Table of Contents

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, 2021

☐ **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)**

(360) 980-8524
(Registrant's telephone number, including area code)
Not applicable
(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, a non-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, 2021, there were 690,233,504 shares outstanding of the registrant's $0.001 par value common stock.

TABLE OF CONTENTS

PART I. Financial Information

Item 1. Consolidated Financial Statements

CytoDyn Inc.
Consolidated Balance Sheets
(Unaudited)
(In thousands, except par value)

	November 30, 2021	May 31, 2021 (Revised) [1]
Assets		
Current assets:		
Cash	$ 8,875	$ 33,943
Accounts receivable	225	—
Inventories, net	88,557	93,479
Prepaid expenses	2,979	616
Prepaid service fees	1,174	1,543
Total current assets	101,810	129,581
Operating leases right-of-use asset	617	712
Property and equipment, net	119	134
Intangibles, net	1,153	1,653
Total assets	$ 103,699	$ 132,080
Liabilities and Stockholders' (Deficit) Equity		
Current liabilities:		
Accounts payable	$ 58,008	$ 65,897
Accrued liabilities and compensation	6,654	19,073
Accrued interest on convertible notes	3,670	2,007
Accrued dividends on convertible preferred stock	3,481	2,647
Operating leases liabilities	149	175
Convertible notes payable, net	43,947	62,747
Total current liabilities	115,909	152,546
Long-term liabilities:		
Operating leases liabilities	486	552
Total long-term liabilities	486	552
Total liabilities	116,395	153,098
Commitments and Contingencies (Note 10)		
Stockholders' (deficit) equity:		
Preferred Stock, $0.001 par value; 5,000 shares authorized		
Series D convertible preferred stock, $0.001 par value; 12 authorized; 9 issued and outstanding at November 30, 2021 and May 31, 2021	—	—
Series C convertible preferred stock, $0.001 par value; 8 authorized; 8 issued and outstanding at November 30, 2021 and May 31, 2021	—	—
Series B convertible preferred stock, $0.001 par value; 400 shares authorized, 19 and 79 shares issued and outstanding at November 30, 2021 and May 31, 2021, respectively	—	—
Common stock, $0.001 par value; 1,000,000 shares authorized, 685,861 and 626,123 issued and 685,418 and 625,680 outstanding at November 30, 2021 and May 31, 2021, respectively	686	626
Additional paid-in capital	589,971	512,796
Accumulated (deficit)	(603,353)	(534,440)
Treasury stock, $0.001 par value; 443 at November 30, 2021 and May 31, 2021	—	—
Total stockholders' (deficit) equity	(12,696)	(21,018)
Total liabilities and stockholders' (deficit) equity	$ 103,699	$ 132,080

(1) See Note 2, "*—Correction of Immaterial Misstatements in Prior Period Financial Statements*".

See accompanying notes to consolidated financial statements.

CytoDyn Inc.
Consolidated Statements of Operations
(Unaudited)
(In thousands, except per share data)

	Three months ended November 30,		Six months ended November 30,	
	2021	2020 (Revised) [1]	2021	2020 (Revised) [1]
Revenue:				
Product revenue	$ 225	$ —	$ 266	$ —
Total revenue	225	—	266	—
Cost of goods sold:				
Cost of goods sold	52	—	53	—
Total cost of goods sold	52	—	53	—
Gross margin	173	—	213	—
Operating expenses:				
General and administrative	16,203	7,551	23,820	17,426
Research and development	9,040	16,446	22,824	31,738
Amortization and depreciation	252	506	528	1,011
Total operating expenses	25,495	24,503	47,172	50,175
Operating loss	(25,322)	(24,503)	(46,959)	(50,175)
Other income (expense):				
Loss on extinguishment of convertible notes	(3,312)	(4,169)	(7,963)	(4,169)
Legal settlement	—	—	(1,941)	—
Interest expense:				
Finance charges	(1,024)	(231)	(1,059)	(137)
Amortization of discount on convertible notes	(793)	(1,243)	(1,745)	(2,582)
Amortization of debt issuance costs	(23)	(15)	(51)	(19)
Inducement interest expense	(4,704)	(4,217)	(5,232)	(7,562)
Interest on convertible notes payable	(1,426)	(1,047)	(3,112)	(1,613)
Total interest expense	(7,970)	(6,753)	(11,199)	(11,913)
Loss before income taxes	(36,604)	(35,425)	(68,062)	(66,257)
Income tax benefit	—	—	—	—
Net loss	$ (36,604)	$ (35,425)	$ (68,062)	$ (66,257)
Basic and diluted loss per share	$ (0.06)	$ (0.06)	$ (0.11)	$ (0.12)
Basic and diluted weighted average common shares outstanding	662,600	577,945	647,517	566,677

(1) See Note 2, "*—Correction of Immaterial Misstatements in Prior Period Financial Statements*".

See accompanying notes to consolidated financial statements.

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

	Preferred stock		Common stock		Treasury stock		Additional paid-in capital (Revised) [1]	Accumulated deficit (Revised) [1]	Total stockholders' (deficit) equity (Revised) [1]
	Shares	Amount	Shares	Amount	Shares	Amount			
Balance May 31, 2021	96	$ —	626,123	$ 626	443	$ —	$ 512,796	$ (534,440)	$ (21,018)
First Quarter Fiscal Year Ended May 31, 2022									
Issuance of stock for convertible note repayment	—	—	11,816	12	—	—	18,483	—	18,495
Issuance of legal settlement warrants	—	—	—	—	—	—	1,744	—	1,744
Exercise of stock options	—	—	300	—	—	—	189	—	189
Stock issued for incentive compensation and tendered for income tax	—	—	1,014	1	—	—	(1)	—	—
Stock issued for private offering ($1.00 per share)	—	—	2,872	3	—	—	2,869	—	2,872
Private warrant exchange	—	—	1,327	1	—	—	774	—	775
Exercise of warrants	—	—	668	1	—	—	502	—	503
Inducement interest expense related to private warrant exchange	—	—	—	—	—	—	528	—	528
Dividends accrued on Series C and D preferred stock	—	—	—	—	—	—	—	(420)	(420)
Stock-based compensation	—	—	—	—	—	—	2,597	—	2,597
Net Loss August 31, 2021	—	—	—	—	—	—	—	(31,458)	(31,458)
Balance August 31, 2021	96	—	644,120	644	443	—	540,481	(566,318)	(25,193)
Second Quarter Fiscal Year Ended May 31, 2022									
Issuance of stock for convertible note repayment	—	—	8,162	8	—	—	11,505	—	11,513
Exercise of stock options	—	—	210	—	—	—	200	—	200
Private warrant exchange	—	—	6,593	7	—	—	4,608	—	4,615
Stock issued for private offering ($1.00 - $1.80 per share)	—	—	25,178	25	—	—	27,282	—	27,307
Issuance costs related to stock issued for private offering	—	—	—	—	—	—	(1,418)	—	(1,418)
Conversion of Series B convertible preferred stock to common stock	(60)	—	600	1	—	—	—	—	1
Exercise of warrants	—	—	963	1	—	—	532	—	533
Inducement interest expense related to private warrant exchange	—	—	—	—	—	—	4,704	—	4,704
Dividend declared and paid in common stock on Series B preferred stock ($0.25 per share)	—	—	35	—	—	—	17	(17)	—
Dividends accrued on Series C and D preferred stock	—	—	—	—	—	—	—	(414)	(414)
Stock-based compensation	—	—	—	—	—	—	2,060	—	2,060
Net Loss November 30, 2021	—	—	—	—	—	—	—	(36,604)	(36,604)
Balance November 30, 2021	36	$ —	685,861	$ 686	443	$ —	$ 589,971	$ (603,353)	$ (12,696)

(1) See Note 2, "*—Correction of Immaterial Misstatements in Prior Period Financial Statements*".

See accompanying notes to consolidated financial statements.

	Preferred stock		Common stock		Treasury stock		Additional paid-in capital (Revised) [1]	Accumulated deficit (Revised) [1]	Total stockholders' (deficit) equity (Revised) [1]
	Shares	Amount	Shares	Amount	Shares	Amount			
Balance May 31, 2020	109	$ —	519,261	$ 519	286	$ —	$ 372,301	$ (375,301)	$ (2,481)
First Quarter Fiscal Year Ended May 31, 2021									
Issuance of stock for convertible note repayment	—	—	2,119	2	—	—	9,535	—	9,537
Issuance of legal settlement warrants	—	—	4,000	4	—	—	(4)	—	—
Exercise of stock options	—	—	100	—	—	—	39	—	39
Stock issued for incentive compensation and tendered for income tax	—	—	323	—	156	—	828	—	828
Conversion of Series B preferred stock to common stock	(5)	—	50	—	—	—	—	—	—
Private warrant exchange	—	—	16,544	17	—	—	7,787	—	7,804
Exercise of warrants	—	—	27,928	28	—	—	13,441	—	13,469
Inducement interest expense related to private warrant exchange	—	—	—	—	—	—	3,345	—	3,345
Offering costs related to private warrant exchange	—	—	—	—	—	—	(364)	—	(364)
Dividend declared and paid on Series B preferred stock ($0.25 per share)	—	—	—	—	—	—	—	(243)	(243)
Dividends accrued on Series C and D preferred stock	—	—	—	—	—	—	—	(420)	(420)
Stock-based compensation	—	—	—	—	—	—	2,086	—	2,086
Net Loss August 31, 2020	—	—	—	—	—	—	—	(30,832)	(30,832)
Balance August 31, 2020	104	—	570,325	570	442	—	408,994	(406,796)	2,768
Second Quarter Fiscal Year Ended May 31, 2021									
Issuance of stock for convertible note repayment	—	—	4,293	4	—	—	11,549	—	11,553
Exercise of stock options	—	—	10	—	—	—	10	—	10
Stock issued for private offering ($1.50 per share)	—	—	667	1	—	—	999	—	1,000
Private warrant exchange	—	—	12,480	13	—		4,583		4,596
Exercise of warrants	—	—	2,504	2	—		1,737		1,739
Inducement interest expense related to private warrant exchange	—	—	—	—	—	—	4,217	—	4,217
Dividends accrued on Series C and D preferred stock	—	—	—	—	—	—	—	(415)	(415)
Stock-based compensation	—	—	—	—	—	—	3,423	—	3,423
Net Loss November 30, 2020	—	—	—	—	—	—	—	(35,425)	(35,425)
Balance November 30, 2020	104	$ —	590,279	$ 590	442	$ —	$ 435,512	$ (442,636)	$ (6,534)

(1) See Note 2, "*—Correction of Immaterial Misstatements in Prior Period Financial Statements*.

See accompanying notes to consolidated financial statements.

CytoDyn Inc.
Consolidated Statements of Cash Flows
(Unaudited)
(In thousands)

	Six months ended November 30,	
	2021	**2020**
		(Revised) [1]
Cash flows from operating activities:		
Net loss	$ (68,062)	$ (66,257)
Adjustments to reconcile net loss to net cash used in operating activities:		
Amortization and depreciation	528	1,011
Amortization of debt issuance costs	51	19
Amortization of discount on convertible notes	1,745	2,582
Non-cash warrant issuance cost for legal settlement	1,744	—
Inducement interest expense	5,232	7,562
Inventory reserve and write-offs	3,357	4,835
Stock-based compensation	4,657	7,115
Loss on extinguishment of convertible notes	7,963	4,169
Changes in operating assets and liabilities:		
(Increase) in accounts receivable	(225)	—
Decrease (increase) in inventories, net	1,565	(84,759)
(Increase) decrease in prepaid expenses	(1,994)	1,072
(Decrease) increase in accounts payable and accrued expenses	(17,193)	61,532
Net cash used in operating activities	(60,632)	(61,119)
Cash flows from investing activities:		
Furniture and equipment purchases	(13)	(77)
Net cash used in investing activities	(13)	(77)
Cash flows from financing activities:		
Proceeds from warrant transactions, net of offering costs	5,390	12,035
Proceeds from sale of common stock and warrants, net of issuance costs	28,761	1,000
Proceeds from warrant exercises	1,036	15,209
Payment on convertible notes	—	(950)
Release of restricted cash held in trust for warrant tender offer	—	(10)
Proceeds from stock option exercises	390	48
Payment of payroll withholdings related to tender of common stock for income tax withholding	—	(778)
Proceeds from convertible notes payable, net	—	50,000
Dividend declared and paid on Series B preferred stock	—	(243)
Net cash provided by financing activities	35,577	76,311
Net change in cash	(25,068)	15,115
Cash and restricted cash, beginning of period	33,943	14,292
Cash and restricted cash, end of period	$ 8,875	$ 29,407
Cash and restricted cash consisted of the following:		
Cash	$ 8,875	$ 29,407
Restricted cash	—	—
Total cash and restricted cash	$ 8,875	$ 29,407
Supplemental disclosure of cash flow information:		
Cash paid during the period for interest	$ 57	$ 138
Non-cash investing and financing transactions:		
Issuance of common stock for principal and interest of convertible notes	$ 22,045	$ 16,922
Accrued dividends on convertible Series C and D preferred stock	$ 834	$ 835
Dividend declared and paid in common stock on Series B preferred stock	$ 17	$ —

(1) See Note 2, "*—Correction of Immaterial Misstatements in Prior Period Financial Statements*".

See accompanying notes to consolidated financial statements.

CYTODYN INC.
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS
AS OF NOVEMBER 30, 2021
(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 and, effective August 27, 2015, reincorporated under the laws of Delaware. The Company is a late-stage biotechnology company developing innovative treatments for multiple therapeutic indications based on leronlimab, a novel humanized monoclonal antibody targeting the CCR5 receptor. Leronlimab is in a class of therapeutic monoclonal antibodies designed to address unmet medical needs for which the Company is focused on developing treatments in the areas of human immunodeficiency virus ("HIV"), cancer, immunology, and novel coronavirus disease ("COVID-19").

Leronlimab belongs to a class of HIV therapies known as entry inhibitors which block HIV from entering and infecting specific cells. For cancer and immunology, the CCR5 receptor also appears to be implicated in human metastasis and in immune-mediated illnesses such as triple-negative breast cancer, other metastatic solid tumor cancers, and non-alcoholic steatohepatitis ("NASH"). For COVID-19, the Company believes leronlimab may be shown to provide therapeutic benefit by enhancing the immune response and also mitigating the "cytokine storm" that leads to morbidity and mortality in patients experiencing this syndrome.

Note 2. Summary of Significant Accounting Policies

Basis of Presentation

The accompanying unaudited interim Consolidated Financial Statements include the accounts of the Company and its wholly owned subsidiary, CytoDyn Operations Inc., and have been prepared in accordance with accounting principles generally accepted in the United States of America ("U.S. GAAP") for interim financial information, and should be read in conjunction with the financial statements, summary of significant accounting policies and footnotes included in the Annual Report on Form 10-K, as amended by Amendment No. 1 filed with the SEC on September 28, 2021, for the year ended May 31, 2021 (the "2021 Form 10-K"). Accordingly, certain disclosures required by U.S. GAAP and normally included in Annual Reports on Form 10-K have been condensed or omitted from this report; however, except as disclosed herein, there has been no material change in the information disclosed in the notes to Consolidated Financial Statements included in the 2021 Form 10-K. All intercompany transactions and balances have been eliminated.

It is the opinion of management that all adjustments, consisting of normal recurring adjustments considered necessary for a fair presentation of interim financial information, have been included. The Company has no items of other comprehensive income or loss; therefore, its net income or loss is identical to its comprehensive income or loss. Operating results for the periods presented are not necessarily indicative of expected results for the full year.

Reclassifications

Certain prior year and prior quarter amounts shown in the accompanying Consolidated Financial Statements have been reclassified to conform to the current period presentation. These reclassifications did not have any effect on the Company's financial position, results of operations, stockholders' (deficit) equity, or net cash flows as previously reported.

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 approximately $68.1 million for the six months ended November 30, 2021 and has an accumulated deficit of approximately $603.4 million as of November 30, 2021. 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, leronlimab, obtain approval to commercialize leronlimab from regulatory agencies, continue to outsource manufacturing of leronlimab, and ultimately achieve substantial revenues and attain profitability. The Company continues to engage in significant research and development activities related to leronlimab 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 judgments that affect the reported amounts of assets, liabilities, the disclosure of contingent assets and liabilities at the date of Consolidated Financial Statements, and the reported amounts of revenue and expenses during the reporting period. Estimates are assessed each period and updated to reflect current information, such as the economic considerations related to the impact that the recent coronavirus disease could have on our significant accounting estimates and assumptions. The Company's estimates are based on historical experience and on various market and other relevant, appropriate assumptions. Significant estimates include, but are not limited to, those relating to stock-based compensation, capitalization of pre-launch inventories, reserve for excess and obsolete inventories, revenue recognition, research and development expenses, determination of right of use assets under lease transactions and related lease obligations, commitments and contingencies, and the assumptions used to value warrants, warrant modifications and useful lives for property and equipment and related depreciation calculations. Actual results could differ from these estimates.

