Salary; (3) a material diminution in the Executive's authority, duties or responsibilities; or (4) a relocation by the Company of the Executive's principal place of business for the performance of his duties under this Agreement to a location that is anywhere outside of a 50 mile radius of Vancouver, Washington; provided, however, that the Executive must notify the Company within ninety (90) days of the occurrence of any of the foregoing conditions that he considers it to be a "Good Reason" condition and provide the Company with at least thirty (30) days in which to cure the condition. If the Executive fails to provide this notice and cure period prior to his resignation, or resigns more than six (6) months after the initial existence of the condition, his resignation will not be deemed to be for "Good Reason."

(d) If the Executive's employment is terminated pursuant to Section 4.2(a) (i.e., the Company terminates the Executive's employment hereunder without Cause (other than by reason of death or Disability) within twelve (12) months following a Change in Control of the Company, or the Executive resigns for Good Reason within twelve (12) months following a Change in Control of the Company), the Executive shall, in full discharge of all of the Company's obligations to the Executive, be entitled to receive, and the Company's sole obligation to the Executive under this Agreement or otherwise shall be to pay or provide to the Executive, the following:

(i) the Accrued Obligations; and

(ii) subject to Section 4.5 and Section 4.6:

(A) payments equal to the sum of eighteen (18) months of the Executive's Base Salary at the rate in effect immediately prior to Termination Date (less applicable withholdings and authorized deductions), to be paid in accordance with the Company's customary payroll practices, commencing on the first regular payroll date on or following the date that is sixty (60) days following such termination of employment (the "Enhanced Severance Payments"); and

(B) 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.

For purposes of clarity, it is understood and agreed that the Enhanced Severance Payments set forth in this Section 4.2 shall be in lieu of (and not in addition to) the Severance Payments set forth in Section 4.1.

Section 4.3. Termination for Cause; Voluntary Termination.

(a) The Company may terminate the Executive's employment hereunder at any time for Cause upon written notice to the Executive. The Executive may voluntarily terminate his employment hereunder at any time for any reason or no reason upon ninety (90) days prior written notice to the Company; provided, however, the Company reserves the right, upon written notice to the Executive, to accept the Executive's notice of resignation and to accelerate such notice and make the Executive's resignation effective immediately, or on such other date prior to Executive's intended last day of work as the Company deems appropriate. It is understood and agreed that the Company's election to accelerate Executive's notice of resignation shall not be deemed a termination by the Company without Cause for purposes of Section 4.1 or 4.2 of this Agreement or otherwise or constitute Good Reason for purposes of Section 4.2 of this Agreement or otherwise.

(b) If the Executive's employment is terminated pursuant to Section 4.3(a), the Executive shall, in full discharge of all of the Company's obligations to the Executive, be entitled to receive, and the Company's sole obligation under this Agreement or otherwise shall be to pay or provide to the Executive, the following (collectively, the "Accrued Obligations"):

(i) the Executive's accrued but unpaid Base Salary through the final date of the Executive's employment by the Company (the "Termination Date"), payable in accordance with the Company's standard payroll practices;

(ii) the Executive's 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 4.4. Termination Resulting from Death or Disability.

(a) As the result of any Disability suffered by the Executive, the Company may, upon five (5) days prior notice to the Executive, terminate the Executive's employment under this Agreement. The Executive's employment shall automatically terminate upon his death.

(b) “Disability” means a determination by the Company in accordance with applicable law that as a result of a physical or mental injury or illness, the Executive is unable to perform the essential functions of his job with or without reasonable accommodation for a period of (i) ninety (90) consecutive days; or (ii) one hundred twenty (120) days during any twelve (12) month period.

(c) If the Executive’s employment is terminated pursuant to Section 4.4(a), the Executive or the Executive’s estate, as the case may be, shall be entitled to receive, and the Company’s sole obligation under this Agreement or otherwise shall be to pay or provide to the Executive or the Executive’s estate, as the case may be, the Accrued Obligations.

Section 4.5 Release Agreement. In order to receive the Severance Payments set forth in Section 4.1 or to receive the Enhanced Severance Payments set forth in Section 4.3 (as applicable, and, in each case, if eligible), the Executive must timely execute (and not revoke) a separation agreement and general release (the “Release Agreement”) in a customary form as is determined to be reasonably necessary by the Company in its good faith and reasonable discretion; provided, that the Company provides the Executive with the form of Release Agreement within 3 days following the Termination Date. The Severance Payments or the Enhanced Severance Payments, as applicable, are subject to the Executive’s execution of such Release Agreement within 45 days of the Executive’s receipt of the Release Agreement and the Executive’s non-revocation of such Release Agreement.

Section 4.6 Post-Termination Breach. Notwithstanding anything to the contrary contained in this Agreement, the Company’s obligations to provide the Severance Payments or the Enhanced Severance Payments, as applicable, will immediately cease if the Executive breaches any of the provisions of the Covenants Agreement, the Release Agreement or any other agreement the Executive has with the Company, or if any provision of those agreements is determined to be unenforceable, to any extent, by a court or arbitration panel, whether by preliminary or final adjudication.

Section 4.7. Removal from any Boards and Position. If the Executive's employment is terminated for any reason under this Agreement, he shall be deemed (without further action, deed or notice) to resign (i) if a member, from the Board or board of directors (or similar governing body) of any Affiliate of the Company or any other board to which he has been appointed or nominated by or on behalf of the Company and (ii) from all other positions with the Company or any subsidiary or other Affiliate of the Company, including, but not limited to, as an officer of the Company and any of its subsidiaries or other Affiliates.

ARTICLE 5

GENERAL PROVISIONS

Section 5.1. Employee Inventions Assignment and Non-Disclosure Agreement. The Executive acknowledges and confirms that the Employee Inventions Assignment and Non-Disclosure Agreement executed by the Executive in favor of the Company on December 13, 2012 (the "Covenants Agreement"), the terms of which are incorporated herein by reference, remains in full force and effect and binding on the Executive. The Covenants Agreement shall survive the termination of this Agreement and the Executive's employment by the Company for the applicable period(s) set forth therein.

Section 5.2. Expenses. Each of the Company and the Executive shall bear its/his own costs, fees and expenses in connection with the negotiation, preparation and execution of this Agreement.

Section 5.3. Key-Man Insurance. Upon the Company's request, the Executive shall cooperate (including, without limitation, taking any required physical examinations) in all respects in obtaining a key-man life insurance policy on the life of the Executive in which the Company is named as the beneficiary.