Correction of Immaterial Misstatements in Prior Period Financial Statements

During the preparation of the quarterly financial statements as of and for the period ended November 30, 2021, the Company identified an error in how non-cash inducement interest expense was calculated in previous reporting periods dating back to fiscal year 2018. The original inducement expense model was designed to calculate non-cash inducement interest expense specific to inducements that modified the warrant term (e.g., extension of the term or modification of exercise price) without settling the instrument. However, starting in fiscal year 2018, inducements were primarily structured to result in a settlement of the warrant, not merely a modification of a warrant that would remain outstanding for some period. The error was identified when the model started to calculate a gain on substantially all inducements, which was inconsistent with the economics of the arrangements. The error resulted in an understatement of non-cash inducement interest expense and additional paid-in capital.

The Company assessed the materiality of the misstatement in accordance with Accounting Standards Codification ("ASC") 250, *Accounting Changes and Error Corrections*, as well as SEC Staff Accounting Bulletins No. 99,*Materiality*, and No. 108, *Considering the Effects of Prior Year Misstatements when Quantifying Misstatements in Current Year Financial Statements*, and concluded that the misstatement was not material to the Company's consolidated financial position for the prior periods and, accordingly, that amendments of previously filed reports were not required. However, the Company determined that the impact of the corrections would be too significant to record in the quarter ended November 30, 2021. As such, the revisions for the correction are reflected in the accompanying balance sheet as of May 31, 2021, the statements of operations for the six months ended November 30, 2021 and the three and six months ended November 30, 2020, changes in stockholders' (deficit) equity for the three months ended August 31, 2021 and 2020 and November 30, 2020, and cash flows for the six months ended November 30, 2021 and 2020. Financial reporting periods that are affected but not presented herein will be revised, as applicable, in future

periods and filings. The errors had no impact on operating loss, cash, net cash used in or provided by operating, financing, and investing activities, assets, liabilities, commitments and contingencies, total stockholders' (deficit) equity, number of shares issued and outstanding, basic and diluted weighted average common shares outstanding, and number of shares available for future issuance for any period presented.

The following tables present a summary of the impact by financial statement line item of the corrections:

	As of and For the Year Ended May 31, 2019		
(in thousands)	As Previously Reported	Adjustments	As Revised
Inducement interest expense	$ (196)	$ (4,532)	$ (4,728)
Total interest expense	$ (3,313)	$ (4,532)	$ (7,845)
Loss before income taxes	$ (59,014)	$ (4,532)	$ (63,546)
Income tax benefit	$ 2,827	$ —	$ 2,827
Net loss	$ (56,187)	$ (4,532)	$ (60,719)
Basic and diluted loss per share	$ (0.21)	$ (0.02)	$ (0.23)
Additional paid-in capital [(1)]	$ 220,120	$ 5,057	$ 225,177
Accumulated (deficit) [(1)]	$ (229,363)	$ (5,057)	$ (234,420)

(1) Includes adjustment of $525 for the fiscal year ended May 31, 2018.

	As of and For the Year Ended May 31, 2020		
(in thousands, except per share amount)	As Previously Reported	Adjustments	As Revised
Inducement interest expense	$ (7,904)	$ (15,533)	$ (23,437)
Total interest expense	$ (18,219)	$ (15,533)	$ (33,752)
Loss before income taxes	$ (124,403)	$ (15,533)	$ (139,936)
Net loss	$ (124,403)	$ (15,533)	$ (139,936)
Basic and diluted loss per share	$ (0.30)	$ (0.04)	$ (0.34)
Additional paid-in capital [(1)]	$ 351,711	$ 20,590	$ 372,301
Accumulated (deficit) [(1)]	$ (354,711)	$ (20,590)	$ (375,301)

(1) Includes adjustments of $4,532 and $525 for the fiscal years ended May 31, 2019 and 2018, respectively.

	Three months ended November 30, 2020			Six months ended November 30, 2020		
(in thousands, except per share amount)	As Previously Reported	Adjustments	As Revised	As Previously Reported	Adjustments	As Revised
Inducement interest expense	$ (3,758)	$ (459)	$ (4,217)	$ (7,103)	$ (459)	$ (7,562)
Total interest expense	$ (6,294)	$ (459)	$ (6,753)	$ (11,454)	$ (459)	$ (11,913)
Loss before income taxes	$ (34,966)	$ (459)	$ (35,425)	$ (65,798)	$ (459)	$ (66,257)
Net loss	$ (34,966)	$ (459)	$ (35,425)	$ (65,798)	$ (459)	$ (66,257)
Basic and diluted loss per share	$ (0.06)	$ —	$ (0.06)	$ (0.12)	$ —	$ (0.12)

	Three months ended February 28, 2021			Nine months ended February 28, 2021		
(in thousands, except per share amount)	As Previously Reported	Adjustments	As Revised	As Previously Reported	Adjustments	As Revised
Inducement interest expense	$ (4,139)	$ (1,221)	$ (5,360)	$ (11,242)	$ (1,680)	$ (12,922)
Total interest expense	$ (5,576)	$ (1,221)	$ (6,797)	$ (17,031)	$ (1,680)	$ (18,711)
Loss before income taxes	$ (43,985)	$ (1,221)	$ (45,206)	$ (109,783)	$ (1,680)	$ (111,463)
Net loss	$ (43,985)	$ (1,221)	$ (45,206)	$ (109,783)	$ (1,680)	$ (111,463)
Basic and diluted loss per share	$ (0.08)	$ —	$ (0.08)	$ (0.18)	$ —	$ (0.18)

(in thousands, except per share amount)	As of and For the Year Ended May 31, 2021		
	As Previously Reported	Adjustments	As Revised
Inducement interest expense	$ (11,366)	$ (2,556)	$ (13,922)
Total interest expense	$ (19,556)	$ (2,556)	$ (22,112)
Loss before income taxes	$ (154,674)	$ (2,556)	$ (157,230)
Net loss	$ (154,674)	$ (2,556)	$ (157,230)
Basic and diluted loss per share	$ (0.27)	$ —	$ (0.27)
Additional paid-in capital [(1)]	$ 489,650	$ 23,146	$ 512,796
Accumulated (deficit) [(1)]	$ (511,294)	$ (23,146)	$ (534,440)

(1) Includes adjustments of $15,533, $4,532, and $525 for the fiscal years ended May 31, 2020, 2019 and 2018, respectively.

(in thousands, except per share amount)	As of and For the Three months ended August 31, 2021		
	As Previously Reported	Adjustments	As Revised
Inducement interest expense	$ (9)	$ (519)	$ (528)
Total interest expense	$ (2,710)	$ (519)	$ (3,229)
Loss before income taxes	$ (30,939)	$ (519)	$ (31,458)
Net loss	$ (30,939)	$ (519)	$ (31,458)
Basic and diluted loss per share	$ (0.05)	$ —	$ (0.05)
Additional paid-in capital	$ 516,816	$ 23,665	$ 540,481
Accumulated (deficit)	$ (542,653)	$ (23,665)	$ (566,318)

	As Previously Reported			Adjustments			As Revised		
(in thousands)	Additional paid-in capital	Accumulated (deficit)	Total stockholders' (deficit) equity	Additional paid-in capital	Accumulated (deficit)	Total stockholders' (deficit) equity	Additional paid-in capital	Accumulated (deficit)	Total stockholders' (deficit) equity
First Quarter Fiscal Year Ended May 31, 2021									
Inducement interest expense related to private warrant exchange	$ 3,345	$ —	$ 3,345	$ —	$ —	$ —	$ 3,345	$ —	$ 3,345
Net Loss August 31, 2020	—	(30,832)	(30,832)	—	—	—	—	(30,832)	(30,832)
Balance August 31, 2020	$ 388,404	$ (386,206)	$ 2,768	$ 20,590	$ (20,590)	$ —	$ 408,994	$ (406,796)	$ 2,768
Second Quarter Fiscal Year Ended May 31, 2021									
Inducement interest expense related to private warrant exchange	$ 3,758	$ —	$ 3,758	$ 459	$ —	$ 459	$ 4,217	$ —	$ 4,217
Net Loss November 30, 2020	—	(34,966)	(34,966)	—	(459)	(459)	—	(35,425)	(35,425)
Balance November 30, 2020	$ 414,463	$ (421,587)	$ (6,534)	$ 21,049	$ (21,049)	$ —	$ 435,512	$ (442,636)	$ (6,534)
Third Quarter Fiscal Year Ended May 31, 2021									
Inducement interest expense related to private warrant exchange	$ 4,139	$ —	$ 4,139	$ 1,221	$ —	$ 1,221	$ 5,360	$ —	$ 5,360
Net Loss February 28, 2021	—	(43,985)	(43,985)	—	(1,221)	(1,221)	—	(45,206)	(45,206)
Balance February 28, 2021	$ 449,759	$ (465,983)	$ (15,795)	$ 22,270	$ (22,270)	$ —	$ 472,029	$ (488,253)	$ (15,795)
Fiscal Year Ended May 31, 2021									
Inducement interest expense related to private warrant exchange	$ 11,366	$ —	$ 11,366	$ 2,556	$ —	$ 2,556	$ 13,922	$ —	$ 13,922
Net Loss May 31, 2021	—	(154,674)	(154,674)	—	(2,556)	(2,556)	—	(157,230)	(157,230)
Balance May 31, 2021	$ 489,650	$ (511,294)	$ (21,018)	$ 23,146	$ (23,146)	$ —	$ 512,796	$ (534,440)	$ (21,018)
First Quarter Fiscal Year Ended May 31, 2022									
Inducement interest expense related to private warrant exchange	$ 9	$ —	$ 9	$ 519	$ —	$ 519	$ 528	$ —	$ 528
Net Loss August 31, 2021	—	(30,939)	(30,939)	—	(519)	(519)	—	(31,458)	(31,458)
Balance August 31, 2021	$ 516,816	$ (542,653)	$ (25,193)	$ 23,665	$ (23,665)	$ —	$ 540,481	$ (566,318)	$ (25,193)

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 as of November 30, 2021 and May 31, 2021 approximated $8.6 million and $33.7 million, respectively.

Identified Intangible Assets

The Company follows the provisions of ASC 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. During the three and six months ended November 30, 2021 and 2020, there were no impairment charges. The value of the Company's patents would be significantly impaired by any adverse developments as they relate to the clinical trials pursuant to the patents acquired as discussed in Note 8.

Revenue Recognition

The Company accounts for and recognizes revenue in accordance with ASC 606,*Revenue from Contracts with Customers.* The Company's revenue is generated solely through the sale of leronlimab. The Company accounts for a contract when it has approval and commitment from both parties, the rights of the parties are identified, payment terms are identified, the contract has commercial substance and collectability of consideration is probable.

Contracts with customers are generally in the form of a written purchase order, that outlines the promised goods and the agreed upon price. Such orders are often accompanied by a master supply or distribution agreement that establishes the terms and conditions, rights of the parties, delivery terms, and pricing. The Company assesses collectability based on a number of factors, including creditworthiness of the customer.

For the Company's sole contract to date, the customer submits purchase orders for the purchase of a specified quantity of leronlimab vials; therefore, the delivery of the ordered quantity per the purchase order is accounted for as one performance obligation. The Company does not offer discounts or rebates.

The transaction price is determined based on the agreed upon rates per vial in the purchase order or master supply agreement applied to the quantity of leronlimab vials that was requested by the customer in the purchase order. As the Company's contracts include only one performance obligation, the delivery of the product to the customer, all of the transaction price is allocated to the one performance obligation. Therefore, upon delivery of the product quantity equal to the quantity requested in the purchase order, there are no remaining performance obligations. The Company's shipping and handling activities are considered a fulfillment cost. The Company has elected to exclude all sales and value added taxes from the measurement of the transaction price. The Company has not adjusted the transaction price for significant financing since the time period between the transfer of goods and payment is less than one year.

The Company recognizes revenue at a point in time when control of the products is transferred to the customer. Management applies judgment in evaluating when a customer obtains control of the promised good which is generally when the product is delivered to the customer. The Company's customer contract includes a standard assurance warranty to guarantee that its products comply with agreed specifications. The Company grants a conditional right of return of product in the customer's inventory upon an adverse regulatory ruling. The Company continually evaluates the probability of such occurrence and if necessary, will defer revenue recognized based on its estimate of the right of return, which takes into account the probability that an adverse ruling will occur and its estimate of product in the customer's inventory.

Disaggregation of Revenue

The Company's revenues are derived solely from the sale of leronlimab vials. The Company believes the disaggregation of revenues, as seen on the Consolidated Statement of Operations, is an appropriate level of detail for its primary activity.

Contract Assets and Liabilities

The Company's performance obligations for its contracts with customers are satisfied at a point in time through the delivery of leronlimab vials to its customer. Accordingly, the Company did not have any contract assets or liabilities as of November 30, 2021. The Company did not have revenue during the six months ended November 30, 2020 and did not have any contractassets or liabilities as of that date. For all periods presented, the Company did not recognize revenue from amounts that were previously included in a contract liability balance. In addition, for all periods presented, there was no revenue recognized in a reporting period from performance obligations satisfied in previous periods.

Performance Obligations

The Company does not disclose the value of unsatisfied performance obligations for (i) contracts with an original expected length of one year or less and (ii) contracts for which the variable consideration is allocated entirely to a wholly unsatisfied performance obligation. Under the Company's contract, each unit of product delivered to the customer represents a separate performance obligation; therefore, future deliveries of the product are wholly unsatisfied and disclosure of the transaction price allocated to remaining performance obligations is not required.

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. Contingent milestone payments that are due to third parties under research and development collaboration arrangements or other contractual agreements are expensed when the milestone conditions are probable and the amount of payment is reasonably estimable. See Notes 9 and 10.

Inventory

Previously Expensed Inventory

To date, the Company has recorded revenue related to sales of vials for emergency purposes only, solely to treat critically ill COVID-19 patients in the Philippines under a Compassionate Special Permit. Cost of goods sold has been minimal because the vials sold were expensed in prior periods as research and development expense, as they were manufactured prior to the Company's capitalization of pre-launch inventories as described below. Accordingly, all inventory amounts as of November 30, 2021 represent pre-launch inventories, and do not include any inventories previously expensed as research and development expense.

Capitalized Pre-launch Inventories

The Company values inventory at the lower of cost or net realizable value using the average cost method. Inventories consist of raw materials, bulk drug substance, and drug product in unlabeled vials to be used for commercialization of the Company's biologic, leronlimab, which is in the regulatory approval process. The consumption of raw materials during production is classified as work-in-progress until saleable. Once it is determined to be in saleable condition, following regulatory approval, inventory is classified as finished goods. Inventory is evaluated for recoverability by considering the likelihood that revenue will be obtained from the future sale of the related inventory, in light of the status of the product within the regulatory approval process.

The Company evaluates its inventory levels on a quarterly basis and writes down inventory that has become obsolete or has a cost in excess of its expected net realizable value, and inventory quantities in excess of expected requirements. In assessing the lower of cost or net realizable value for pre-launch inventory, the Company relies on

independent analyses provided by third parties knowledgeable about the range of likely commercial prices comparable to current comparable commercial product.

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

Anticipated future sales, shelf lives, and expected approval date are considered when evaluating realizability of capitalized inventory. The shelf-life of a product is determined as part of the regulatory approval process; however, in assessing whether to capitalize pre-launch inventory, the Company considers the product stability data of all of the pre-approval inventory procured or produced to date to determine whether there is adequate shelf life. As inventories approach their shelf-life expiration, the Company may perform additional stability testing to determine if the inventory is still viable, which can result in an extension of its shelf-life. Further, in addition to performing additional stability testing, certain raw materials inventory may be sold in its then current condition prior to reaching expiration.

Fair Value of Financial Instruments

The Company's financial instruments consist primarily of cash, accounts receivable, accounts payable, accrued liabilities, short-term and long-term lease liabilities, and short-term and long-term debt. As of November 30, 2021, the carrying value of the Company's cash, accounts receivable, accounts payable, and accrued liabilities approximate their fair value due to the short-term maturity of the instruments. Short-term and long-term debt are reported at amortized cost in the Consolidated Balance Sheets which approximate fair value. The remaining financial instruments are reported in the Consolidated Balance Sheets at amounts that approximate current fair values.