Section 5.4. Entire Agreement. This Agreement, the Indemnification Agreement between the Executive and the Company effective January 8, 2013, as it may be amended from time to time (the "Indemnification Agreement"), the Covenants Agreement and the Prior Grant Agreements contain the entire agreement of the parties hereto with respect to the terms and conditions of the Executive's employment during the Term and activities following termination of this Agreement and the Executive's employment with the Company and supersede any and all prior agreements

and understandings, whether written or oral, between the parties hereto with respect to the subject matter of this Agreement, the Indemnification Agreement, the Covenants Agreement or the Prior Grant Agreements. Each party hereto acknowledges that no representations, inducements, promises or agreements, whether oral or in writing, have been made by any party, or on behalf of any party, which are not embodied herein, in the Covenants Agreement or in the Prior Grant Agreements. The Executive acknowledges and agrees that the Company has fully satisfied, and has no further, obligations to the Executive arising under, or relating to, any prior employment or consulting arrangement or understanding (including, without limitation, any claims for compensation or benefits of any kind) or otherwise. No agreement, promise or statement not contained in this Agreement, the Indemnification Agreement, the Covenants Agreement or the Prior Grant Agreements shall be valid and binding, unless agreed to in writing and signed by the parties sought to be bound thereby.

Section 5.5. No Other Contracts. The Executive represents and warrants to the Company that neither the execution and delivery of this Agreement by the Executive nor the performance by the Executive of the Executive's obligations hereunder, shall constitute a default under or a breach of the terms of any other agreement, contract or other arrangement, whether written or oral, to which the Executive is a party or by which the Executive is bound, nor shall the execution and delivery of this Agreement by the Executive nor the performance by the Executive of his duties and obligations hereunder give rise to any claim or charge against either the Executive, the Company or any Affiliate, based upon any other contract or other arrangement, whether written or oral, to which the Executive is a party or by which the Executive is bound. The Executive further represents and warrants to the Company that he is not a party to or subject to any restrictive covenants, legal restrictions or other agreement, contract or arrangement, whether written or oral, in favor of any entity or person which would in any way preclude, inhibit, impair or limit the Executive's ability to perform his obligations under this Agreement, including, but not limited to, non-competition agreements, non-solicitation agreements or confidentiality agreements. The Executive shall defend, indemnify and hold the Company harmless from and against all claims, actions, losses, liabilities, damages, costs and expenses (including reasonable attorney's fees and amounts paid in settlement in good faith) arising from or relating to any breach of the representations and warranties made by the Executive in this Section 5.5.

Section 5.6. Notices. Any notice or other communication required or permitted hereunder shall be in writing and shall be delivered personally or sent by nationally recognized overnight courier service (with next business day delivery requested). Any such notice or communication shall be deemed given and effective, in the case of personal delivery, upon receipt by the other party, and in the case of a courier service, upon the next business day, after dispatch of the notice or communication. Any such notice or communication shall be addressed as follows:

If to the Company, to:

CytoDyn Inc.
1111 Main Street, Suite 660
Vancouver, WA 98660
Attn: Board of Directors

With a copy to:

Lowenstein Sandler LLP
1251 Avenue of the Americas
New York, New York 10020
Attn: Michael J. Lerner, Esq.

If to the Executive, to:

Craig S. Eastwood
[***]

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

Section 5.7. Governing Law; Jurisdiction. This Agreement shall be governed by, and construed in accordance with, the laws of the State of Washington, without regard to principles of conflicts of law. Any and all actions arising out of this Agreement or Employee's employment by Company or termination therefrom shall be brought and heard in the state and federal courts of the State of Washington and the parties hereto hereby irrevocably submit to the exclusive jurisdiction of any such courts. 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 5.8. Waiver. Either party hereto may waive compliance by the other party with any provision of this Agreement. The failure of a party to insist on strict adherence to any term of this Agreement on any occasion shall not be considered a waiver or deprive that party of the right thereafter to insist upon strict adherence to that term or any other term of this Agreement. No waiver of any provision shall be construed as a waiver of any other provision. Any waiver must be in writing.

Section 5.9. Severability. If any one or more of the terms, provisions, covenants and restrictions of this Agreement shall be determined by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the terms, provisions, covenants and restrictions of this Agreement shall remain in full force and effect and shall in no way be affected, impaired or invalidated and the parties will attempt to agree upon a valid and enforceable provision which shall be a reasonable substitute for such invalid and unenforceable provision in light of the tenor of this Agreement, and, upon so agreeing, shall incorporate such substitute provision in this Agreement. In addition, if any one or more of the provisions contained in this Agreement shall for any reason be determined by a court of competent jurisdiction to be excessively broad as to duration, geographical scope, activity or subject, it shall be construed, by limiting or reducing it, so as to be enforceable to the extent compatible with then applicable law.

Section 5.10. Counterparts. This Agreement may be executed in any number of counterparts and each such duplicate counterpart shall constitute an original, any one of which may be introduced in evidence or used for any other purpose without the production of its duplicate counterpart. Moreover, notwithstanding that any of the parties did not execute the same counterpart, each counterpart shall be deemed for all purposes to be an original, and all such counterparts shall constitute one and the same instrument, binding on all of the parties hereto.

Section 5.11. Advice of Counsel. Both parties hereto acknowledge that they have had the opportunity to seek and obtain the advice of counsel before entering into this Agreement and have done so to the extent desired, and have fully read the Agreement and understand the meaning and import of all the terms hereof.

Section 5.12. Assignment. This Agreement shall inure to the benefit of the Company and its successors and assigns (including, without limitation, the purchaser of all or substantially all of its assets) and shall be binding upon the Company and its successors and assigns. This Agreement is personal to the Executive, and the Executive shall not assign or delegate his rights or duties under this Agreement, and any such assignment or delegation shall be null and void.

Section 5.13. Agreement to Take Actions. Each party to this Agreement shall execute and deliver such documents, certificates, agreements and other instruments, and shall take all other actions, as may be reasonably necessary or desirable in order to perform his or its obligations under this Agreement.

Section 5.14. No Attachment. Except as required by law, no right to receive payments under this Agreement shall be subject to anticipation, commutation, alienation, sale, assignment, encumbrance, charge, pledge, or hypothecation or to execution, attachment, levy or similar process or assignment by operation of law, and any attempt, voluntary or involuntary, to effect any such action shall be null, void and of no effect; provided, however, that nothing in this Section 5.14 shall preclude the assumption of such rights by executors, administrators or other legal representatives of the Executive or the Executive's estate and their assigning any rights hereunder to the person or persons entitled thereto.

Section 5.15. Source of Payment. Except as otherwise provided under the terms of any applicable employee benefit plan, all payments provided for under this Agreement shall be paid in cash from the general funds of Company. The Company shall not be required to establish a special or separate fund or other segregation of assets to assure such payments, and, if the Company shall make any investments to aid it in meeting its obligations hereunder, the Executive shall have no right, title or interest whatever in or to any such investments except as may otherwise be expressly provided in a separate written instrument relating to such investments. Nothing contained in this Agreement, and no action taken pursuant to its provisions, shall create or be construed to create a trust of any kind, or a fiduciary relationship, between Company and the Executive or any other person. To the extent that any person acquires a right to receive payments from Company hereunder, such right, without prejudice to rights which employees may have, shall be no greater than the right of an unsecured creditor of Company. The Executive shall not look to the owners of the Company for the satisfaction of any obligations of the Company under this Agreement.

Section 5.16. Tax Withholding. The Company or other payor is authorized to withhold from any benefit provided or payment due hereunder, the amount of withholding taxes due any federal, state or local authority in respect of such benefit or payment and to take such other action as may be necessary in the opinion of the 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 5.17. 409A Compliance. All payments under this Agreement are intended to comply with or be exempt from the requirements of Section 409A of the Code and regulations promulgated thereunder ("Section 409A"). As used in this Agreement, the "Code" means the Internal Revenue Code of 1986, as amended. To the extent permitted under applicable regulations and/or other guidance of general applicability issued pursuant to Section 409A, the Company reserves the right to modify this Agreement to conform with any or all relevant provisions regarding compensation and/or benefits so that such compensation and benefits are exempt from the provisions of 409A and/or otherwise comply with such provisions so as to avoid the tax consequences set forth in Section 409A and to assure that no payment or benefit shall be subject to an "additional tax" under Section 409A. To the extent that any provision in this Agreement is

ambiguous as to its compliance with Section 409A, or to the extent any provision in this Agreement must be modified to comply with Section 409A, such provision shall be read in such a manner so that no payment due to the Executive shall be subject to an "additional tax" within the meaning of Section 409A(a)(1)(B) of the Code. If necessary to comply with the restriction in Section 409A(a)(2)(B) of the Code concerning payments to "specified employees," any payment on account of the Executive's separation from service that would otherwise be due hereunder within six (6) months after such separation shall be delayed until the first business day of the seventh month following the Termination Date and the first such payment shall include the cumulative amount of any payments (without interest) that would have been paid prior to such date if not for such restriction. Each payment in a series of payments hereunder shall be deemed to be a separate payment for purposes of Section 409A. In no event may the Executive, directly or indirectly, designate the calendar year of payment. All reimbursements provided under this Agreement shall be made or provided in accordance with the requirements of Section 409A, including, where applicable, the requirement that (i) any reimbursement is for expenses incurred during the Executive's lifetime (or during a shorter period of time specified in this Agreement), (ii) the amount of expenses eligible for reimbursement during a calendar year may not affect the expenses eligible for reimbursement in any other calendar year, (iii) the reimbursement of an eligible expense will be made on or before the last day of the calendar year following the year in which the expense is incurred, and (iv) the right to reimbursement is not subject to liquidation or exchange for another benefit. Notwithstanding anything contained herein to the contrary, the Executive shall not be considered to have terminated employment with the Company for purposes of Section 4.1 or 4.2 unless the Executive would be considered to have incurred a "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.

Section 5.18. 280G Modified Cutback.

(a) If any payment, benefit or distribution of any type to or for the benefit of the Executive, whether paid or payable, provided or to be provided, or distributed or distributable pursuant to the terms of this Agreement or otherwise (collectively, the "Parachute Payments") would subject the Executive to the excise tax imposed under Section 4999 of the Code (the "Excise Tax"), the Parachute Payments shall be reduced so that the maximum amount of the Parachute Payments (after reduction) shall be one dollar ($1.00) less than the amount which would cause the Parachute Payments to be subject to the Excise Tax; provided that the Parachute Payments shall only be reduced to the extent the after-tax value of amounts received by the Executive after application of the above reduction would exceed the after-tax value of the amounts received without application of such reduction. For this purpose, the after-tax value of an amount shall be determined taking into account all federal, state, and local income, employment and excise taxes applicable to such amount. Unless the Executive shall have given prior written notice to the Company to effectuate a reduction in the Parachute Payments if such a reduction is required, which notice shall be consistent with the requirements of Section 409A to avoid the imputation of any tax, penalty or interest thereunder, then the Company shall reduce or eliminate the Parachute Payments by first reducing or eliminating any cash payments (with the payments to be made furthest in the future being reduced first), then reducing or eliminating accelerated vesting of stock options or similar awards, then by reducing or eliminating any other remaining Parachute Payments; provided, that no such reduction or elimination shall apply to any non-qualified deferred compensation amounts (within the meaning of Section 409A) to the extent such reduction or elimination would accelerate or defer the timing of such payment in manner that does not comply with Section 409A.

(b) An initial determination as to whether (x) any of the Parachute Payments received by the Executive in connection with the occurrence of a change in the ownership or control of the Company or in the ownership of a substantial portion of the assets of the Company shall be subject to the Excise Tax, and (y) the amount of any reduction, if any, that may be required pursuant to the previous paragraph, shall be made by an independent accounting firm selected by the Company (the "Accounting Firm") prior to the consummation of such change in the ownership or effective control of the Company or in the ownership of a substantial portion of the assets of the Company. The Executive shall be furnished with notice of all determinations made as to the Excise Tax payable with respect to the Executive's Parachute Payments, together with the related calculations of the Accounting Firm, promptly after such determinations and calculations have been received by the Company.

(c) For purposes of this Section 5.18, (i) no portion of the Parachute Payments the receipt or enjoyment of which the Executive shall have effectively waived in writing prior to the date of payment of the Parachute Payments shall be taken into account; (ii) no portion of the Parachute Payments shall be taken into account which in the opinion of the Accounting Firm does not constitute a "parachute payment" within the meaning of Section 280G(b)(2) of the Code; (iii) the Parachute Payments shall be reduced only to the extent necessary so that the Parachute Payments (other than those referred to in the immediately preceding clause (i) or (ii)) in their entirety constitute reasonable compensation for services actually rendered within the meaning of Section 280G(b)(4) of the Code or are otherwise not subject to disallowance as deductions, in the opinion of the auditor or tax counsel referred to in such clause (ii); and (iv) the value of any non-cash benefit or any deferred payment or benefit included in the Parachute Payments shall be determined by the Company's independent auditors based on Sections 280G and 4999 of the Code and the regulations for applying those sections of the Code, or on substantial authority within the meaning of Section 6662 of the Code.

[Signature Page Follows]

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

COMPANY

CytoDyn Inc.

By: /s/ Nader Z. Pourhassan
Name: Nader Z. Pourhassan
Title: President, CEO and Director

EXECUTIVE

By: /s/ Craig S. Eastwood
Name: Craig S. Eastwood

Exhibit 10.8

EMPLOYMENT AGREEMENT

This EMPLOYMENT AGREEMENT (this "Agreement"), dated as of January 6, 2019 (the "Effective Date"), is by and between CYTODYN INC., a Delaware corporation (the "Company") and Maura Fleming (the "Executive").