From time to time, the Company may have derivative financial instruments which are recorded at fair value, as required by U.S. GAAP. Derivative financial instruments consist of financial instruments that contain a notional amount and one or more underlying variables (e.g., interest rate, security price, variable conversion rate or other variables), require no initial net investment and permit net settlement. Derivative financial instruments may be free-standing or embedded in other financial instruments. The Company follows the provisions of ASC 815, *Derivatives and Hedging,* as its instruments are typically recorded as derivative liabilities, at fair value, and ASC 480, *Distinguishing Liabilities from Equity,* as it relates to warrant liabilities, with changes in fair value reflected in the Consolidated Statement of Operations.

The fair value hierarchy specifies three levels of inputs that may be used to measure fair value 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 which 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 cannot be corroborated with observable market data.

The Company did not have any assets or liabilities measured at fair value using the fair value hierarchy as of November 30, 2021 and May 31, 2021.

Stock-Based Compensation

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. In accordance with U.S. GAAP, for stock-based awards with defined vesting, the Company recognizes compensation expense over the requisite service periods, when designated milestones have been achieved or when pre-defined performance conditions are met. The Company estimates forfeitures at the time of grant and revises its estimates, if necessary, in subsequent periods if actual forfeitures differ from such estimates. Based on limited historical experience of forfeitures, the Company estimated future unvested forfeitures at 0% for all periods presented. Historically, the Company has issued restricted common stock units subject to vesting to executives or 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.

The Company also issues stock options or warrants to directors, employees, consultants and advisors for various services. The Black-Scholes option pricing model, as described more fully above, is used 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.

Debt

The Company has historically issued promissory notes at a discount and has incurred direct debt issuance costs. Debt discount and issuance costs are netted against the debt and amortized over the life of the convertible promissory note in accordance with ASC 470-35, *Debt Subsequent Measurement.*

Offering Costs

The Company periodically incurs direct incremental costs associated with the sale of equity securities as fully described in Note 7. The costs are recorded as a component of equity upon receipt of the proceeds.

Loss per Common Share

Basic loss per share is computed by dividing the net loss adjusted for preferred stock dividends by the weighted average number of common shares outstanding during the period. Diluted loss per share would include the weighted average common shares outstanding and potentially dilutive common 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.

The table below shows the number of shares of common stock issuable upon the exercise, vesting or conversion of outstanding options, warrants, unvested restricted stock units (including those subject to performance conditions), convertible notes, and convertible preferred stock (including undeclared dividends) that were not included in the computation of basic and diluted weighted average number of shares of common stock outstanding for the three and six months ended November 30, 2021 and November 30, 2020:

	Three and six months ended November 30,	
(in thousands)	**2021**	**2020**
Stock options, warrants & unvested restricted stock units	73,223	82,796
Convertible notes payable	12,000	12,000
Convertible preferred stock	34,089	31,490

Income Taxes

The Company computes its quarterly taxes under the effective tax rate method based on applying an anticipated annual effective rate to its year-to-date income, except for discrete items. Income taxes for discrete items are computed and recorded in the period that the specific transaction occurs.

The Company's net tax expense for the three and six months ended November 30, 2021 and November 30, 2020, waszero. The Company's effective tax rate of 0% differed from the statutory rate of21% because the Company has a full valuation allowance as of November 30, 2021 and May 31, 2021, as management does not consider it more likely than not that the benefits from the net deferred taxes will be realized.

Recently Adopted Accounting Pronouncements

In December 2019, the Financial Accounting Standards Board ("FASB") issued Accounting Standards Update ("ASU") No. 2019-12, *Simplifying the Accounting for Income Taxes (Topic 740).* The standard improves areas of U.S. GAAP by removing certain exceptions permitted by ASC 740 and clarifying existing guidance to facilitate consistent application. The Company adopted ASU 2019-12 on June 1, 2021. The adoption of ASU 2019-12 did not impact the Company's statement of financial condition, results of operations, cash flows, or financial statement disclosures.

In August 2020, the FASB issued ASU No. 2020-06,*Debt with Conversion and Other Options (Subtopic 470-20) and Derivatives and Hedging—Contracts in Entity's Own Equity (Subtopic 815-40),* which simplifies the accounting for convertible instruments. The guidance removes certain accounting models that separate the embedded conversion features from the host contract for convertible instruments. Either a modified retrospective method of transition or a fully retrospective method of transition is permissible for the adoption of this standard. Update No. 2020-06 is effective for fiscal years beginning after December 15, 2021, including interim periods within those fiscal years. Early adoption is permitted no earlier than the fiscal year beginning after December 15, 2020. The Company adopted ASU No. 2020-06 on June 1, 2021 and it was effective for the fiscal year beginning June 1, 2021. The adoption of ASU No. 2020-06 did not affect the Company's statement of financial condition, results of operations, cash flows or financial statement disclosures.

Note 3. Inventories

The Company's pre-launch inventories consist of raw materials purchased for commercial production and work-in-progress inventory related to the substantially completed commercial production of pre-launch inventories of leronlimab to support the Company's expected approval of the product as a combination therapy for HIV patients in the United States. Work-in-progress consists of bulk drug substance, which is the manufactured drug stored in bulk storage, and drug product, which is the manufactured drug in unlabeled vials.

Inventories, net of reserves, as of November 30, 2021 and May 31, 2021 are presented below:

(in thousands)	November 30, 2021	May 31, 2021
Raw materials	$ 22,536	$ 28,085
Work-in-progress	66,021	65,394
Total	$ 88,557	$ 93,479

The Company believes that material uncertainties related to the ultimate regulatory approval of leronlimab for commercial sale have been significantly reduced based on positive data from its Phase 3 clinical trial for leronlimab as a combination therapy with HAART for highly treatment-experienced HIV patients, as well as information gathered from meetings with the U.S. Food and Drug Administration ("FDA") related to its Biologic License Application ("BLA") for this indication. The Company submitted the last two portions of the BLA (clinical and manufacturing) with the FDA in April 2020 and May 2020. In July 2020, the Company received a Refusal to File letter from the FDA regarding its BLA submission requesting additional information. In August and September 2020, the FDA provided written responses to

the Company's questions and met telephonically with key Company personnel and its clinical research organization concerning its BLA to expedite the resubmission of its BLA.

The deficiencies cited by the FDA in its July 2020 Refusal to File letter consisted of administrative deficiencies, omissions, corrections to data presentation, and related analyses and clarifications of manufacturing processes.

The Company is working with new consultants to cure the BLA deficiencies and resubmit the BLA in order to enable the FDA to perform their substantive review. The Company commenced its resubmission of the BLA in July 2021. In November 2021 it resubmitted the non-clinical and manufacturing sections of the BLA, and currently expects to complete the resubmission process with the resubmission of the clinical section of the BLA in the first calendar quarter of 2022. The Company anticipates that when the FDA completes their review, leronlimab will be approved and market acceptance of leronlimab as a treatment for HIV will be forthcoming, enabling us to realize the amount of pre-launch inventory on-hand prior to shelf-life expiration. Accordingly, management believes the Company will realize future economic benefit in excess of the carrying value of its pre-launch inventory.

The expiration of remaining shelf-life of the Company's inventories consists of the following as of November 30, 2021 (in thousands):

Expiration period ending November 30,	Remaining shelf-life	Raw materials	Work-in-progress bulk drug product	Work-in-progress finished drug product in vials	Total inventories
2022	0 to 12 months	$ 21,014	$ -	$ -	$ 21,014
2023	13 to 24 months	1,078	-	-	1,078
2024	25 to 36 months	1,902	-	29,143	31,045
2025	37 to 48 months	192	-	24,315	24,507
2026	49 to 60 months	695	-	-	695
Thereafter	61 or more months	157	12,563	-	12,720
Total inventories		25,038	12,563	53,458	91,059
Inventories reserved		(2,502)	-	-	(2,502)
Total inventories, net		$ 22,536	$ 12,563	$ 53,458	$ 88,557

When the remaining shelf-life of drug product inventory is less than 12 months, it is likely that it will not be accepted by potential customers. However, as inventories approach their shelf-life expiration, the Company may perform additional stability testing to determine if the inventory is still viable, which can result in an extension of its shelf-life. Further, in addition to performing additional stability testing, certain raw materials inventory may be sold in its then current condition prior to reaching expiration. If the Company determines it is not likely shelf-life will be able to be extended or the inventory cannot be sold prior to expiration, the Company will write-down the inventory to its net realizable value. During the three and six months ended November 30, 2021, the Company reserved for inventory write-downs of approximately $0.7 million and $1.8 million, respectively, which were related to current and future estimated obsolescence of raw materials. During the three and six months ended November 30, 2020, the Company did not reserve for any write-down of inventory. These expenses are included in research and development expense.

In addition, during the three and six months ended November 30, 2021, the Company wrote-off inventory which had not been previously reserved for of approximately $1.0 million and $1.5 million, respectively, which related to expired raw materials not previously reserved for and untested vialed drug product used for clinical purposes. During the three and six months ended November 30, 2020, the Company recognized inventory write-offs of approximately $4.8 million, which related to abnormal spoilage and manufacturing errors committed by the contract manufacturer during the manufacturing process. These expenses are included in research and development expense.

Note 4. Accounts Payable and Accrued Liabilities

As of November 30, 2021 and May 31, 2021, the accounts payable balance was approximately $8.0 million and $65.9 million, respectively. As of November 30, 2021 and May 31, 2021, two of the Company's vendors accounted

for approximately 63% and 20% and 72% and 14%, respectively, of the total balance of accounts payable and accrued liabilities.

The components of accrued liabilities were as follows as of November 30, 2021 and May 31, 2021:

(in thousands)	As of November 30, 2021	As of May 31, 2021
Accrued compensation and related expense	$ 796	$ 4,005
Accrued legal settlement and fees	1,401	11,008
Accrued other liabilities	4,457	4,060
Total accrued liabilities	$ 6,654	$ 19,073

As of November 30, 2021, the approximately $1.4 million of accrued legal settlement and fees related entirely to accrued legal fees. As of May 31, 2021, the approximately $11.0 million of accrued legal settlement and fees was comprised of approximately $10.6 million related to legal settlements, and the remaining amount related to accrued legal fees.

Note 5. Convertible Instruments and Accrued Interest

Convertible Preferred Stock

Series D Convertible Preferred Stock

As of November 30, 2021, the Company had authorized 11,737 shares of Series D Convertible Preferred Stock, $0.001 par value per share ("Series D Preferred Stock"), of which 8,452 shares were outstanding. The Series D Certificate of Designation provides, among other things, that holders of Series D Preferred Stock shall be entitled to receive, when and as declared by the Company's Board of Directors (the "Board") and 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 D Preferred Stock, which is $1,000 per share (the "Series D Stated Value"). Any dividends paid by the Company will first be paid to the holders of Series D Preferred Stock prior and in preference to any payment or distribution to holders of common stock. Dividends on the Series D Preferred Stock are cumulative, and will accrue and be compounded annually, whether or not declared and whether or not there are any profits, surplus or other funds or assets of the Company legally available therefor. There are no sinking fund provisions applicable to the Series D Preferred Stock. The Series D Preferred Stock does not have redemption rights. Dividends, if declared by the Board, are payable to holders in arrears on December 31 of each year. Subject to the provisions of applicable Delaware law, the holder may elect to be paid in cash or in restricted shares of common stock at the rate of $0.50 per share. As of November 30, 2021 and May 31, 2021, the accrued dividends were approximately $1.5 million, or approximately 3.0 million shares of common stock, and approximately $1.1 million, or approximately 2.2 million shares of common stock, respectively.

In the event of any liquidation, dissolution or winding up of the Company, the holders of Series D Preferred Stock will be entitled to receive, on a pari passu basis with the holders of the Series C Convertible Preferred Stock, $0.001 par value per share ("Series C Preferred Stock"), and in preference to any payment or distribution to any holders of the Series B Convertible Preferred Stock, $0.001 par value per share ("Series B Preferred Stock"), or common stock, an amount per share equal to the Series D Stated Value plus the amount of any accrued and unpaid dividends. If, at any time while the Series D Preferred Stock is outstanding, the Company effects any reorganization, merger or consolidation of the Company, sale of substantially all of its assets, or other specified transaction (each, as defined in the Series D Certificate of Designation, a "Fundamental Transaction"), a holder of the Series D Preferred Stock will have the right to receive any shares of the acquiring corporation or other consideration it would have been entitled to receive if it had been a holder of the number of shares of common stock then issuable upon conversion in full of the Series D Preferred Stock immediately prior to the Fundamental Transaction. Each share of Series D Preferred Stock is convertible at any time at the holder's option into that number of fully paid and nonassessable shares of common stock determined by dividing the Series D Stated Value by the conversion price of $0.80 (subject to adjustment as set forth in the Series D Certificate of Designation). No fractional shares will be issued upon the conversion of the Series D Preferred Stock.

Except as otherwise provided in the Series D Certificate of Designation or as otherwise required by law, the Series D Preferred Stock has no voting rights.

Series C Convertible Preferred Stock

As of November 30, 2021, the Company had authorized 8,203 shares of Series C Convertible Preferred Stock, $0.001 par value per share ("Series C Preferred Stock"), of which 8,203 shares were outstanding. The Series C Certificate of Designation provides, among other things, that holders of Series C Preferred Stock shall be entitled to receive, when and as declared by the Board and 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, which is $1,000 per share (the "Series C Stated Value"). Any dividends paid by the Company will 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 cumulative, and will accrue and be compounded annually, whether or not declared and whether or not there are any profits, surplus or other funds or assets of the Company legally available therefor. There are no sinking fund provisions applicable to the Series C Preferred Stock. The Series C Preferred Stock does not have redemption rights. Dividends, if declared by the Board, are payable to holders in arrears on December 31 of each year. Subject to the provisions of applicable Delaware law, the holder may elect to be paid in cash or in restricted shares of common stock at the rate of $0.50 per share. As of November 30, 2021 and May 31, 2021, the accrued dividends were approximately $1.9 million, or approximately 3.9 million shares of common stock, and approximately $1.5 million, or approximately 3.0 million shares of common stock, respectively.

In the event of any liquidation, dissolution or winding up of the Company, the holders of Series C Preferred Stock will be entitled to receive, on a pari passu basis with the holders of the Series D Preferred Stock and in preference to any payment or distribution to any holders of the Series B Preferred Stock or common stock, an amount per share equal to the Series C Stated Value plus the amount of any accrued and unpaid dividends. If, at any time while the Series C Preferred Stock is outstanding, the Company effects a reorganization, merger or consolidation of the Company, sale of substantially all of its assets, or other specified transaction (each, as defined in the Series C Certificate of Designation, a "Fundamental Transaction"), a holder of the Series C Preferred Stock will have the right to receive any shares of the acquiring corporation or other consideration it would have been entitled to receive if it had been a holder of the number of shares of common stock then issuable upon conversion in full of the Series C Preferred Stock immediately prior to the Fundamental Transaction. Each share of Series C Preferred Stock is convertible at any time at the holder's option into that number of fully paid and nonassessable shares of common stock determined by dividing the Series C Stated Value by the conversion price of $0.50 (subject to adjustment as set forth in the Series C Certificate of Designation). No fractional shares will be issued upon the conversion of the Series C Preferred Stock. Except as otherwise provided in the Series C Certificate of Designation or as otherwise required by law, the Series C Preferred Stock has no voting rights.

Series B Convertible Preferred Stock

As of November 30, 2021, the Company had authorized 400,000 shares of Series B Preferred Stock, of which 19,000 shares were outstanding. Each share of the Series B Preferred Stock is convertible into ten (10) shares of the Company's common stock. Dividends are payable to the Series B Preferred stockholders when and as declared by the Board 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 therefor. At the option of the Company, dividends on the Series B Preferred Stock may be paid in cash or shares of the Company's common stock, valued at $0.50 per share. The holders of the Series B Preferred Stock can only convert their shares to shares of common stock if the Company has sufficient authorized shares of common stock at the time of conversion. The Series B Preferred Stock has liquidation preferences over the common shares at $5.00 per share, plus any accrued and unpaid dividends. Except as provided by law, the Series B holders have no voting rights. As of November 30, 2021 and May 31, 2021, the undeclared dividends totaled $7,316 or 14,631 shares of common stock, and approximately $17,800, or approximately 35,500 shares of common stock, respectively.