W I T N E S S E T H:

WHEREAS, the Company desires to employ the executive as its Vice President, General Counsel, and Corporate Secretary, and the Executive desires to accept such employment, on the terms and conditions set forth in this Agreement.

NOW, THEREFORE, in consideration of the promises and the mutual covenants and agreements contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto, intending to be legally bound hereby, agree as follows:

ARTICLE 1

EMPLOYMENT; TERMINATION OF PRIOR AGREEMENT; TERM OF AGREEMENT

Section 1.1 Employment and Acceptance. During the Term (as defined in Section 1.2), the Company shall employ the Executive, and the Executive shall accept such employment and serve the Company, in each case, subject to the terms and conditions of this Agreement.

Section 1.2 Term. The employment relationship hereunder shall be for the period (such period of the employment relationship shall be referred to herein as the "Term") commencing on the Effective Date and ending upon the termination of the Executive's employment hereunder by either party hereto pursuant to the terms of Section 4.1, Section 4.2, Section 4.3 or Section 4.4. In the event that the Executive's employment with the Company terminates, the Company's obligation to continue to pay, after the Termination Date (as defined in Section 4.3(b)), Base Salary (as defined in Section 3.1(a)), Annual Bonus (as defined in Section 3.1(b)) and other un-accrued benefits shall terminate except as may be provided for in ARTICLE 4.

ARTICLE 2

TITLE; DUTIES AND OBLIGATIONS; LOCATION

Section 2.1 Title. The Company shall employ the Executive to render exclusive and full-time services to the Company. The Executive shall serve in the capacity of Vice President, General Counsel, and Corporate Secretary.

Section 2.2 Duties. Subject to the direction and authority of the Board of Directors of the Company (the "Board"), the Executive shall have direct responsibility for the management of the Company's litigation matters, management of the Company's relationships with external legal service providers, the drafting and negotiation of contracts on the Company's behalf, the development of the Company's policies on industry-specific issues, corporate governance, documentation and regulatory affairs, the advising of executives within the Company on key legal matters and the consultation with management, commercial advisors, tax experts and accountants. The Executive shall report to, and be subject to the lawful direction of the Chief Financial Officer (CFO). The Executive agrees to perform to the best of her ability, experience, and talent those acts and duties, consistent with the position of Vice President, General Counsel, and Corporate Secretary of the Company, as the CFO shall from time to time direct. During the Term, the Executive also shall serve in such other executive-level positions or capacities as may, from time to time, be reasonably requested by the Board, including, without limitation (subject to election, appointment, re-election or re-appointment, as applicable) as (a) a member of the Board and/or as a member of the board of directors or similar governing body of any of the Company's subsidiaries or other Affiliates (as defined below), (b) an officer of any of the Company's subsidiaries or other Affiliates, and/or (c) a member of any committee of the Company and/or any of its subsidiaries or other Affiliates, in each case, for no additional compensation. As used in this Agreement, "Affiliate" of any individual or entity means any other individual or entity that directly or individual controls, is controlled by, or is under common control with, the individual or entity.

Section 2.3. Compliance with Policies, etc. During the Term, the Executive shall be bound by, and comply fully with, all of the Company's 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, compliance manual, codes of conduct

and any other memoranda and communications applicable to the Executive pertaining to the policies, procedures, rules and regulations, as currently in effect and as may be amended from time to time. These policies and procedures include, among other things and without limitation, the Executive's obligations to comply with the Company's rules regarding confidential and proprietary information and trade secrets.

Section 2.4. Time Commitment. During the Term, the Executive shall use her best efforts to promote the interests of the Company (including its subsidiaries and other Affiliates) and shall devote all of her business time, ability and attention to the performance of her duties for the Company and shall not, directly or indirectly, render any services to any other person or organization, whether for compensation or otherwise, except with the Board's prior written consent, provided that the foregoing shall not prevent the Executive from (i) participating in charitable, civic, educational, professional, community or industry affairs, (ii) managing the Executive's passive personal investments, or (iii) serving on the board of directors (or similar governing bodies) of not more than two (2) other corporations (or other business entities) that are not competitors of the Company, its subsidiaries or any of its other Affiliates (as determined by the Board), so long as, in each case, such activities individually or in the aggregate do not materially interfere or conflict with the Executive's duties hereunder or create a potential business or fiduciary conflict (in each case, as determined by the Board).

Section 2.5. Location. The Executive's principal place of business for the performance of her duties under this Agreement shall be at the principal executive office of the Company (currently located in Vancouver, Washington). Notwithstanding, the foregoing, the Executive shall be required to travel as necessary to perform her 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 $200,000, 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, 2020), the Executive shall be eligible to receive an annual bonus (the "Annual Bonus") with a target amount equal to thirty five percent (35%) 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 reasonable 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 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. The Annual Bonus shall not be deemed earned until the date that it is paid. Accordingly, in order for the Executive to receive an Annual Bonus, the Executive must be actively

employed by the Company at the time of such payment. Any Annual Bonus paid to the Executive with respect to the fiscal year ending May 31, 2020 shall be prorated based on the number of days the Executive has been employed by the Company during the fiscal year ended May 31, 2020 based on a 365-day fiscal year.

(c) Equity Compensation. During the Term, subject to the terms and conditions established within the Plan and separate Award Agreements (as defined in the Plan), the Executive also shall be eligible to receive from time to time additional Options, Stock Appreciation Rights, Restricted Awards or Other Stock-Based Awards (as such capitalized terms are defined in the Plan), in amounts, if any, to be approved by the Board or the Compensation Committee in its discretion.

(d) Benefit Plans. The Executive shall be entitled to participate in all employee benefit plans and programs (excluding severance plans, if any) generally made available by the Company to senior 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.

(e) Paid Vacation. The Executive shall be entitled to paid vacation days in accordance with the Company's vacation policies in effect from time to time for its 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 her duties hereunder. In order to receive such reimbursement, the Executive shall furnish to the Company documentary evidence of each such expense in the form required to comply with the Company's policies in place from time to time.

ARTICLE 4

TERMINATION OF EMPLOYMENT

Section 4.1. Termination Without Cause.

(a) The Company may terminate the Executive's employment hereunder at any time without Cause (other than by reason of death or Disability) upon written notice to the Executive.

(b) As used in this Agreement, "Cause" means: (i) a material act, or act of fraud, committed by the Executive that is intended to result in the Executive's personal enrichment to the detriment or at the expense of the Company or any of its Affiliates; (ii) the Executive is convicted of a felony; (iii) willful and continued failure by the Executive to perform the duties or obligations reasonably assigned to the Executive by the Board from time to time, which failure is not cured upon ten (10) days prior written notice (unless such failure is not susceptible to cure, as determined in the reasonable discretion of the Board); or (iv) the Executive violates the Covenants Agreement (as defined in Section 5.1 below).

(c) If the Executive's employment is terminated pursuant to Section 4.1(a), the Executive shall, in full discharge of all of the Company's obligations to the Executive, be entitled to receive, and the Company's sole obligation to the Executive under this Agreement or otherwise shall be to pay or provide to the Executive, the following:

(i) the Accrued Obligations (as defined in Section 4.3(b)); and

(ii) subject to Section 4.5 and Section 4.6:

(A) payments equal to four (4) months of the Executive's Base Salary at the rate in effect immediately prior to the Termination Date (less applicable withholdings and authorized deductions), to be paid in accordance with the Company's customary payroll practices, commencing on the first regular payroll date on or following the date that is sixty (60) days following such termination of employment (the "Severance Payments"); and

(B) 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.

(d) Notwithstanding anything in Section 4.1(c) to the contrary, the Severance Payments may be made, in the Board's sole discretion, in whole or in part through the issuance of shares of the Company's Common Stock, in each case with a Fair Market Value (as defined in the Company's Amended and Restated 2012 Equity Incentive Plan) equal to the amount to be paid on the applicable date.

Section 4.2. Termination without Cause or for Good Reason within 12 Months following a Change in Control.

(a) Notwithstanding the provisions of Section 4.1, if the Company terminates the Executive's employment hereunder without Cause (other than by reason of death or Disability) within twelve (12) months following a Change in Control of the Company, or the Executive resigns for Good Reason within twelve (12) months following a Change in Control of the Company, the provisions of this Section 4.2 shall control.

(b) As used in this Agreement, "Change in Control" means (x) a change in ownership of the Company under clause (i) below or (y) a change in the ownership of a substantial portion of the assets of the Company under clause (ii) below:

(i) 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 (iii) 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.

(ii) 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 (iii) 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 (ii) 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 (ii). 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 (ii)(c) of this paragraph. For purposes of this clause (ii), a person's status is determined immediately after the transfer of the assets. Notwithstanding anything in this clause (ii) 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.

(iii) Persons Acting as a Group. For purposes of clauses (i) and (ii) 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.

(iv) Each of clauses (i) through (iii) above shall be construed and interpreted consistent with the requirements of Section 409A and any Treasury Regulations or other guidance issued thereunder.

(c) As used in this Agreement, "Good Reason" means the occurrence of any of the following: (1) a material breach by the Company of the terms of this Agreement; (2) a material reduction in the Executive's Base Salary; (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 her duties under this Agreement to a location that is anywhere outside of a 50 mile radius of Vancouver, Washington; provided, however, that the Executive must notify the Company within ninety (90) days of the occurrence of any of the foregoing conditions that she considers it to be a "Good Reason" condition and provide the Company with at least thirty (30) days in which to cure the condition. If the Executive fails to provide this notice and cure period prior to her resignation, or resigns more than six (6) months after the initial existence of the condition, her resignation will not be deemed to be for "Good Reason."

(d) If the Executive's employment is terminated pursuant to Section 4.2(a) (i.e., the Company terminates the Executive's employment hereunder without Cause (other than by reason of death or Disability) within twelve (12) months following a Change in Control of the Company, or the Executive resigns for Good Reason within twelve (12) months following a Change in Control of the Company), the Executive shall, in full discharge of all of the Company's obligations to the Executive, be entitled to receive, and the Company's sole obligation to the Executive under this Agreement or otherwise shall be to pay or provide to the Executive, the following:

(i) the Accrued Obligations; and

(ii) subject to Section 4.5 and Section 4.6:

(A) payments equal to the sum of eighteen (18) months of the Executive's Base Salary at the rate in effect immediately prior to Termination Date (less applicable withholdings and authorized deductions), to be paid in accordance with the Company's customary payroll practices, commencing on the first regular payroll date on or following the date that is sixty (60) days following such termination of employment (the "Enhanced Severance Payments"); and

(B) 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.

For purposes of clarity, it is understood and agreed that the Enhanced Severance Payments set forth in this Section 4.2 shall be in lieu of (and not in addition to) the Severance Payments set forth in Section 4.1.

Section 4.3. Termination for Cause; Voluntary Termination.

(a) The Company may terminate the Executive's employment hereunder at any time for Cause upon written notice to the Executive. The Executive may voluntarily terminate her employment hereunder at any time for any reason or no reason upon ninety (90) days prior written notice to the Company; provided, however, the Company reserves the right, upon written notice to the Executive, to accept the Executive's notice of resignation and to accelerate such notice and make the Executive's resignation effective immediately, or on such other date prior to Executive's intended last day of work as the Company deems appropriate. It is understood and agreed that the Company's election to accelerate Executive's notice of resignation shall not be deemed a termination by the Company without Cause for purposes of Section 4.1 or 4.2 of this Agreement or otherwise or constitute Good Reason for purposes of Section 4.2 of this Agreement or otherwise.

(b) If the Executive's employment is terminated pursuant to Section 4.3(a), the Executive shall, in full discharge of all of the Company's obligations to the Executive, be entitled to receive, and the Company's sole obligation under this Agreement or otherwise shall be to pay or provide to the Executive, the following (collectively, the "Accrued Obligations"):

(i) the Executive's accrued but unpaid Base Salary through the final date of the Executive's employment by the Company (the "Termination Date"), payable in accordance with the Company's standard payroll practices;

(ii) the Executive's 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 4.4. Termination Resulting from Death or Disability.

(a) As the result of any Disability suffered by the Executive, the Company may, upon five (5) days prior notice to the Executive, terminate the Executive's employment under this Agreement. The Executive's employment shall automatically terminate upon her death.

(b) “Disability” means a determination by the Company in accordance with applicable law that as a result of a physical or mental injury or illness, the Executive is unable to perform the essential functions of her job with or without reasonable accommodation for a period of (i) ninety (90) consecutive days; or (ii) one hundred twenty (120) days during any twelve (12) month period.

(c) If the Executive’s employment is terminated pursuant to Section 4.4(a), the Executive or the Executive’s estate, as the case may be, shall be entitled to receive, and the Company’s sole obligation under this Agreement or otherwise shall be to pay or provide to the Executive or the Executive’s estate, as the case may be, the Accrued Obligations.

Section 4.5 Release Agreement. In order to receive the Severance Payments set forth in Section 4.1 or to receive the Enhanced Severance Payments set forth in Section 4.2 (as applicable, and, in each case, if eligible), the Executive must timely execute (and not revoke) a separation agreement and general release (the “Release Agreement”) in a customary form as is determined to be reasonably necessary by the Company in its good faith and reasonable discretion; provided, that the Company shall endeavor to provide the Executive with the form of Release Agreement within 3 days following the Termination Date. The Severance Payments or the Enhanced Severance Payments, as applicable, are subject to the Executive’s execution of such Release Agreement within 45 days of the Executive’s receipt of the Release Agreement and the Executive’s non-revocation of such Release Agreement, if applicable.