Convertible Notes and Accrued Interest

The following schedule sets forth the outstanding balances associated with each convertible note and related accrued interest as of November 30, 2021 and May 31, 2021:

	As of November 30, 2021				As of May 31, 2021			
(in thousands)	November 2020 Note	April 2, 2021 Note	April 23, 2021 Note	Total	November 2020 Note	April 2, 2021 Note	April 23, 2021 Note	Total
Convertible notes payable outstanding principal	$ -	$ 19,500	$ 28,500	$ 48,000	$ 13,500	$ 28,500	$ 28,500	$ 70,500
Less: Unamortized debt discount and issuance costs	-	(1,613)	(2,440)	(4,053)	(1,204)	(3,232)	(3,317)	(7,753)
Convertible notes payable, net	-	17,887	- 26,060	43,947	12,296	25,268	25,183	62,747
Accrued interest on convertible notes	-	1,866	1,804	3,670	1,258	447	302	2,007
Outstanding convertible notes payable, net and accrued interest	$ -	$ 19,753	$ 27,864	$ 47,617	$ 13,554	$ 25,715	$ 25,485	$ 64,754

The following schedule sets forth a rollforward of the outstanding balance of convertible notes, including accrued interest, from May 31, 2021 to November 30, 2021:

(in thousands)	November 2020 Note	April 2, 2021 Note	April 23, 2021 Note	Total
Outstanding balance May 31, 2021	$ 13,554	$ 25,715	$ 25,485	$ 64,754
Consideration received	-	-	-	-
Amortization of issuance discount and costs	98	821	877	1,796
Interest expense accrued	192	1,419	1,502	3,113
Cash repayments	-	-	-	-
Conversions	-	-	-	-
Fair market value of shares exchanged for repayment	(18,495)	(11,514)	-	(30,009)
Debt extinguishment loss	4,651	3,312	-	7,963
Outstanding balance November 30, 2021	$ -	$ 19,753	$ 27,864	$ 47,617

Long-term Convertible Note—November 2020 Note

On November 10, 2020, the Company entered into a securities purchase agreement pursuant to which the Company issued a secured convertible promissory note with a two-year term to an institutional accredited investor in the initial principal amount of $28.5 million (the “November 2020 Note”). The Company received consideration of $25.0 million, reflecting an original issue discount of $3.4 million and issuance costs of $0.1 million.

Interest accrued on the outstanding balance of the November 2020 Note at an annual rate of10%. The November 2020 Note was secured by all the assets of the Company, excluding the Company’s intellectual property. The outstanding balance of the November 2020 Note was convertible into shares of common stock at an initial conversion price of $10.00 per share upon five trading days’ notice, subject to certain adjustments and volume and ownership limitations specified in the November 2020 Note.

In addition, the Company was obligated to make monthly payments to reduce the outstanding balance of the November 2020 Note. During the year ended May 31, 2021 and subsequent to the issuance of the November 2020 Note, the Company and the institutional investor entered into separately negotiated agreements whereby portions of the November 2020 Note were partitioned into new notes, and the November 2020 Note was reduced by the balance of the new notes. The new notes were exchanged concurrently with issuance for shares of the Company’s common stock. Please refer to Note 5, *Convertible Instruments*, in the Company’s 2021 Form 10-K for additional discussion.

On June 11, 2021, June 21, 2021 and June 30, 2021, in partial satisfaction of the June 2021 debt redemption amount on the November 2020 Note, the Company and the investor entered into separately negotiated exchange

agreements, pursuant to which the November 2020 Note was partitioned into new notes (the "June 2021 Partitioned Notes") with a principal balance equal to $6.0 million. The Company and the holder of the November 2020 Note agreed to defer the remaining $1.5 million June 2021 debt redemption amount. The outstanding balance of the November 2020 Note was reduced by the June 2021 Partitioned Notes, and the Company and the investor exchanged the June 2021 Partitioned Notes for approximately 4.2 million shares of the Company's common stock.

On July 14, 2021 and July 27, 2021, in partial satisfaction of the July 2021 debt reduction amount, the Company and the November 2020 Note holder entered into exchange agreements, pursuant to which the November 2020 Note was partitioned into new notes (the "July 2021 Partitioned Notes") with a principal amount equal to $4.0 million. The Company and the holder of the November 2020 Note agreed to defer the remaining $3.5 million July 2021 debt redemption amount. The outstanding balance of the November 2020 Note was reduced by the July 2021 Partitioned Notes. The Company and the investor exchanged the July 2021 Partitioned Notes for approximately 3.3 million shares of common stock.

On August 4, 2021, August 16, 2021 and August 30, 2021, in partial satisfaction of the August 2021 debt reduction amount, the Company and the November 2020 Note holder entered into exchange agreements, pursuant to which the remaining principal and accrued balance of the November 2020 Note was partitioned into new notes (the "August 2021 Partitioned Notes") with a principal amount equal to approximately $4.9 million. The Company and the holder of the November 2020 Note agreed to defer the remaining approximately $2.6 million August 2021 debt reduction amount. The Company and the investor exchanged the August 2021 Partitioned Notes for approximately 4.4 million shares of common stock. Following the redemption, the November 2020 Note was fully satisfied and there is no outstanding balance as of November 30, 2021.

In connection with the June 2021 Partitioned Notes, July 2021 Partitioned Notes, and August 2021 Partitioned Notes, the Company analyzed the restructured notes for potential requirement of debt extinguishment accounting under ASC 470-50-40-10, *Debt Modifications and Extinguishments*. The Company concluded that debt extinguishment accounting treatment was necessary and, accordingly, recorded aggregate debt extinguishment loss of approximately $4.7 million for the six months ended November 30, 2021, as the difference between the fair market value of the shares issued and the carrying value of the debt retired, which included the amortization of the relative debt discount and issuance costs.

Amortization of debt discounts and issuance costs associated with the November 2020 Note during the three and six months ended November 30, 2021 amounted to zero and approximately $0.1 million, respectively, recorded as interest expense.

Long-term Convertible Note—April 2, 2021 Note

On April 2, 2021, the Company entered into a securities purchase agreement pursuant to which the Company issued a secured convertible promissory note with a two-year term with the holder of the November 2020 Note in the initial principal amount of $28.5 million (the "April 2, 2021 Note"). The Company received consideration of $25.0 million, reflecting an original issue discount of $3.4 million and issuance costs of $0.1 million. The April 2, 2021 Note is secured by all the assets of the Company, excluding the Company's intellectual property.

Interest accrues on the outstanding balance of the April 2, 2021 Note at an annual rate of 10%. Upon the occurrence of an event of default, interest will accrue at the lesser of 22% per annum or the maximum rate permitted by applicable law. In addition, upon any event of default, the investor may accelerate the outstanding balance payable under the April 2, 2021 Note; upon such acceleration, the outstanding balance will increase automatically by 15%, 10% or 5%, depending on the nature of the event of default. The events of default are listed in Section 4 of the April 2, 2021 Note filed as Exhibit 4.1 to the Company's Current Report on Form 8-K filed on April 8, 2021 and incorporated by reference.

Pursuant to the terms of the securities purchase agreement and the April 2, 2021 Note, the Company must obtain the investor's consent before assuming additional debt with aggregate net proceeds to the Company of less than $50.0 million. In the event of any such approval, the outstanding principal balance of the April 2, 2021 Note will increase automatically by 5% upon the issuance of such additional debt.

The investor may convert all or any part the outstanding balance of the April 2, 2021 Note into shares of common stock at an initial conversion price of $10.00 per share upon five trading days' notice, subject to certain adjustments and volume and ownership limitations specified in the April 2, 2021 Note. In addition to standard anti-dilution adjustments, the conversion price of the April 2, 2021 Note is subject to full-ratchet anti-dilution protection, pursuant to which the conversion price will be automatically reduced to equal the effective price per share in any new offering by the Company of equity securities that have registration rights, are registered or become registered under the Securities Act of 1933, as amended (the "Securities Act"). The April 2, 2021 Note provides for liquidated damages upon failure to deliver common stock within specified timeframes and requires the Company to maintain a share reservation of 6.0 million shares of common stock.

The investor may redeem any portion of the April 2, 2021 Note, at any time beginningsix months after the issue date, upon three trading days' notice, subject to a maximum monthly redemption amount of $3.5 million. The April 2, 2021 Note requires the Company to satisfy its redemption obligations in cash within three trading days of the Company's receipt of such notice. The Company may prepay the outstanding balance of the April 2, 2021 Note, in part or in full, plus a 15% premium, at any time upon 15 trading days' notice.

In addition, beginning in May 2021 and for each of the following five months, the Company is obligated to reduce the outstanding balance of the April 2, 2021 Note by $7.5 million per month. Payments under the November 2020 Note and the April 23, 2021 Note described below may be applied toward the payment of each monthly debt reduction amount. These payments are not subject to the 15% prepayment premium, which would otherwise be triggered if the Company were to make payments against such notes exceeding the allowed maximum monthly redemption amount.

The embedded conversion feature in the April 2, 2021 Note was analyzed under ASC 815,*Derivatives and Hedging*, to determine if it achieved equity classification or required bifurcation as a derivative instrument. The embedded conversion feature was considered indexed to the Company's own stock and met the conditions for equity classification. Accordingly, the embedded conversion feature did not require bifurcation from the host instrument. The Company determined there was no beneficial conversion feature since the effective conversion rate was greater than the market value of the Company's common stock upon issuance. Certain default put provisions were considered not to be clearly and closely related to the host instrument, but the Company concluded that the value of these default put provisions was de minimis. The Company evaluates the value of the default put provisions each reporting period to determine if the value becomes material to the financial statements.

In September 2021, the Company and the holder of the April 2, 2021 Note agreed to defer the September 2021 debt redemption amount of $7.5 million.

On October 5, 2021 and October 21, 2021, in partial satisfaction of the October 2021 debt reduction amount, the Company and the April 2, 2021 Note holder entered into exchange agreements, pursuant to which the April 2, 2021 Note was partitioned into new notes (the "October 2021 Partitioned Notes") with a principal amount equal to $5.0 million. The Company and the holder of the April 2, 2021 Note agreed to defer the remaining October 2021 debt redemption amount of $2.5 million. The outstanding balance of the April 2, 2021 Note was reduced by the October 2021 Partitioned Notes. The Company and the investor exchanged the October 2021 Partitioned Notes for approximately 3.9 million shares of common stock.

On November 2, 2021 and November 16, 2021, in partial satisfaction of the November 2021 debt reduction amount, the Company and the April 2, 2021 Note holder entered into exchange agreements, pursuant to which the remaining principal and accrued balance of the April 2, 2021 Note was partitioned into new notes (the "November 2021 Partitioned Notes") with a principal amount equal to approximately $4.0 million. The Company and the holder of the April 2, 2021 Note agreed to defer the remaining approximately $3.5 million November 2021 debt reduction amount. The Company and the investor exchanged the November 2021 Partitioned Notes for approximately 4.2 million shares of common stock.

In connection with the October 2021 and November 2021 Partitioned Notes, the Company analyzed the restructured notes for potential requirement of debt extinguishment accounting under ASC 470-50-40-10, Debt

Modifications and Extinguishments. The Company concluded debt extinguishment accounting treatment to be necessary and accordingly recorded aggregate debt extinguishment loss of approximately $3.3 million for the three months ended November 30, 2021, as the difference between the fair market value of the shares issued and the carrying value of the debt retired, which included the amortization of the relative debt discount and issuance costs.

Amortization of debt discounts and issuance costs associated with the April 2, 2021 Note during the three and six months ended November 30, 2021 was approximately $0.4 million and $0.8 million, respectively. The unamortized discount and issuance costs balance for the April 2, 2021 Note is approximately $1.6 million as of November 30, 2021. The accrued interest balance for the April 2, 2021 Note is approximately $1.9 million as of November 30, 2021, which included approximately $1.4 million of interest expense for the six months ended November 30, 2021. The carrying value on the April 2, 2021 Note, including accrued interest, as of November 30, 2021, was approximately $19.8 million.

The Company filed a Registration Statement on Form S-3 (Registration No. 333-258944) with the SEC on August 19, 2021, which was declared effective on October 6, 2021, registering a number of shares of common stock sufficient to convert the entire principal balance of the April 2, 2021 Note and the April 23, 2021 Note.

Long-term Convertible Note—April 23, 2021 Note

On April 23, 2021, the Company entered into a securities purchase agreement pursuant to which the Company issued a secured convertible promissory note with a two-year term to an institutional accredited investor affiliated with the holder of the November 2020 and April 2, 2021 Notes in the initial principal amount of $28.5 million (the "April 23, 2021 Note"). The Company received consideration of $25.0 million, reflecting an original issue discount of $3.4 million and issuance costs of $0.1 million. The April 23, 2021 Note is secured by all the assets of the Company, excluding the Company's intellectual property.

Interest accrues on the outstanding balance of the April 23, 2021 Note at an annual rate of 10%. Upon the occurrence of an event of default, interest will accrue at the lesser of 22% per annum or the maximum rate permitted by applicable law. In addition, upon any event of default, the investor may accelerate the outstanding balance payable under the April 23, 2021 Note; upon such acceleration, the outstanding balance will increase automatically by 15%, 10% or 5%, depending on the nature of the event of default. The events of default are listed in Section 4 of the April 23, 2021 Note filed as Exhibit 4.1 to the Company's Current Report on Form 8-K filed on April 29, 2021 and incorporated by reference.

The investor may convert all or any part the outstanding balance of the April 23, 2021 Note into shares of common stock at an initial conversion price of $10.00 per share upon five trading days' notice, subject to certain adjustments and volume and ownership limitations specified in the April 23, 2021 Note. In addition to standard anti-dilution adjustments, the conversion price of the April 23, 2021 Note is subject to full-ratchet anti-dilution protection, pursuant to which the conversion price will be automatically reduced to equal the effective price per share in any new offering by the Company of equity securities that have registration rights, are registered or become registered under the Securities Act. The April 23, 2021 Note provides for liquidated damages upon failure to deliver common stock within specified timeframes and requires the Company to maintain a share reservation of 6.0 million shares of common stock.

The investor may redeem any portion of the April 23, 2021 Note, at any time beginning six months after the issue date, upon three trading days' notice, subject to a maximum monthly redemption amount of $7.0 million. The April 23, 2021 Note requires the Company to satisfy its redemption obligations in cash within three trading days of the Company's receipt of such notice. The Company may prepay the outstanding balance of the April 23, 2021 Note, in part or in full, plus a 15% premium, at any time upon 15 trading days' notice.

Pursuant to the terms of the securities purchase agreement and the April 23, 2021 Note, the Company must obtain the investor's consent before assuming additional debt with aggregate net proceeds to the Company of less than $75.0 million. In the event of any such approval, the outstanding principal balance of the April 23, 2021 Note will increase automatically by 5% upon the issuance of such additional debt.

The embedded conversion feature in the April 23, 2021 Note was analyzed under ASC 815, *Derivatives and Hedging*, to determine if it achieved equity classification or required bifurcation as a derivative instrument. The embedded conversion feature was considered indexed to the Company's own stock and met the conditions for equity classification. Accordingly, the embedded conversion feature does not require bifurcation from the host instrument. The Company determined there was no beneficial conversion feature since the effective conversion rate was greater than the market value of the Company's common stock upon issuance. Certain default put provisions were not considered to be clearly and closely related to the host instrument, but the Company concluded that the value of these default put provisions was de minimis. The Company evaluates the value of the default put provisions each reporting period to determine if the value becomes material to the financial statements.

Amortization of debt discounts and issuance costs associated with the April 23, 2021 Note during the three and six months ended November 30, 2021 was approximately $0.4 million and $0.9 million, respectively. The unamortized discount and issuance costs balance for the April 23, 2021 Note was approximately $2.4 million as of November 30, 2021. The accrued interest balance for the April 23, 2021 Note was approximately $1.8 million at November 30, 2021, which included approximately $1.5 million of interest expense for the six months ended November 30, 2021. The carrying value on the April 23, 2021 Note, including accrued interest, as of November 30, 2021, was approximately $27.9 million.

Note 6. Equity Awards and Warrants

The Company has one active stock-based equity plan at November 30, 2021, the CytoDyn Inc. Amended and Restated 2012 Equity Incentive Plan (the "2012 Plan"), and one stock-based equity plan that is no longer active, but under which certain prior awards remain outstanding. The 2012 Plan covered a total of 50 million shares of common stock at May 31, 2021. Effective June 1, 2021, the amount covered and available shares under the 2012 Plan increased by approximately 6.3 million shares due to a provision in the 2012 Plan under which the total number of shares available to be issued automatically increases on the first day of each fiscal year in an amount equal to 1% of the total outstanding shares on the last day of the prior fiscal year, unless the Board determines otherwise before the fiscal yearend. As of November 30, 2021, there were approximately 18.8 million shares remaining available for future stock-based grants under the 2012 Plan.