Section 4.6 Post-Termination Breach. Notwithstanding anything to the contrary contained in this Agreement, the Company’s obligations to provide the Severance Payments or the Enhanced Severance Payments, as applicable, will immediately cease if the Executive breaches any of the provisions of the Covenants Agreement, the Release Agreement or any other agreement the Executive has with the Company, or if any provision of those agreements is determined to be unenforceable, to any extent, by a court or arbitration panel, whether by preliminary or final adjudication.

Section 4.7. Removal from any Boards and Position. If the Executive's employment is terminated for any reason under this Agreement, she 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 she has been appointed or nominated by or on behalf of the Company and (ii) from all other positions with the Company or any subsidiary or other Affiliate of the Company, including, but not limited to, as an officer of the Company and any of its subsidiaries or other Affiliates.

ARTICLE 5

GENERAL PROVISIONS

Section 5.1. Employee Inventions Assignment and Non-Disclosure Agreement. The Executive acknowledges and confirms that the Employee Inventions Assignment and Non-Disclosure Agreement executed by the Executive in favor of the Company on January 6, 2020 (the "Covenants Agreement"), the terms of which are incorporated herein by reference, remains in full force and effect and binding on the Executive. The Covenants Agreement shall survive the termination of this Agreement and the Executive's employment by the Company for the applicable period(s) set forth therein.

Section 5.2. Expenses. Each of the Company and the Executive shall bear its/her own costs, fees and expenses in connection with the negotiation, preparation and execution of this Agreement.

Section 5.3. Key-Man Insurance. Upon the Company's request, the Executive shall cooperate (including, without limitation, taking any required physical examinations) in all respects in obtaining a key-man life insurance policy on the life of the Executive in which the Company is named as the beneficiary.

Section 5.4. Entire Agreement. This Agreement, the Indemnification Agreement between the Executive and the Company effective January 6, 2019, as it may be amended from time to time (the "Indemnification Agreement"), and the Covenants Agreement contain the entire agreement of the parties hereto with respect to the terms and conditions of the Executive's employment during the Term and activities following termination of this Agreement and the Executive's employment with the Company and supersede any and all prior agreements and understandings, whether written

or oral, between the parties hereto with respect to the subject matter of this Agreement, the Indemnification Agreement, or the Covenants Agreement. Each party hereto acknowledges that no representations, inducements, promises or agreements, whether oral or in writing, have been made by any party, or on behalf of any party, which are not embodied herein, or in the Covenants Agreement. The Executive acknowledges and agrees that the Company has fully satisfied, and has no further, obligations to the Executive arising under, or relating to, any prior employment or consulting arrangement or understanding (including, without limitation, any claims for compensation or benefits of any kind) or otherwise. No agreement, promise or statement not contained in this Agreement, the Indemnification Agreement, or the Covenants Agreement shall be valid and binding, unless agreed to in writing and signed by the parties sought to be bound thereby.

Section 5.5. No Other Contracts. The Executive represents and warrants to the Company that neither the execution and delivery of this Agreement by the Executive nor the performance by the Executive of the Executive's obligations hereunder, shall constitute a default under or a breach of the terms of any other agreement, contract or other arrangement, whether written or oral, to which the Executive is a party or by which the Executive is bound, nor shall the execution and delivery of this Agreement by the Executive nor the performance by the Executive of her 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 she 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 her obligations under this Agreement, including, but not limited to, non-competition agreements, non-solicitation agreements or confidentiality agreements. The Executive shall defend, indemnify and hold the Company harmless from and against all claims, actions, losses, liabilities, damages, costs and expenses (including reasonable attorney's fees and amounts paid in settlement in good faith) arising from or relating to any breach of the representations and warranties made by the Executive in this Section 5.5.

Section 5.6. Notices. Any notice or other communication required or permitted hereunder shall be in writing and shall be delivered personally or sent by nationally recognized overnight courier service (with next business day delivery requested). Any such notice or communication shall be deemed given and effective, in the case of personal delivery, upon receipt by the other party, and in the case of a courier service, upon the next business day, after dispatch of the notice or communication. Any such notice or communication shall be addressed as follows:

If to the Company, to:

CytoDyn Inc.
1111 Main Street, Suite 660
Vancouver, WA 98660
Attn: Board of Directors

With a copy to:

Lowenstein Sandler LLP
1251 Avenue of the Americas
New York, New York 10020
Attn: Michael J. Lerner, Esq.

If to the Executive, to:

Maura Fleming
[***]

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

Section 5.7. Governing Law; Jurisdiction. This Agreement shall be governed by, and construed in accordance with, the laws of the State of Washington, without regard to principles of conflicts of law. Any and all actions arising out of this Agreement or Executive's employment by Company or termination therefrom shall be brought and heard in the state and federal courts of the State of Washington and the parties hereto hereby irrevocably submit to the exclusive jurisdiction of any such courts. 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 5.8. Waiver. Either party hereto may waive compliance by the other party with any provision of this Agreement. The failure of a party to insist on strict adherence to any term of this Agreement on any occasion shall not be considered a waiver or deprive that party of the right thereafter to insist upon strict adherence to that term or any other term of this Agreement. No waiver of any provision shall be construed as a waiver of any other provision. Any waiver must be in writing.

Section 5.9. Severability. If any one or more of the terms, provisions, covenants and restrictions of this Agreement shall be determined by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the terms, provisions, covenants and restrictions of this Agreement shall remain in full force and effect and shall in no way be affected, impaired or invalidated and the parties will attempt to agree upon a valid and enforceable provision which shall be a reasonable substitute for such invalid and unenforceable provision in light of the tenor of this Agreement, and, upon so agreeing, shall incorporate such substitute provision in this Agreement. In addition, if any one or more of the provisions contained in this Agreement shall for any reason be determined by a court of competent jurisdiction to be excessively broad as to duration, geographical scope, activity or subject, it shall be construed, by limiting or reducing it, so as to be enforceable to the extent compatible with then applicable law.

Section 5.10. Counterparts. This Agreement may be executed in any number of counterparts and each such duplicate counterpart shall constitute an original, any one of which may be introduced in evidence or used for any other purpose without the production of its duplicate counterpart. Moreover, notwithstanding that any of the parties did not execute the same counterpart, each counterpart shall be deemed for all purposes to be an original, and all such counterparts shall constitute one and the same instrument, binding on all of the parties hereto.

Section 5.11. Advice of Counsel. Both parties hereto acknowledge that they have had the opportunity to seek and obtain the advice of counsel before entering into this Agreement and have done so to the extent desired, and have fully read the Agreement and understand the meaning and import of all the terms hereof.

Section 5.12. Assignment. This Agreement shall inure to the benefit of the Company and its successors and assigns (including, without limitation, the purchaser of all or substantially all of its assets) and shall be binding upon the Company and its successors and assigns. This Agreement is personal to the Executive, and the Executive shall not assign or delegate her rights or duties under this Agreement, and any such assignment or delegation shall be null and void.