Stock Options and Other Equity Awards

During the six months ended November 30, 2021, the Company granted stock options covering a total of approximately 11.0 million shares of common stock to employees with exercise prices ranging from $1.32 to $2.23 per share. These stock options vest in three installments and have a ten-year term and a grant date fair value of between $0.93 and $1.71 per share.

During the six months ended November 30, 2021, the Company issued approximately 0.5 million shares of common stock in connection with the exercise of stock options. The stated exercise price was between $0.63 and $1.06 per share, which resulted in aggregate gross proceeds of approximately $0.4 million to the Company.

During the six months ended November 30, 2021, the Company issued approximately 0.4 million shares of common stock in connection with the vesting of performance stock units ("PSUs") awarded in June 2020. The PSUs were subject to the Compensation Committee's determination of the level of achievement of certain performance conditions set forth in the respective award agreements. The original awards covered a total of 4.35 million PSUs, of which approximately 3.9 million PSUs were forfeited. In connection with the approximate 0.4 million shares of common stock that vested, the Company recognized approximately $1.3 million in stock-based compensation expense in the fourth quarter of fiscal year 2021.

During the six months ended November 30, 2021, the Company issued approximately 0.4 million shares of common stock in connection with the time-based vesting of restricted stock units ("RSUs"). The Company incurred $0.3 million in stock-based compensation expense during the six months ended November 30, 2021 related to RSUs. Also, during the six months ended November 30, 2021, certain members of management received shares of fully vested common stock in lieu of a portion of their cash bonus for services in fiscal year 2021 totaling approximately 0.2 million

shares of common stock. The Company recognized $0.3 million of expense for these shares in lieu of cash bonus during the fourth quarter of fiscal year 2021.

Warrants

In connection with private warrant exchange agreements entered into during the six months ended November 30, 2021, the Company issued a total of approximately 7.9 million shares of common stock in connection with the exercise of warrants for the purchase of 3.5 million shares issued in 2018 and 2019. The stated exercise prices of the original warrants ranged from $0.40 to $1.00 per share. Gross and net proceeds of the private warrant exchange transactions totaled approximately $6.4 million.

Compensation expense related to stock options and warrants for the three and six months ended November 30, 2021 totaled approximately $2.1 million and $4.7 million, respectively, and for the three and six months ended November 30, 2020 totaled approximately $3.4 million and $5.5 million, respectively. Additionally, during the six months ended November 30, 2021, the Company settled a dispute in part by the issuance of warrants covering 1.6 million shares of common stock that expire in seven years and have a stated exercise price of $0.40 per share.

The following table represents stock option and warrant activity as of and for the six months ended November 30, 2021:

(in thousands, except per share data)	Number of shares	Weighted average exercise price	Weighted average remaining contractual life in years	Aggregate intrinsic value
Options and warrants outstanding May 31, 2021	61,573	$ 0.95	4.40	$ 68,756
Granted	20,151	$ 1.97	—	—
Exercised	(5,654)	$ 0.71	—	—
Forfeited or expired and cancelled	(6,443)	$ 0.83	—	—
Options and warrants outstanding November 30, 2021	69,627	$ 1.05	4.61	$ 31,184
Outstanding exercisable November 30, 2021	59,807	$ 0.87	3.51	$ 30,747

As of November 30, 2021, approximately 13.9 million outstanding stock options were vested, approximately 13.7 million outstanding stock options were unvested, and all outstanding warrants were exercisable.

Note 7. Private Equity Securities Offerings

Private Warrant Exchanges

During the three and six months ended November 30, 2021, the Company entered into privately negotiated warrant exchange agreements with certain accredited investors, pursuant to which the investors purchased shares of common stock at exercise prices ranging from $0.40 to $1.00 per share. The Company issued approximately 3.5 million shares of common stock under the original warrants, as well as additional shares as an inducement to exercise their warrants, for a total of approximately 7.9 million shares of common stock. Aggregate gross and net proceeds from the private warrant exchange were approximately $6.4 million. In connection with these transactions, the Company recognized $4.7 million and $5.2 million of inducement interest expense for the three and six months ended November 30, 2021, respectively. Also see Note 6 above.

Private Placement of Shares of Common Stock and Warrants

During the six months ended November 30, 2021, the Company issued in a private placement to accredited investors a total of approximately 16.7 million shares of common stock, together with warrants to purchase a total of approximately 4.2 million shares of common stock at exercise prices ranging from $1.00 to $1.80 per share. The warrants have a five-year term and are immediately exercisable. The securities were issued with a combined purchase price of between $1.00 and $1.80 per fixed combination of one share of common stock and one quarter of one warrant

to purchase one share of common stock, for total gross and net proceeds to the Company of approximately $18.8 million.

The representations, warranties and covenants contained in the subscription agreements were made solely for the benefit of the parties to the subscription agreements. In addition, such representations, warranties and covenants (i) are intended as a way of allocating the risk between the parties to the subscription agreements and not as statements of fact, and (ii) may apply standards of materiality that are different from what may be viewed as material by stockholders of, or other investors in, the Company. Accordingly, the subscription agreements only provide information to investors regarding the terms of the private placement, and do not provide investors with any other factual information regarding the Company. Stockholders should not rely on the representations, warranties and covenants or any descriptions thereof as characterizations of the actual state of facts regarding or condition of the Company or any of its subsidiaries or affiliates. Moreover, information concerning the subject matter of the representations and warranties may change after the date of each subscription agreement, which subsequent information may or may not be fully reflected in public disclosures. A form of the subscription agreement was filed as Exhibit 10.1 to the Company's Current Report on Form 8-K filed with the SEC on September 7, 2021 and is incorporated herein by reference.

Private Placement of Common Stock and Warrants through Placement Agent

During the six months ended November 30, 2021, the Company issued in a private placement to accredited investors an aggregate of approximately 11.4 million shares of common stock, together with warrants to purchase an aggregate of approximately 5.0 million shares of common stock at an exercise price of $1.00 per share. The securities were issued at a combined purchase price of $1.00 per fixed combination of one share of common stock and three-tenths of one warrant to purchase one share of common stock, for aggregate gross and net proceeds to the Company of approximately $11.4 million and $10.0 million, respectively. The warrants have a five-year term and are immediately exercisable. A copy of the form of warrant was filed as Exhibit 4.1 to the Company's Current Report on Form 8-K filed with the SEC on September 7, 2021, and is incorporated herein by reference. See Exhibit 10.1 to this report for a copy of the form of subscription agreement used in the private placement. The foregoing summary of the terms of the forms of warrant and subscription agreement is subject to, and qualified in its entirety by, such documents.

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

As a fee to the placement agent, the Company agreed to pay a cash fee equal to 12% of the gross proceeds received from qualified investors in the offering, as well as a one-time non-accountable expense fee of $50,000 in the aggregate for all closings in this offering. The Company also agreed to grant the placement agent, or its designees, warrants with an exercise price of $1.00 per share and a 10-year term to purchase 12% of the total number of shares of common stock sold to qualified investors in the offering.

Note 8. Acquisition of Patents and Intangibles

The following table presents intangible assets as of November 30, 2021 and May 31, 2021, inclusive of patents:

(in thousands)	November 30, 2021	May 31, 2021
Leronlimab (PRO 140) patent	$ 3,500	$ 3,500
ProstaGene, LLC intangible asset acquisition, net of impairment	2,926	2,926
Website development costs	20	20
Gross carrying value	6,446	6,446
Accumulated amortization, net of impairment	(5,293)	(4,793)
Total amortizable intangible assets, net	$ 1,153	$ 1,653

Amortization expense related to all intangible assets was approximately $0.2 million and $0.5 million and $0.5 million and $1.0 million for the three and six months ended November 30, 2021 and 2020, respectively. The Company recognized an impairment charge of approximately $10.0 million related to the ProstaGene, LLC intangible asset acquisition during the third quarter of the year ended May 31, 2021. See the Company's 2021 Form 10-K for additional discussion.

The following table summarizes the estimated aggregate future amortization expense related to the Company's intangible assets with finite lives as of November 30, 2021:

Fiscal Year ***(in thousands)***	Amount
2022 (6 months remaining)	$ 221
2023	217
2024	85
2025	85
Thereafter	545
Total	$ 1,153

Note 9. 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 material. The Company accrues annual license fees of £0.6 million (approximately $0.8 million utilizing current exchange rates), which fees are payable annually in December. Future annual license fees and royalty rate will vary depending on whether the Company manufactures leronlimab, 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 2.0% of net sales, depending on who serves as the manufacturer, when the Company commences its first commercial sale; such royalties will continue for the duration of the license agreement. As of November 30, 2021, the Company accrued expense of approximately $0.4 million related to this arrangement and as of May 31, 2021 the Company recorded a prepaid asset of approximately $0.1 million related to this agreement.

Note 10. Commitments and Contingencies

Commitments with Samsung BioLogics Co., Ltd. ("Samsung")

In April 2019, the Company entered into an agreement with Samsung, pursuant to which Samsung will perform technology transfer, process validation, manufacturing, and supply services for the commercial supply of leronlimab effective through calendar year 2027. In 2020, the Company entered into an additional agreement, pursuant to which Samsung will perform technology transfer, process validation, vial filling and storage services for clinical, pre-approval inspection, and commercial supply of leronlimab. Samsung is obligated to procure necessary raw materials for the Company and manufacture a specified minimum number of batches, and the Company is required to provide a rolling three-year forecast of future estimated manufacturing requirements to Samsung that are binding. On January 6, 2022,

Samsung provided written notice to the Company of the Company's material breach of the parties' Master Services and Project Specific Agreements for failure to pay approximately $13.5 million due on December 31, 2021. This amount was included in accounts payable at November 30, 2021. Under the agreements, the Company has 45 days to make commercially reasonable efforts to commence curing the breach. If such steps have not been taken during the cure period, Samsung may terminate the agreements upon 45 days' notice. Management has communicated to Samsung its intent to commence curing the breach prior to the expiration of the cure period. The future commitments pursuant to these agreements are estimated as follows:

Fiscal Year *(in thousands)*	**Amount**
2022 (6 months remaining)	$ 21,271
2023	113,790
2024	106,140
2025	14,400
Total	$ 255,601

Commitments with Contract Research Organization ("CRO")

The Company has entered into project work orders, as amended, for each of our clinical trials with our 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 that would become payable to the CRO. Conditioned upon the form of termination of any one trial, the financial penalties may range up to approximately $0.2 million. In the remote circumstance that the Company would terminate all clinical trials, the collective financial penalties may range from a low of approximately $20 thousand to an approximate high of approximately $0.6 million.

Legal Proceedings

The Company is a party to various legal proceedings. The Company recognizes accruals for such proceedings to the extent a loss is determined to be both probable and reasonably estimable. The best estimate of a loss within a possible range is accrued; however, if no estimate in the range is more probable than another, then the minimum amount in the range is accrued. If it is determined that a material loss is not probable but reasonably possible and the loss or range of loss can be estimated, the possible loss is disclosed. It is not possible to determine the outcome of proceedings that have not been concluded, including the defense and other litigation-related costs and expenses that may be incurred by the Company, as the outcomes of legal proceedings are inherently uncertain and the outcomes could differ significantly from recognized accruals. Therefore, it is possible that the ultimate outcome of any proceeding, if in excess of a recognized accrual or if an accrual had not been made, could be material to the Company's consolidated financial statements.

As of November 30, 2021, the Company did not record any legal accruals related to the outcomes of the matters described below.

September 2020 Washington Shareholder Derivative Lawsuit

On September 10, 2020, the same certain stockholders of the Company (the "Plaintiffs"), which previously filed a derivative action in the Delaware Court of Chancery on April 24, 2020, filed another derivative action against CEO Nader Z. Pourhassan, Ph.D. claiming that he had violated Section 16(b) of the Securities Exchange Act of 1934, as amended (the "Exchange Act"), with respect to certain personal stock transactions in the Company's common stock. The parties filed cross-motions to dismiss. On March 12, 2021, the U.S. District Court for the Western District of Washington (the "U.S. District Court") granted Dr. Pourhassan's motion to dismiss with prejudice. On April 9, 2021, the Plaintiffs filed a Notice of Appeal to the Ninth Circuit Court of Appeals appealing the decision of the U.S. District Court. The Plaintiffs filed their opening brief with the Ninth Circuit on July 8, 2021. Dr. Pourhassan filed a response brief on September 8, 2021. The Plaintiffs filed a reply brief on October 29, 2021. The court has stated that it will decide the appeal based on the briefs and the record without oral argument.

Pestell Employment Dispute

On July 25, 2019, the Company's Board terminated the employment of Dr. Pestell, the Company's former Chief Medical Officer, for cause pursuant to the terms of Dr. Pestell's employment agreement. On August 22, 2019, Dr. Pestell filed a lawsuit in the U.S. District Court for the District of Delaware (Pestell v. CytoDyn Inc., et al.), against the Company, its Chief Executive Officer and the Chairman of the Board, alleging breach of the employment agreement, a failure to pay wages and defamation, among other claims, and seeking damages related to severance entitlements for a non-cause termination under the employment agreement and a stock restriction agreement, among other relief. The treatment of those entitlements, including severance and, together with approximately 0.4 million unvested stock options and 8.3 million shares of unvested restricted common stock, in each case granted or issued on November 16, 2018 and which vest ratably over three years or upon a non-cause termination, are expected to be determined by the outcome of this litigation. Dr. Pestell also seeks damages in connection with his alleged inability to liquidate the equity at issue since his termination, and as a result of the alleged defamation. On November 2, 2020, the Court dismissed Dr. Pestell's wage claims with prejudice and the Company's Chief Executive Officer and the Chairman of the Board were dismissed from the proceeding. The Company filed its answer and counterclaims thereafter. A bench trial is currently set for April 2022. The Company disputes all of Dr. Pestell's claims and intends to vigorously defend the action. The Company cannot predict the ultimate outcome and cannot reasonably estimate the potential loss or range of loss, if any, that the Company may incur.

Securities Class Action Lawsuit

On March 17, 2021, a stockholder filed a putative class-action lawsuit in the U.S. District Court for the Western District of Washington against the Company and certain current and former officers. The complaint generally alleges the defendants made false and misleading statements regarding the viability of leronlimab as a potential treatment for COVID-19. On April 9, 2021, a second stockholder filed a similar putative class action lawsuit in the same court, which the plaintiff voluntarily dismissed without prejudice on July 23, 2021. On August 9, 2021, the court appointed lead plaintiffs for the lawsuit. On December 21, 2021, lead plaintiffs filed an amended complaint, which is brought on behalf of an alleged class of those who purchased the Company's common stock between March 27, 2020 and May 17, 2021. The amended complaint generally alleges that the Company and certain current and former officers violated Sections 10(b) and/or 20(a) of the Exchange Act and Rule 10b-5 promulgated thereunder by making purportedly false or misleading statements concerning, among other things, the safety and efficacy of leronlimab as a potential treatment for COVID-19, the Company's CD10 and CD12 clinical trials, and its HIV BLA. The amended complaint also alleges that the individual defendants violated Section 20A of the Exchange Act by selling shares of the Company's common stock purportedly while in possession of material nonpublic information. The amended complaint seeks, among other relief, a ruling that the case may proceed as a class action and unspecified damages and attorneys' fees and costs. The Company and the individual defendants deny all allegations of wrongdoing in the complaint and intend to vigorously defend the matter. Since this case is in an early stage where the number of plaintiffs is not known, and the claims do not specify an amount of damages, the Company is unable to predict the ultimate outcome of the lawsuit and cannot reasonably estimate the potential loss or range of loss the Company may incur.

2021 Shareholder Derivative Lawsuits

On June 4, 2021, a stockholder filed a purported derivative lawsuit against certain of the Company's current and former officers, certain board members, and the Company as a nominal defendant, in the U.S. District Court for the Western District of Washington ("First Derivative Suit"). The complaint generally alleges the director defendants breached fiduciary duties owed to the Company by allowing the Company to make false and misleading statements regarding the viability of leronlimab as a potential treatment for COVID-19 and failing to maintain an adequate system of oversight and internal controls. The complaint asserts claims against one or more individual defendants for breach of fiduciary duty, waste of corporate assets, and unjust enrichment, and seeks to recover on behalf of the Company for any liability the Company incurs as a result of the individual defendants' alleged misconduct. The complaint also seeks contribution on behalf of the Company from certain individual defendants for their alleged violations of federal securities laws. The complaint seeks declaratory and equitable relief, an unspecified amount of damages, and attorneys' fees and costs. On June 25, 2021, a second shareholder derivative lawsuit was filed against the same defendants in the same court ("Second Derivative Suit"), which includes allegations and claims similar to those made in the First

Derivative Suit, adding claims against certain individual defendants based on allegedly false and misleading proxy statement disclosures and for breach of fiduciary duty arising from alleged insider trading, and seeking similar relief as the First Derivative Suit. On August 18, 2021, a third shareholder derivative lawsuit was filed against the same defendants in the same court, which includes allegations and claims similar to those made in the First Derivative Suit and Second Derivative Suit. The court has consolidated these three lawsuits for all purposes ("Consolidated Derivative Suit"). The plaintiffs' deadline to file a consolidated complaint is January 20, 2022. The Company and the individual defendants deny all allegations of wrongdoing in the complaints and intend to vigorously defend the litigation. In light of the fact that the Consolidated Derivative Suit is in an early stage and the claims do not specify an amount of damages, the Company cannot predict the ultimate outcome of the Consolidated Derivative Suit and cannot reasonably estimate the potential loss or range of loss the Company may incur.

Securities and Exchange Commission and Department of Justice Investigations

The Company has received subpoenas from the United States Securities and Exchange Commission ("SEC") and the United States Department of Justice ("DOJ") requesting documents and information concerning, among other matters, leronlimab, the Company's public statements regarding the use of leronlimab as a potential treatment for COVID-19, HIV, and triple-negative breast cancer, related communications with the FDA, investors, and others, litigation involving former employees, the Company's retention of investor relations consultants, and trading in the Company's securities. Certain Company executives have received subpoenas concerning similar issues and may be interviewed by the DOJ or SEC in the future. The SEC informed the Company that its inquiry should not be construed as an indication that any violations of law have occurred or that the SEC has any negative opinion of any person, entity or security.

The Company is cooperating fully with these non-public, fact-finding investigations, and as of the date of this filing, the Company is unable to predict the ultimate outcome and cannot reasonably estimate the potential possible loss or range of loss, if any.

September 2021 Delaware Court of Chancery Lawsuit

On September 22, 2021, a putative class-action lawsuit was filed against the Company and its board members in the Delaware Court of Chancery (the "Court"). The complaint generally alleged that Article VI, Section 5 of the Company's certificate of incorporation, which concerns the removal of directors ("Removal Provision"), violates Delaware law. The plaintiffs requested a ruling that the case may proceed as a class action, a declaration that the Removal Provision is invalid and unenforceable, an order enjoining the defendants from attempting to enforce the Removal Provision, and attorneys' fees and costs. On January 6, 2022, the Company and the plaintiffs submitted an agreed upon stipulation and proposed order to resolve the matter, asking the Court to enter an order invalidating certain language of the Removal Provision, striking that language from the Removal Provision and deeming it null and void and of no legal effect, and retaining jurisdiction solely for the purpose of adjudicating plaintiffs' counsel's anticipated application for an award of attorneys' fees and reimbursement of expenses.

Amarex Dispute

On October 4, 2021, the Company filed a complaint for declaratory and injunctive relief and motion for a preliminary injunction against NSF International, Inc. and its subsidiary Amarex Clinical Research LLC ("Amarex"), the Company's former contract research organization ("CRO"). Over the past eight years, Amarex provided clinical trial management services to the Company and managed numerous clinical studies of the Company's drug product candidate, leronlimab. On December 16, 2021, the U.S. District Court for the District of Maryland issued a preliminary injunction requiring Amarex to provide the Company with access to to all of its materials in the possession of Amarex. The court also granted CytoDyn the right to conduct an audit of Amarex's work for CytoDyn. The order is subject to the Company's posting of a $6.5 million bond by January 14, 2022. In order to obtain the bond, the Company will be required to tender $6.5 million in cash as collateral to the surety issuing the bond. If necessary, the Company will seek an extension of the deadline for posting the bond.

The Company simultaneously filed a demand for arbitration with the American Arbitration Association. The arbitration demand alleges that Amarex failed to perform services to an acceptable professional standard and failed to perform certain services required by the parties' agreements. Further, the demand alleges that Amarex billed the Company for services it did not perform. The Company contends that, due to Amarex's failures, it has suffered avoidable delays in obtaining regulatory approval of leronlimab and has paid for services not performed. In light of the fact that this dispute is in an early stage, the Company cannot predict the ultimate outcome of the lawsuit and cannot reasonably estimate the potential loss or range of loss that the Company may incur.

Proxy Contest and Lawsuits

On July 1, 2021, the Company received a notice of nomination dated June 30, 2021, from a group of activist stockholders, Paul A. Rosenbaum, Jeffrey P. Beaty and Arthur L. Wilmes (the "Activists"), purporting to nominate five individuals for election to the Company's Board of Directors at its 2021 annual meeting of stockholders. On July 30, 2021, the Company informed the Activists that their notice of nomination was invalid due to its failure to comply with the Company's Amended and Restated By-Laws. On August 5, 2021, the Company filed a lawsuit in the United States District Court for the District of Delaware against the Activists, seeking to enjoin the defendants from misleading stockholders and continuing to wage an illegal proxy contest in light of their faulty nomination notice and violation of various federal securities laws. On September 16, 2021, the Company and the Activists agreed to dismiss the litigation in the United States District Court for the District of Delaware without prejudice if certain additional disclosures about the Activists' conflicts of interest, sources of funding and agenda were made, for which the Activists filed an amendment to their Schedule 13D. On September 20, 2021, the United States District Court for the District of Delaware ordered the dismissal without prejudice.

On August 26, 2021, the Activists sued the Company in the Delaware Court of Chancery, seeking a declaratory judgment that the nomination notice was valid. On October 13, 2021, the Delaware Court of Chancery ruled that the Company's Board of Directors properly rejected the nomination notice presented by the Activists and rejected all of their claims, disallowing proxies or votes in favor of their nominees to be recognized at the Company's 2021 annual meeting. The annual meeting was held on November 24, 2021, at which the Company's nominees for election as directors were elected.

Note 11. Related Party Transactions

The Board's Audit Committee, composed of independent directors, or the full Board, reviews and approves all related party transactions. The terms and amounts described below are not necessarily indicative of the terms and amounts that would have been incurred had comparable transactions been entered into with independent parties.

On September 23, 2021, Jordan G. Naydenov, a member of the Company's Board of Directors, entered into a private warrant exchange in which he exercised warrants to purchase approximately 0.6 million shares of common stock, as well as approximately0.6 million additional shares that were offered as an inducement to exercise his warrants, for a total of approximately 1.3 million shares of common stock. The terms and conditions of the investment totaling approximately $0.7 million made by Mr. Naydenov were identical to those offered to other investors. See also Note 12 below.

Note 12. Subsequent Events

On December 7, 2021, in partial satisfaction of the December 2021 Debt Reduction Amount, the Company and the April 2, 2021 Note holder entered into an exchange agreement, pursuant to which the April 2, 2021 Note was partitioned into a new note (the "December 7, 2021 Partitioned Note") with a principal amount of $2.0 million. The outstanding balance of the April 2, 2021 Note was reduced by the December 7, 2021 Partitioned Note. The Company and the investor exchanged the December 7, 2021 Partitioned Note for approximately 2.4 million shares of common stock.

On December 29, 2021, in partial satisfaction of the December 2021 Debt Reduction Amount, the Company and the April 2, 2021 Note holder entered into an exchange agreement, pursuant to which the April 2, 2021 Note was

partitioned into a new note (the "December 29, 2021 Partitioned Note") with a principal amount of $2.0 million. The outstanding balance of the April 2, 2021 Note was reduced by the December 29, 2021 Partitioned Note. The Company and the investor exchanged the December 29, 2021 Partitioned Note for approximately 2.4 million shares of common stock.

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

Certain information included in this Quarterly Report on Form 10-Q contains, or incorporates by reference, forward-looking statements within the meaning of Section 21E of the Exchange Act. The words "anticipate," "believe," "hope," "expect," "intend," "predict," "plan," "seek," "estimate," "project," "continue," "could," "may," and similar terms and expressions, or the use of future tense, are intended to identify forward-looking statements. These statements include, among others, statements about leronlimab, its ability to have positive health outcomes, the impact of health epidemics including the ongoing COVID-19 pandemic, and 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, (i) the regulatory determinations of leronlimab's efficacy to treat human immunodeficiency virus ("HIV") patients with multiple resistance to current standard of care, COVID-19 patients, and metastatic Triple-Negative Breast Cancer ("mTNBC"), among other indications, by the U.S. Food and Drug Administration and various drug regulatory agencies in other countries; (ii) the Company's ability to raise additional capital to fund its operations; (iii) the Company's ability to meet its debt and other payment obligations; (iv) the Company's ability to enter into or maintain partnership or licensing arrangements with third-parties; (v) the Company's ability to identify patients to enroll in its clinical trials in a timely fashion; (vi) the timely and sufficient development, through internal resources or third-party consultants, of analyses of the data generated from the Company's clinical trials required by the FDA or other regulatory agencies in connection with the Company's BLA resubmission or other applications for approval of the Company's drug product, (vii) the Company's ability to achieve approval of a marketable product; (viii) the design, implementation and conduct of the Company's clinical trials; (ix) the results of the Company's clinical trials, including the possibility of unfavorable clinical trial results; (x) the market for, and marketability of, any product that is approved; (xi) the existence or development of vaccines, drugs, or other treatments that are viewed by medical professionals or patients as superior to the Company's products; (xii) regulatory initiatives, compliance with governmental regulations and the regulatory approval process; (xiii) legal proceedings, investigations or inquiries affecting the Company or its products; (xiv) general economic and business conditions; (xv) changes in foreign, political, and social conditions; (xvi) stockholder actions or proposals with regard to the Company, its management, or its board of directors; and (xvii) various other matters, many of which are beyond the Company's 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, 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. For a discussion of the risks and uncertainties that could materially and adversely affect the Company's financial condition and results of operations, see "Risk Factors" set forth in our Annual Report on Form 10-K for the year ended May 31, 2021, filed with the Securities and Exchange Commission (the "SEC") on July 30, 2021, as amended by Amendment No. 1 filed with the SEC on September 28, 2021 (the "2021 Form 10-K"), as well as those risks and uncertainties identified in Part II, Item 1A of this Form 10-Q.

The following discussion and analysis of our financial condition and results of operations should be read in conjunction with the 2021 Form 10-K and the other sections of this Form 10-Q, including our Consolidated Financial Statements and related notes set forth in Part I, Item 1. This discussion and analysis contain forward-looking statements, including information about possible or assumed results of our financial condition, operations, plans, objectives and performance that involve risks, uncertainties and assumptions. The actual results may differ materially from those anticipated and set forth in such forward-looking statements.

Overview of Our Business

The Company is a late-stage biotechnology company focused on the clinical development and potential commercialization of leronlimab (PRO 140), a CCR5 antagonist to treat HIV infection, and multiple other potential therapeutic indications. Our current business strategy is to resubmit our Biologics License Application ("BLA") for leronlimab as a combination therapy for highly treatment-experienced HIV patients as soon as possible, as well as to

seek approval for other HIV-related indications. We will seek approval for leronlimab as a potential therapeutic benefit for severe-to-critical COVID-19 patients and COVID-19 long-hauler's indications in the U.S. and Brazil. We plan to advance our clinical trials with leronlimab for various forms of cancer, including among others, our Phase 2 trial for metastatic triple-negative breast cancer ("mTNBC") and Phase 2 basket trial for 22 solid tumor cancers. We also plan to complete our Phase 2 trial to evaluate NAFLD and liver fibrosis associated with nonalcoholic steatohepatitis ("NASH") and concurrently explore other immunologic indications for leronlimab.

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

Due to leronlimab's mechanism of action ("MOA"), we believe leronlimab may have significant advantages in reducing side effects over other CCR5 antagonists. Prior studies have demonstrated that leronlimab does not cause direct activation of T-cells.

We continue to evaluate strategic licensing opportunities and supply and distribution partnerships and conduct exploratory discussions with third parties for other potential strategies to monetize our assets. As recently completed license and supply and distribution agreements demonstrate, such agreements are country or region-specific and generally are limited to a specific clinical indication for leronlimab.

See Item 1. Business in our 2021 Form 10-K for more information.

Business Highlights & Recent Developments

COVID-19 Clinical Developments

1st Quarter Developments

- In June 2021, the Company received its first purchase order from Chiral Pharma Corporation ("Chiral") to treat critically ill COVID-19 patients in the Philippines under a Compassionate Special Permit ("CSP"). This order was fulfilled in August 2021.
- In June 2021, clinical trial data was unblinded from the Company's exploratory COVID-19 long-hauler 's clinical trial suggesting greater improvement over placebo in the majority of symptoms.
- In July 2021, the Company was granted a patent by the U.S. Patent and Trademark Office for methods of treating COVID-19.
- In August 2021, the Company received clearance from Brazil's ANVISA to commence its Phase 3 trial for severe COVID-19 patients. The trial will be conducted in up to 35 clinical sites with 612 patients. The first patient was treated in this trial in September 2021.

2nd Quarter Developments

- In September 2021, the Company received two additional purchase orders from Chiral in the aggregate amount of approximately $0.2 million to continue to treat critically ill COVID-19 patients in the Philippines under a CSP. These orders were shipped during the quarter ended November 30, 2021.
- In September 2021, the Company received clearance from Brazil's ANVISA to commence its pivotal Phase 3 trial in critically ill COVID-19 patients. The trial will be conducted in up to 22 clinical sites with 316 patients. The first patient was treated in this trial in October 2021.
- In December 2021, Brazil's ANVISA agreed to modify the Phase 3 trial for critically ill COVID-19 patients to require a total patient enrollment of 126 patients instead of the previously approved 316 patients and allow for interim efficacy analysis after 51 patients have been treated for 27 days.
- In December 2021, the Company submitted a protocol to the FDA for a Phase 3 trial evaluating the efficacy and safety of leronlimab in combination with standard of care for critically ill patients with COVID-19 pneumonia with the need for invasive mechanical ventilation or Extracorporeal Membrane Oxygenation. In this trial, up to four weekly 700 mg doses of leronlimab will be administered by intravenous infusion. This trial was designed based on a subgroup analysis of 62 critically ill patients from the Company's previously completed COVID-19 clinical trial. The FDA has accepted the trial design. The Company is currently finalizing the protocol and will then submit it to the FDA and an Institutional Review Board ("IRB") for final approval before initiation of the trial.
- As of January 6, 2022, the Brazilian Phase 3 trials for severe and critically ill COVID-19 patients had enrolled 38 and 6 patients, respectively.

HIV BLA & Clinical Developments

1st Quarter Developments

- In June 2021, an animal study was published in*Nature Communications* regarding the use of leronlimab for HIV PrEP.
- In July 2021, the Company submitted its dose justification draft report to the FDA in connection with the resubmission of its BLA.
- In August 2021, the Company received guidance from the FDA with regard to its previously submitted HIV BLA draft dose justification report.

2nd Quarter Developments

- In September 2021, the Company revised its current BLA resubmission completion date from October 2021 to the first calendar quarter of 2022.
- In October 2021, the FDA accepted a revised rolling review timeline for resubmitting the BLA, allowing for contemporaneous review by the FDA for sections as they are submitted.
- In November 2021, the Company resubmitted two of the three integral sections of the BLA for review by the FDA, the non-clinical and manufacturing sections. The Company expects to resubmit the third and final clinical section by the end of the first calendar quarter of 2022.

- In December 2021, the Company submitted a request to the FDA for potential approval of the expanded access use of leronlimab for multi-drug resistance HIV patients. The FDA responded to the Company's request in December 2021, requesting that the Company provide an updated protocol to permit them to evaluate the request for expanded access. The Company is preparing an updated protocol for submission.

Cancer Clinical Developments

1st Quarter Developments

- In July 2021, the Company's Phase 1b clinical trial for mTNBC advanced to Phase 2 of the trial.
- In July 2021, the Company's preliminary results from various trials of 30 mTNBC patients suggested decreases in circulating cells and an increase in overall survival at 12 months in certain patients.
- In August 2021, the Company's final mTNBC report indicated an increase in 12-month overall survival and 12-month modified progression-free survival in certain patients.