Section 5.13. Agreement to Take Actions. Each party to this Agreement shall execute and deliver such documents, certificates, agreements and other instruments, and shall take all other actions, as may be reasonably necessary or desirable in order to perform her or its obligations under this Agreement.

Section 5.14. No Attachment. Except as required by law, no right to receive payments under this Agreement shall be subject to anticipation, commutation, alienation, sale, assignment, encumbrance, charge, pledge, or hypothecation or to execution, attachment, levy or similar process or assignment by operation of law, and any attempt, voluntary or involuntary, to effect any such action shall be null, void and of no effect; provided, however, that nothing in this Section 5.14 shall preclude the assumption of such rights by executors, administrators or other legal representatives of the Executive or the Executive's estate and their assigning any rights hereunder to the person or persons entitled thereto.

Section 5.15. Source of Payment. Except as otherwise provided under the terms of any applicable employee benefit plan, all payments provided for under this Agreement shall be paid in cash from the general funds of Company. The Company shall not be required to establish a special or separate fund or other segregation of assets to assure such payments, and, if the Company shall make any investments to aid it in meeting its obligations hereunder, the Executive shall have no right, title or interest whatever in or to any such investments except as may otherwise be expressly provided in a separate written instrument relating to such investments. Nothing contained in this Agreement, and no action taken pursuant to its provisions, shall create or be construed to create a trust of any kind, or a fiduciary relationship, between Company and the Executive or any other person. To the extent that any person acquires a right to receive payments from Company hereunder, such right, without prejudice to rights which employees may have, shall be no greater than the right of an unsecured creditor of Company. The Executive shall not look to the owners of the Company for the satisfaction of any obligations of the Company under this Agreement.

Section 5.16. Tax Withholding. The Company or other payor is authorized to withhold from any benefit provided or payment due hereunder, the amount of withholding taxes due any federal, state or local authority in respect of such benefit or payment and to take such other action as may be necessary in the opinion of the 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 5.17. 409A Compliance. All payments under this Agreement are intended to comply with or be exempt from the requirements of Section 409A of the Code and regulations promulgated thereunder ("Section 409A"). As used in this Agreement, the "Code" means the Internal Revenue Code of 1986, as amended. To the extent permitted under applicable regulations and/or other guidance of general applicability issued pursuant to Section 409A, the Company reserves the right to modify this Agreement to conform with any or all relevant provisions regarding compensation and/or benefits so that such compensation and benefits are exempt from the provisions of 409A and/or otherwise comply with such provisions so as to avoid the tax consequences set forth in Section 409A and to assure that no payment or benefit shall be subject to an "additional tax" under Section 409A. To the extent that any provision in this Agreement is ambiguous as to its compliance with Section 409A, or to the extent any provision in this Agreement

must be modified to comply with Section 409A, such provision shall be read in such a manner so that no payment due to the Executive shall be subject to an "additional tax" within the meaning of Section 409A(a)(1)(B) of the Code. If necessary to comply with the restriction in Section 409A(a)(2)(B) of the Code concerning payments to "specified employees," any payment on account of the Executive's separation from service that would otherwise be due hereunder within six (6) months after such separation shall be delayed until the first business day of the seventh month following the Termination Date and the first such payment shall include the cumulative amount of any payments (without interest) that would have been paid prior to such date if not for such restriction. Each payment in a series of payments hereunder shall be deemed to be a separate payment for purposes of Section 409A. In no event may the Executive, directly or indirectly, designate the calendar year of payment. All reimbursements provided under this Agreement shall be made or provided in accordance with the requirements of Section 409A, including, where applicable, the requirement that (i) any reimbursement is for expenses incurred during the Executive's lifetime (or during a shorter period of time specified in this Agreement), (ii) the amount of expenses eligible for reimbursement during a calendar year may not affect the expenses eligible for reimbursement in any other calendar year, (iii) the reimbursement of an eligible expense will be made on or before the last day of the calendar year following the year in which the expense is incurred, and (iv) the right to reimbursement is not subject to liquidation or exchange for another benefit. Notwithstanding anything contained herein to the contrary, the Executive shall not be considered to have terminated employment with the Company for purposes of Section 4.1 or 4.2 unless the Executive would be considered to have incurred a "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.

Section 5.18. 280G Modified Cutback.

(a) If any payment, benefit or distribution of any type to or for the benefit of the Executive, whether paid or payable, provided or to be provided, or distributed or distributable pursuant to the terms of this Agreement or otherwise (collectively, the "Parachute Payments") would subject the Executive to the excise tax imposed under Section 4999 of the Code (the "Excise Tax"), the

Parachute Payments shall be reduced so that the maximum amount of the Parachute Payments (after reduction) shall be one dollar ($1.00) less than the amount which would cause the Parachute Payments to be subject to the Excise Tax; provided that the Parachute Payments shall only be reduced to the extent the after-tax value of amounts received by the Executive after application of the above reduction would exceed theafter-tax value of the amounts received without application of such reduction. For this purpose, the after-tax value of an amount shall be determined taking into account all federal, state, and local income, employment and excise taxes applicable to such amount. Unless the Executive shall have given prior written notice to the Company to effectuate a reduction in the Parachute Payments if such a reduction is required, which notice shall be consistent with the requirements of Section 409A to avoid the imputation of any tax, penalty or interest thereunder, then the Company shall reduce or eliminate the Parachute Payments by first reducing or eliminating any cash payments (with the payments to be made furthest in the future being reduced first), then reducing or eliminating accelerated vesting of stock options or similar awards, then by reducing or eliminating any other remaining Parachute Payments; provided, that no such reduction or elimination shall apply to any non-qualified deferred compensation amounts (within the meaning of Section 409A) to the extent such reduction or elimination would accelerate or defer the timing of such payment in manner that does not comply with Section 409A.

(b) An initial determination as to whether (x) any of the Parachute Payments received by the Executive in connection with the occurrence of a change in the ownership or control of the Company or in the ownership of a substantial portion of the assets of the Company shall be subject to the Excise Tax, and (y) the amount of any reduction, if any, that may be required pursuant to the previous paragraph, shall be made by an independent accounting firm selected by the Company (the "Accounting Firm") prior to the consummation of such change in the ownership or effective control of the Company or in the ownership of a substantial portion of the assets of the Company. The Executive shall be furnished with notice of all determinations made as to the Excise Tax payable with respect to the Executive's Parachute Payments, together with the related calculations of the Accounting Firm, promptly after such determinations and calculations have been received by the Company.