2nd Quarter Developments

- In October 2021, the Company signed a research agreement with a leading cancer research institution, the University of Texas MD Anderson Cancer Center, to evaluate the potential synergistic therapeutic efficacy of leronlimab in combination with immune checkpoint blockade.
- In October 2021, the Company updated its results from its various cancer trials with varying doses for the treatment of 28 patients with mTNBC who had failed at least two lines of previous therapy. In November 2021, the Company announced that it had submitted to the FDA an application for Breakthrough Therapy designation for leronlimab as a potential treatment for mTNBC based on the recent data results.
- In January 2022, the FDA notified the Company that its mTNBC data did not demonstrate a substantial improvement over existing mTNBC therapies; therefore, it could not grant Breakthrough Therapy designation. The FDA indicated that the Company may submit a new request with additional clinical evidence that demonstrates a substantial improvement in second-line treatment of mTNBC over existing therapies. The Company plans to submit a new request, with the additional data from the ongoing trial, when available.
- In November 2021, Health Canada issued the Company a Letter of Authorization for the emergency use of leronlimab to treat a single patient with mTNBC.

NASH Clinical Developments

2nd Quarter Developments

- In November and December 2021, interim preliminary results were announced regarding the Company's Phase 2 NASH, 14-week open-label, 350 mg weekly dose, clinical trial. In January 2022, the Company announced it met its primary endpoint in proton density fat fraction ("PDFF") and its secondary endpoint in cT1 in this trial. This clinical trial compared the changes from baselines in these endpoints in 22 patients. The Company is evaluating the results of the other part of the trial, in which 50 patients received a 700 mg weekly dose of either leronlimab or a placebo in a double-blind, randomized manner.

Other Clinical Developments

2nd Quarter Developments

- In November 2021, a research paper was published in *Frontiers in Immunology Journal* regarding the use of leronlimab and the suggested results of the CCR5 receptor occupancy analysis with regard to increased peripheral blood CCR5+CD4+ T cells.

Corporate Developments

1st Quarter Developments

- In August 2021, the Company hired Seenu Srinivasan, Ph.D., as Executive Director, CMC Regulatory Affairs, who has 30 years of experience in pharmaceutical drug development. He most recently served as Director of CMC Regulatory Affairs at Regeneron Pharmaceuticals, Inc., where he led the CMC strategy and successfully submitted a monoclonal antibody-based BLA.

2nd Quarter Developments

- In October 2021, the Company restructured its management team in order to optimize the BLA resubmission process and to advance other clinical developments by appointing its then Chief Operating Officer ("COO"), Christopher Recknor, M.D., to a newly created role of Senior Executive VP of Clinical Operations, and its then Chief Technology Officer ("CTO"), Nitya Ray, Ph.D., to serve as both COO and CTO.
- In October 2021, the Company hired Alok Krishen, M.S., as Sr. Director, Head of Biostatistics, who has over 35 years of experience in biostatistics in the pharmaceutical industry. His experience includes biostatistical support for design and conducting clinical trials, data interpretation and reporting, regulatory submissions to the FDA and European regulatory agencies, and post-approval data exploration. Mr. Krishen is extensively published in clinical research and statistical journals. He most recently served as Director, Biostatistics at Parexel International. Before Parexel, he held positions of increasing responsibility for a combined 32 years at GlaxoSmithKline and Baxter Healthcare.
- In November 2021, the Company held its 2021 Annual Meeting at which the stockholders approved all four proposals submitted to a vote:
    - The election of six directors to serve on the Board of Directors until the 2022 Annual Meeting of Stockholders, including Scott A. Kelly, M.D., Nader Z. Pourhassan, Ph.D., Jordan G. Naydenov, Lishomwa C. Ndhlovu, M.D., Ph.D., Harish Seethamraju, M.D. and Tanya Durkee Urbach.
    - The ratification, on an advisory basis, of the selection of Warren Averett, LLC as the Company's independent registered public accounting firm for the fiscal year ending May 31, 2022.
    - The approval, on an advisory basis, of the Company's named executive officer compensation.
    - The approval of a proposal to amend the Company's Certificate of Incorporation to increase the total number of authorized shares of common stock from 800,000,000 to 1,000,000,000.
- In December 2021, Dr. Seethamraju stepped down from the Company's Board of Directors due to pre-existing professional commitments, but agreed to join the Company's Scientific Advisory Board.
- In December 2021, the Company hired John Andrews, Ph.D., as Executive Director, Clinical Regulatory Affairs, who has over 35 years of experience in pharmaceutical drug development, including developing antiviral and other drugs in oncology and cardiovascular and pulmonary diseases. John has extensive experience in global regulatory submissions, including presentations to CDER and CBER. He has been published in the infectious disease area and an invited speaker at FDA advisory panels. Before joining the Company, he was a clinical regulatory consultant. He worked at Hoffman LaRoche/Genentech, Chiltern (currently LabCorp), and Burroughs Wellcome, where he contributed to developing the first drug to treat AIDS.
- In December 2021, the Company hired Darshana Jani, M.S., as Vice President, Clinical Biosciences, who has over 25 years of industry experience in pharmaceutical drug development, including designing and developing a variety of regulatory compliant biological and bioanalytical methods and assay platforms in therapeutic areas for hematology, oncology, neurology, and auto-immune disease. She has successfully contributed to numerous IND and BLA submissions in the U.S. and internationally. Ms. Jani has published multiple papers in clinical pharmacology. She has been invited as a speaker and chair to various sessions at international scientific conferences. She most recently served as Director/Head, Global Bioanalysis and Biomarker Development, Translational Sciences and Clinical Affairs at Agenus, Inc. Before Agenus, she held positions of increasing responsibility for a combined 27 years at Pfizer, Biogen, MedImmune, and Genzyme.

Results of Operations for the three and six months ended November 30, 2021 and November 30, 2020

The following table sets forth the results of operations for the three and six months ended November 30, 2021 and November 30, 2020 respectively:

	Three months ended November 30,		Change		Six months ended November 30,		Change	
(in thousands)	2021	2020 (Revised) (1)	$	%	2021	2020 (Revised) (1)	$	%
Total revenue	$ 225	$ —	$ 225	100 %	$ 266	$ —	$ 266	100 %
Total cost of goods sold	52	—	52	100 %	53	—	53	100 %
Gross margin	173	—	173	100 %	213	—	213	100 %
Operating expenses:								
General and administrative	16,203	7,551	8,652	115 %	23,820	17,426	6,394	37 %
Research and development	9,040	16,446	(7,406)	(45)%	22,824	31,738	(8,914)	(28)%
Amortization and depreciation	252	506	(254)	(50)%	528	1,011	(483)	(48)%
Total operating expenses	25,495	24,503	992	4 %	47,172	50,175	(3,003)	(6)%
Operating loss	(25,322)	(24,503)	(819)	(3)%	(46,959)	(50,175)	3,216	6 %
Other income (expense):								
Loss on extinguishment of convertible notes	(3,312)	(4,169)	857	21 %	(7,963)	(4,169)	(3,794)	(91)%
Legal settlement	—	—	—	— %	(1,941)	—	(1,941)	(100)%
Interest expense:								
Finance charges	(1,024)	(231)	(793)	(343)%	(1,059)	(137)	(922)	(673)%
Amortization of discount on convertible notes	(793)	(1,243)	450	36 %	(1,745)	(2,582)	837	32 %
Amortization of debt issuance costs	(23)	(15)	(8)	(53)%	(51)	(19)	(32)	(168)%
Inducement interest expense	(4,704)	(4,217)	(487)	(12)%	(5,232)	(7,562)	2,330	31 %
Interest on convertible notes payable	(1,426)	(1,047)	(379)	(36)%	(3,112)	(1,613)	(1,499)	(93)%
Total interest expense	(7,970)	(6,753)	(1,217)	(18)%	(11,199)	(11,913)	714	6 %
Loss before income taxes	(36,604)	(35,425)	(1,179)	(3)%	(68,062)	(66,257)	(1,805)	(3)%
Income tax benefit	—	—	—	—	—	—	—	—
Net loss	$ (36,604)	$ (35,425)	$ (1,179)	(3)%	$ (68,062)	$ (66,257)	$ (1,805)	(3)%

(1) See Note 2, "—*Correction of Immaterial Misstatements in Prior Period Financial Statements* ".

Product revenue

Revenue recognized was approximately $225.0 thousand and $266.0 thousand for the three and six months ended November 30, 2021, respectively, compared to none in the same periods of 2020. Revenue was related to the fulfillment of orders under a CSP in the Philippines for the treatment of COVID-19 patients, pursuant to an April 2021 exclusive supply and distribution agreement granting Chiral the right to distribute and sell up to 200,000 vials of leronlimab through April 15, 2022.

Cost of goods sold ("COGS") and Gross margin

COGS was approximately $52.0 thousand and $53.0 thousand for the three and six months ended November 30, 2021, respectively, compared to none in the comparable periods of 2020. This resulted in a 76.9% and 80.1% gross margin for the three and six months ended November 30, 2021, respectively. FDA approval has not been received for

leronlimab and the inventory sold was previously expensed as research and development expense due to its being manufactured prior to the commencement of the manufacturing of commercial grade pre-launch inventories, which are capitalized. Therefore, COGS consists only of the costs of packaging and shipping of the vials, including related customs and duties. When inventories manufactured prior to the manufacturing of pre-launch inventories are fully depleted and commercial grade pre-launch inventories for which manufacturing costs have been capitalized are sold, it is expected that COGS will significantly increase and gross margin will significantly decrease.

Operating expenses

The future trends in expenses will be driven largely by the outcomes of clinical trials and their related effect on research and development expenses, general and administrative expenses, professional fees, legal proceedings, and the manufacturing of new commercial leronlimab. We require a significant amount of additional capital and our ability to continue to fund operations will continue to depend on our ability to raise such capital. See, in particular, "Capital Requirements" and "Going Concern" below and Item 1A in our 2021 Form 10-K and Part II Item 1A in this Form 10-Q.

General and administrative ("G&A") expenses

G&A expenses consist of all employee-related costs, stock-based compensation expense, legal fees, professional fees, insurance, and other corporate expense. G&A expenses consisted of the following for the periods presented:

	Three months ended November 30,		Change		Six months ended November 30,		Change	
(in thousands)	2021	2020	$	%	2021	2020	$	%
Salaries, benefits, and other compensation	$ 1,850	$ 1,525	$ 325	21 %	$ 2,235	$ 4,981	$ (2,746)	(55)%
Stock-based compensation	2,060	3,423	(1,363)	(40)	4,657	7,115	(2,458)	(35)
Legal fees	9,206	1,359	7,847	577	11,557	2,580	8,977	348
Other	3,087	1,244	1,843	148	5,371	2,750	2,621	95
Total general and administrative	$ 16,203	$ 7,551	$ 8,652	115 %	$ 23,820	$ 17,426	$ 6,394	37 %

G&A expenses increased approximately $8.7 million, or 115%, for the three months ended November 30, 2021 compared to the same period from 2020. The increase was primarily driven by increased legal and other fees, which were partially offset by decreased stock-based compensation expense. The increase in legal fees was primarily related to legal fees associated with the proxy contest and lawsuits, SEC and DOJ investigations, the Pestell employment dispute, and the Amarex dispute. Additionally, the increase in other G&A expense was primarily due to increased insurance premiums, costs associated with the annual meeting, and outsourced consulting and recruiting services.

G&A expenses increased approximately $6.4 million, or 37%, for the six months ended November 30, 2021 compared to the same period from 2020. The increase was primarily driven by increased legal fees and other G&A expense, which were partially offset by decreased employee-related costs. The increase in legal fees was primarily related to the proxy contest, SEC and DOJ investigations, the Pestell employment dispute, and the Amarex dispute. The increase in other G&A expense was primarily due to increased insurance premiums, costs associated with the annual meeting, and outsourced consulting and recruiting services. The reduction in salaries, benefits and other compensation was attributable to a reduction in bonuses and the reclassification of previously accrued incentive compensation to stock-based compensation due to the compensation being issued in stock, offset by an increase in severance costs related to the termination of employees and salaries and benefits. The decrease in stock-based compensation includes a partial offset related to the previously described reclassification.

Research and development ("R&D") expenses

R&D expenses include the costs of clinical trials, non-clinical, Chemistry, Manufacturing and Controls ("CMC"), regulatory and license and patent fees. R&D expenses consisted of the following for the periods presented:

	Three months ended November 30,		Change		Six months ended November 30,		Change	
(in thousands)	2021	2020	$	%	2021	2020	$	%
Clinical	$ 5,598	$ 6,896	$ (1,298)	(19)%	$ 14,661	$ 16,456	$ (1,795)	(11)%
Non-Clinical	511	67	444	663	675	1,038	(363)	(35)
CMC	2,696	9,287	(6,591)	(71)	7,019	13,814	(6,795)	(49)
License and patent fees	235	196	39	20	469	430	39	9
Total research and development	$ 9,040	$ 16,446	$ (7,406)	(45)%	$ 22,824	$ 31,738	$ (8,914)	(28)%

For the six months ended November 30, 2021, R&D expenditures were primarily devoted to: (1) COVID-19 clinical trials, (2) NASH clinical trial, (3) HIV extension studies which continue to provide leronlimab to patients who have successfully completed a trial, (4) clinical trials for oncology and other immunology indications, (5) HIV BLA resubmission, and (6) CMC activities related to clinical and commercialization inventories, including expenses associated with the write-off of and reserving for the write-down of inventory.

For the three months ended November 30, 2021, R&D expenses decreased approximately $7.4 million, or 45%, compared to the same period from 2020. The decrease was primarily due to decreased CMC related activities and clinical trial expenses, offset by slight increases in non-clinical expenses and license and patent fees. The reduction in CMC expense was related to decreased manufacturing activity related to the commercialization of leronlimab. The reduction in clinical expenses was primarily attributable to decreased expenses associated with the various clinical trials related to HIV extension studies, COVID-19, and oncology, and the packaging and shipping of leronlimab, which were partially offset by increases related to conducting NASH trials and costs related to resubmission of our HIV BLA.

For the six months ended November 30, 2021, R&D expenses decreased approximately $8.9 million, or 28%, compared to the same period from 2020. The decrease was due to lower CMC, clinical trial and non-clinical expenses. The reduction in CMC expense was due to decreased manufacturing activity tied to the commercialization of leronlimab. The decrease in clinical expenses was primarily attributable to reduced expenses associated with the various clinical trials related to COVID-19, HIV extension studies, and oncology, and the packaging and shipping of leronlimab, which were partially offset by an increase in clinical trial costs related to NASH and costs related to resubmission of our HIV BLA. The reduction in non-clinical expenses was attributable to decreased activity associated with non-clinical studies.

We expect future R&D expenses to be dependent on the timing of our BLA resubmission and potential FDA approval, the timing of FDA clearance, if any, of our pivotal trial protocol for leronlimab as a monotherapy for HIV patients, clinical and regulatory activities related to COVID-19, and clinical activities related to NASH, oncology and immunology trials, along with the outcome of the studies for several other indications.

Amortization and depreciation expenses

Amortization and depreciation expense for the three and six months ended November 30, 2021 and November 30, 2020 was approximately $0.3 million and $0.5 million, and $0.5 million and $1.0 million, respectively. The decrease of approximately $0.3 million, or 50%, and $0.5 million, or 48%, for the three and six month periods, respectively, was attributable to an impairment charge related to an intangible asset recorded in the third quarter of fiscal year 2021, which reduced the amortization of intangibles.

Loss on extinguishment of convertible notes

For the three and six months ended November 30, 2021 and November 30, 2020, we recognized a non-cash loss on the extinguishment of convertible notes of approximately $3.3 million and $4.2 million, and $8.0 million and $4.2 million, respectively. The losses resulted from separate and independently negotiated note payment settlements in which certain debt was agreed to be settled in exchange for shares issued at a price less than the closing price for the date of the

respective transactions. The original underlying convertible notes were entered into on November 10, 2020 and April 2, 2021. The November 10, 2020 note was fully retired during the six months ended November 30, 2021.

Legal Settlement

For the three and six months ended November 30, 2021, we incurred approximately zero and $1.9million, respectively, in legal settlement expense. We did not recognize any legal settlement expense during the comparable periods of fiscal 2021. The legal settlement expense consisted of a $0.2 million cash payment and approximately $1.7 million of non-cash expense related to the issuance of warrants in connection with a negotiated settlement of a dispute with a placement agent.