(c) For purposes of this Section 5.18, (i) no portion of the Parachute Payments the receipt or enjoyment of which the Executive shall have effectively waived in writing prior to the date of payment of the Parachute Payments shall be taken into account; (ii) no portion of the Parachute Payments shall be taken into account which in the opinion of the Accounting Firm does not constitute a "parachute payment" within the meaning of Section 280G(b)(2) of the Code; (iii) the Parachute Payments shall be reduced only to the extent necessary so that the Parachute Payments (other than those referred to in the immediately preceding clause (i) or (ii)) in their entirety constitute reasonable compensation for services actually rendered within the meaning of Section 280G(b)(4) of the Code or are otherwise not subject to disallowance as deductions, in the opinion of the auditor or tax counsel referred to in such clause (ii); and (iv) the value of any non-cash benefit or any deferred payment or benefit included in the Parachute Payments shall be determined by the Company's independent auditors based on Sections 280G and 4999 of the Code and the regulations for applying those sections of the Code, or on substantial authority within the meaning of Section 6662 of the Code.

[Signature Page Follows]

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

COMPANY
CytoDyn Inc.

By: /s/ Nader Z. Pourhassan
Name: Nader Z. Pourhassan
Title: President, CEO and Director

EXECUTIVE

By: /s/ Maura Fleming
Name: Maura Fleming

Exhibit 10.9

Amendment to
[Employment Agreement]

This Amendment (this "Amendment") to the [Employment Agreement] by and between CytoDyn Inc. and [Executive Name] is made and entered into as of January __, 2020 (the "Effective Date"), by and between CytoDyn Inc., a Delaware corporation (the "Company"), and [Executive Name], an individual (the "Executive").

WHEREAS, the Company and the Executive have entered into that certain [Employment Agreement], dated as of [Date] (the "Employment Agreement"); and

WHEREAS, the Company and the Executive wish to amend certain terms of the Employment Agreement as set forth herein.

NOW, THEREFORE, in consideration of the material promises set forth herein and for other good and valuable consideration, the parties agree as follows:

1. Definitions. Capitalized terms used but not defined herein shall have the meanings assigned to such terms in the Employment Agreement.

2. Amendment to Section 4. Section 4.1[(d)] of the Employment Agreement is hereby [amended by adding a new section 4.1(d)]/[amended and restated in its entirety] as follows:

"(d) Notwithstanding anything in Section 4.1(c) to the contrary, the Severance Payments may be made, in the Board's sole discretion, in whole or in part through the issuance of shares of the Company's Common Stock, in each case with a Fair Market Value (as defined in the Company's Amended and Restated 2012 Equity Incentive Plan) equal to the amount to be paid on the applicable date."

3. Amendment to Section 4. Section 4.5 of the Employment agreement is hereby amended and restated in its entirety as follows:

"Section 4.5 Release Agreement. In order to receive the Severance Payments set forth in Section 4.1 or to receive the Enhanced Severance Payments set forth in Section 4.2 (as applicable, and, in each case, if eligible), the Executive must timely execute (and not revoke) a separation agreement and general release (the "Release Agreement") in a customary form as is determined to be reasonably necessary by the Company in its good faith and reasonable discretion; provided, that the Company shall endeavor to provide the Executive with the form of Release Agreement within 3 days following the Termination Date. The Severance Payments or the Enhanced Severance Payments, as applicable, are subject to the Executive's execution of such Release Agreement within 45 days of the Executive's receipt of the Release Agreement and the Executive's non-revocation of such Release Agreement, if applicable."

4. No Other Amendments. Except as expressly amended herein, the Employment Agreement, as amended shall continue in full force and effect.

5. Governing Law. This Amendment shall be governed by, and construed in accordance with, the laws of the state of Washington without giving effect to the choice of law provisions thereof.

6. Counterparts. For the convenience of the parties hereto, this Amendment may be executed in any number of counterparts, each such counterpart being deemed to be an original instrument, and all such counterparts shall together constitute the same agreement.

7. Successors and Assigns. This Amendment shall be binding upon and inure to the benefit of the parties hereto and each of their successors and assigns, including, without limitation, any successors or surviving entities thereto by operation of merger.

8. Entire Agreement. The Employment Agreement, as amended by this Amendment, constitutes the entire agreement of all parties hereto with respect to the subject matter hereof and supersedes all prior agreements and undertakings, both written and oral, among the parties hereto with respect to the subject matter hereof. All references in the Employment Agreement to "this Agreement", "hereof", "hereby" and words of similar import shall refer to the Employment Agreement as amended by this Amendment.

[Signature Page Follows]

IN WITNESS WHEREOF, the parties have set their hands as of the Effective Date.

THE COMPANY
CytoDyn Inc.

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

EXECUTIVE
[Executive Name]

/s/

Exhibit 31.1

Certification of Chief Executive Officer

I, Nader Z. Pourhassan, certify that:

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

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

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

4. The Registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules13a-15(f) and 15d-15(f)) for the Registrant and have:

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

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

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

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

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

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

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

Date: January 9, 2020

/s/ Nader Z. Pourhassan
Nader Z. Pourhassan
President and Chief Executive Officer

Exhibit 31.2

Certification of Chief Financial Officer

I, Craig S. Eastwood, certify that:

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

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

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

4. The Registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules13a-15(f) and 15d-15(f)) for the Registrant and have:

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

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

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

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

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

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

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

Date: January 9, 2020

/s/ Craig S. Eastwood
Craig S. Eastwood
Chief Financial Officer

Exhibit 32.1

Certification of Chief Executive Officer

CERTIFICATION PURSUANT TO 18 U.S.C. SECTION 1350

In connection with the Quarterly Report of CytoDyn Inc. (the "Company") on Form10-Q for the fiscal quarter ended November 30, 2019, as filed with the Securities and Exchange Commission on the date hereof (the "Form 10-Q"), I, Nader Z. Pourhassan, President and Chief Executive Officer of the Company, hereby certify, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that based on my knowledge:

(1) The Form 10-Q fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m or 78o(d)); and

(2) The information contained in the Form 10-Q fairly presents, in all material respects, the financial condition and results of operations of the Company.

Date: January 9, 2020

/s/ Nader Z. Pourhassan
Nader Z. Pourhassan
President and Chief Executive Officer

Exhibit 32.2

Certification of Chief Financial Officer

CERTIFICATION PURSUANT TO 18 U.S.C. SECTION 1350

In connection with the Quarterly Report of CytoDyn Inc. (the "Company") on Form10-Q for the fiscal quarter ended November 30, 2019, as filed with the Securities and Exchange Commission on the date hereof (the "Form 10-Q"), I, Craig S. Eastwood, Chief Financial Officer of the Company, hereby certify, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that based on my knowledge:

(1) The Form 10-Q fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m or 78o(d)); and

(2) The information contained in the Form 10-Q fairly presents, in all material respects, the financial condition and results of operations of the Company.

Date: January 9, 2020

/s/ Craig S. Eastwood
Craig S. Eastwood
Chief Financial Officer