Interest expense

Interest expense includes finance charges, non-cash amortization of the discount on convertible notes, non-cash amortization of debt issuance costs, non-cash inducement interest expense, and interest on convertible notes payable. Interest expense consisted of the following for the periods presented:

	Three months ended November 30,		Change		Six months ended November 30,		Change	
(in thousands)	2021	2020 (Revised) [1]	$	%	2021	2020 (Revised) [1]	$	%
Finance charges	$ 1,024	$ 231	$ 793	343 %	$ 1,059	$ 137	$ 922	673 %
Amortization of discount on convertible notes	793	1,243	(450)	(36)	1,745	2,582	(837)	(32)
Amortization of debt issuance costs	23	15	8	53	51	19	32	168
Inducement interest expense	4,704	4,217	487	12	5,232	7,562	(2,330)	(31)
Interest on convertible notes payable	1,426	1,047	379	36	3,112	1,613	1,499	93
Total interest expense	$ 7,970	$ 6,753	$ 1,217	18 %	$ 11,199	$ 11,913	$ (714)	(6)%

(1) See Note 2, "*—Correction of Immaterial Misstatements in Prior Period Financial Statements* ".

For the three months ended November 30, 2021, interest expense increased $1.2 million, or 18%, compared to the same period of fiscal year 2021. The increase was primarily driven by an increase in non-cash inducement interest expense related to private warrant exchanges that occurred during the three months ended November 30, 2021. Additionally, there were increases in finance charges associated with vendor trade payables and interest on convertible notes. These increases were offset in part by a decrease in non-cash amortization of discount on convertible notes.

For the six months ended November 30, 2021, interest expense decreased by $0.7 million, or 6%, compared to the same period of fiscal year 2021. The decrease was primarily driven by decreases in non-cash inducement interest expense related to a private warrant exchange and amortization of discount on convertible notes. These decreases were offset in part by increases in interest on convertible notes and finance charges associated with vendor trade payables.

Fluctuations in Operating Results

The Company's operating results may fluctuate due to a number of factors, such as the timing of product manufacturing activities and inventory related shelf lives, patient enrollment or completion rates in various trials, potential amendments to clinical trial protocols, and legal proceedings and related outcomes. We periodically conduct offerings to raise capital, which can create various forms of non-cash interest expense or amortization of issuance costs. Further, we periodically negotiate the settlement of debt payment obligations in exchange for equity securities of the Company, which can create a non-cash loss or gain upon extinguishment of debt. In addition, in prior years, we had derivative liabilities tied to certain securities that included a contingent cash settlement provision that can vary substantially from period to period, creating a non-cash charge or benefit.

Liquidity and Capital Resources

Cash

The Company's cash position of approximately $8.9 million as of November 30, 2021 decreased by $25.1 million, when compared to the balance of approximately $33.9 million at May 31, 2021. This decrease was primarily caused by $60.6 million in cash used in operating activities, partially offset by $35.6 million in cash provided by financing activities. See *Going Concern* below for discussion around the Company's ability to continue to fund operations and satisfy its payment obligations and commitments.

	Six months ended November 30,		Change
(in thousands)	**2021**	**2020**	**$**
Net cash (used in) provided by:			
Net cash (used in) operating activities	$ (60,632)	$ (61,119)	$ 487
Net cash (used in) investing activities	$ (13)	$ (77)	$ 64
Net cash provided by financing activities	$ 35,577	$ 76,311	$ (40,734)

Cash used in operating activities

Net cash used in operating activities totaled approximately $60.6 million during the six months ended November 30, 2021, representing an improvement of approximately $0.5 million over the comparable period a year ago. The decrease in net cash used in operating activities was due primarily the change in our net loss, working capital fluctuations, and changes in our non-cash expenses, all of which are highly variable.

Cash used in investing activities

Net cash used in investing activities was immaterial for the six months ended November 30, 2021, compared to the six months ended November 30, 2020.

Cash provided by financing activities

Net cash provided by financing activities totaled approximately $35.6 million during the six months ended November 30, 2021, a decrease of approximately $40.7 million from net cash provided by financing activities during the six months ended November 30, 2020. The decrease in net cash provided from financing activities was primarily attributable to a decrease in proceeds received from convertible notes of $50.0 million, and stock option and warrant transactions and exercises of approximately $20.8 million. These decreases were partially offset by increased proceeds of approximately $27.8 million from the sale of common stock and warrants.

Inventory

The Company's pre-launch inventories consist of raw materials purchased for commercial production and work-in-progress inventory related to the substantially completed commercial production of pre-launch inventories of leronlimab to support the Company's expected approval of the product as a combination therapy for HIV patients in the United States. Work-in-progress consists of bulk drug substance, which is the manufactured drug stored in bulk storage, and drug product, which is the manufactured drug in unlabeled vials. See Note 2, *Summary of Significant Accounting Policies – Inventory*, and Note 3, *Inventories*, for further discussion of the capitalization of pre-launch inventories.

The Company's inventory position as of November 30, 2021 was approximately $88.6 million, net of an approximate $2.5 million reserve, decreased approximately $4.9 million when compared to a balance of approximately $93.5 million as of May 31, 2021, net of an approximate $0.7 million reserve. During the six months ended November 30, 2021, the decrease in inventory was primarily related to $2.5 million of raw materials returned, approximately $1.8 million reserved for current and future estimated obsolescence of raw materials, and approximately $1.5 million related to the write-off of expired raw materials not previously reserved for and untested vialed drug product used for clinical purposes, offset by inventory purchases of approximately $1.3 million. As of November 30,

2021 the raw materials balance was approximately $22.5 million, net of an approximate $2.5 million reserve, and the total work-in-progress was approximately $66.0 million. Work-in-progress consists of bulk drug substance, which is the manufactured drug stored in bulk storage, and drug product, which is the manufactured drug in unlabeled vials. Bulk drug substance and drug product comprised approximately $12.6 million and $53.5 million, respectively, of work-in-progress inventory.

Convertible debt

A summary of our convertible debt arrangements is included in Note 5,*Convertible Instruments*, of the Notes to the Consolidated Financial Statements included in Part I, Item 1 of this Form 10-Q.

April 2, 2021 Note

On April 2, 2021, we issued a convertible note with a principal amount of $28.5 million resulting in net cash proceeds of $25.0 million, after $3.4 million of debt discount and $0.1 million of offering costs. The note accrues interest daily at a rate of 10% per annum, contains a stated conversion price of $10.00 per share, and matures in April 2023. The April 2, 2021 Note required monthly debt reduction payments of $7.5 million for the six months beginning in May 2021, which could also be satisfied by payments on other notes held by the noteholder or its affiliates. Beginning six months after the issuance date, the noteholder may request monthly redemptions of up to $3.5 million. The outstanding balance of the April 2, 2021 Note, including accrued interest, was approximately $19.8 million as of November 30, 2021.

April 23, 2021 Note

On April 23, 2021, we issued a convertible note with a principal amount of $28.5 million resulting in net cash proceeds of $25.0 million, after $3.4 million of debt discount and $0.1 million of offering costs. The note accrues interest daily at a rate of 10% per annum, contains a stated conversion price of $10.00 per share, and matures in April 2023. Beginning six months after the issuance date, the noteholder may request monthly redemptions of up to $7.0 million. The outstanding balance of the April 23, 2021 Note, including accrued interest, was approximately $27.9 million as of November 30, 2021.

Common stock

We have 1,000.0 million authorized shares of common stock. As of November 30, 2021, we had approximately 685.4 million shares of common stock outstanding, approximately 44.9 million shares of common stock issuable upon the exercise of warrants, approximately 3.0 million shares reserved for unissued warrants, approximately 34.1 million shares of common stock issuable upon conversion of convertible preferred stock and undeclared dividends, approximately 25.3 million shares of common stock issuable upon the exercise of outstanding stock options or the vesting of outstanding restricted stock units, approximately 18.8 million shares of common stock reserved for issuance pursuant to future stock-based awards under our equity incentive plan, and approximately 12.0 million shares of common stock reserved and issuable upon conversion of outstanding convertible notes. As a result, as of November 30, 2021, we had approximately 176.4 million unreserved authorized shares of common stock available for issuance.

Commitments and Contingencies

Commitments with Samsung BioLogics Co., Ltd. (“Samsung”)

In April 2019, the Company entered into an agreement with Samsung, pursuant to which Samsung will perform technology transfer, process validation, manufacturing, and supply services for the commercial supply of leronlimab effective through calendar year 2027. In 2020, the Company entered into an additional agreement, pursuant to which Samsung will perform technology transfer, process validation, vial filling and storage services for clinical, pre-approval inspection, and commercial supply of leronlimab. Samsung is obligated to procure necessary raw materials for the Company and manufacture a specified minimum number of batches, and the Company is required to provide a rolling three-year forecast of future estimated manufacturing requirements to Samsung that are binding. On January 6, 2022,

Samsung provided written notice to the Company of the Company's material breach of the parties' Master Services and Project Specific Agreements for failure to pay approximately $13.5 million due on December 31, 2021. An additional approximate $22.8 million is due under the agreements on January 31, 2022. These amounts are included in accounts payable at November 30, 2021. Under the agreements, the Company has 45 days to make commercially reasonable efforts to commence curing the breach. If such steps have not been taken during the cure period, Samsung may terminate the agreements upon 45 days' notice. Management has communicated to Samsung its intent to commence curing the breach prior to the expiration of the cure period. The future commitments pursuant to these agreements are estimated as follows:

Fiscal Year *(in thousands)*	**Amount**
2022 (6 months remaining)	$ 21,271
2023	113,790
2024	106,140
2025	14,400
Total	$ 255,601

Commitments with Contract Research Organization ("CRO")

The Company has entered into project work orders, as amended, for each of our clinical trials with our 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 that would become payable to the CRO. Conditioned upon the form of termination of any one trial, the financial penalties may range up to approximately $0.2 million. In the remote circumstance that the Company would terminate all clinical trials, the collective financial penalties may range from a low of approximately $20 thousand to an approximate high of approximately $0.6 million.

Legal Proceedings

The Company is a party to various legal proceedings. As ofNovember 30, 2021, we were not party to any material pending legal proceedings, other than those described in Note 10, *Commitments and Contingencies*, to the Consolidated Financial Statements included in Part I, Item 1 of this Form 10-Q. The Company recognizes accruals for such proceedings to the extent a loss is determined to be both probable and reasonably estimable. The best estimate of a loss within a possible range is accrued; however, if no estimate in the range is more probable than another, then the minimum amount in the range is accrued. If it is determined that a material loss is not probable but reasonably possible and the loss or range of loss can be estimated, the possible loss is disclosed. It is not possible to determine the outcome of these proceedings, including the defense and other litigation-related costs and expenses that may be incurred by the Company, as the outcomes of legal proceedings are inherently uncertain, and the outcomes could differ significantly from recognized accruals. Therefore, it is possible that the ultimate outcome of any proceeding, if in excess of a recognized accrual or if an accrual has not been made, could be material to the Company's consolidated financial statements. As of November 30, 2021, the Company had not recorded any accruals related to the outcome of the matters described in Note 10, *Commitments and Contingencies—Legal Proceedings*.

Distribution

In December 2019, the Company entered into a supply agreement with Vyera Pharmaceuticals, LLC ("Vyera") for the sale of leronlimab for HIV in the United States in conjunction with a commercialization and license agreement entered into with Vyera. See "Licensing" below for further discussion of the agreement. On April 6, 2021, the Company entered into an exclusive supply and distribution agreement with Biomm S.A., a Brazilian pharmaceutical company, granting the exclusive right to distribute and sell leronlimab in Brazil upon Brazilian regulatory approval. On April 15, 2021, the Company entered into an exclusive supply and distribution agreement with Chiral Pharma Corporation, a Philippine pharmaceutical company, granting the exclusive right to distribute and sell up to 200,000 vials of leronlimab during the 12 months ending April 15, 2022, to treat critically ill COVID-19 patients in the Philippines under CSP or Emergency Use Authorization ("EUA") from the Food and Drug Administration of the Philippines. On May 11, 2021, the Company entered into an exclusive supply and distribution agreement with Macleods Pharmaceuticals Ltd., an

Indian pharmaceutical company, granting the exclusive right to distribute and sell up to 200,000 vials of leronlimab in calendar year 2021 in India to treat COVID-19 patients under a CSP or EUA from the India Central Drugs Standard Control Organization.

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 discussed elsewhere in this Form 10-Q, the Company received a Refusal to File letter from the FDA in July 2020 with respect to its BLA as a combination therapy with HAART for highly treatment experienced HIV patients. In response to this letter, the Company commenced the resubmission of its BLA in July 2021 and currently expects the BLA resubmission to be completed in the first calendar quarter of 2022. As such, until 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, such that the future milestone payments payable to Progenics and its sub-licensors have been deemed contingent consideration and, therefore, not currently accruable.

In December 2019, the Company entered into a Commercialization and License Agreement and a Supply Agreement with Vyera (together the "License Agreements"), under which the Company granted Vyera an exclusive royalty-bearing license to commercialize pharmaceutical preparations containing leronlimab for treatment of HIV in humans in the United States. The License Agreements gave Vyera the right to assign its rights and obligations under the agreements to an affiliate of Vyera. In October 2020, Vyera assigned the License agreements to SevenScore Pharmaceuticals, which in turn assigned them to Regnum Corp. in December 2021. Vyera, SevenScore and Regnum are each controlled by their parent Phoenixus AG.

The License Agreements, as assigned, provide that, pursuant to the terms and subject to the conditions set forth therein, Regnum will, at its cost, use commercially reasonable efforts to commercialize leronlimab for treatment of HIV in the United States. CytoDyn retains the right to license leronlimab for uses in the United States for purposes other than the treatment of HIV and for any purposes outside the United States.

The License Agreements obligate Regnum to pay the Company up to approximately $87.0 million upon the achievement of certain sales and regulatory milestones. Certain milestones are subject to reduction if not achieved within an agreed-upon timeframe. Regnum may also pay the Company additional potential milestone payments upon the regulatory approval of leronlimab for certain subsequent indications in the field. Whether a particular subsequent indication qualifies for an additional milestone payment will be determined in good faith by the parties. In addition, during the Royalty Term, as defined in the License Agreements, but, in any event, a period of not less than 10 years following the first commercial sale under the License Agreements, Regnum is obligated to pay the Company a royalty equal to 50% of Regnum's gross profit margin from product sales (defined in the License Agreements as "Net Sales"). The royalty is subject to reduction during the Royalty Term after patent expiry and expiry of regulatory exclusivity. Following expiration of the Royalty Term, Regnum has non-exclusive rights to commercialize the product. Regnum has the right to terminate the License Agreements (i) upon written notice to CytoDyn on or after December 19, 2021 and prior to the Company's receipt of approval from the FDA of the BLA for the manufacture and sale of leronlimab for HIV, (ii) if Regnum fails to achieve certain aggregate Net Sales (as defined in the License Agreements) of leronlimab during the period beginning on the date of first commercial sale and ending on the date that is two years from the date of

the first commercial sale, and (iii) with 180 days' prior written notice, at Regnum's convenience following the second anniversary of the first commercial sale of leronlimab.

Regulatory Matters

FDA Refusal to File Letter on HIV BLA Submission

In July 2020, the Company received a Refusal to File letter from the FDA regarding its BLA submission for leronlimab as a combination therapy with HAART for highly treatment experienced HIV patients. The FDA informed the Company the BLA did not contain certain information needed to complete a substantive review and therefore, the FDA would not file the BLA. In particular, the FDA informed the Company that the receptor occupancy analysis performed by its third-party laboratory was not properly performed, and would be required to be resubmitted, and the Company would need to correct certain administrative submission deficiencies. The FDA's request does not require any additional clinical trials to be conducted. Subsequent to the Refusal to File letter, the Company received further clarification on the BLA's deficiencies. The Company has engaged a leading global healthcare diagnostic company, along with an expanded team of subject matter expert consultants, to conduct the receptor occupancy analysis necessary in order to resubmit the BLA. The Company began to resubmit the BLA in July 2021. In November 2021 it resubmitted the non-clinical and manufacturing sections of the BLA, and currently expects to complete the resubmission process with the resubmission of the clinical section of the BLA in the first calendar quarter of 2022.

Going Concern

As reported in the accompanying financial statements, during the six months ended November 30, 2021 and November 30, 2020, the Company incurred net losses of approximately $68.1 million and $66.3 million, respectively. The Company has had limited to no activities that produced revenue in the periods presented and has sustained operating losses since inception.

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

Since inception, the Company has financed its activities principally from the public and private sale of equity securities and proceeds from convertible notes payable and related party notes payable. The Company intends to finance its future operating activities and its working capital needs largely from the sale of equity and debt securities, combined with additional potential funding from other traditional and non-traditional financing sources. As of the date of this filing, the Company has approximately 176.4 million shares of common stock authorized and unreserved and available for issuance under its certificate of incorporation, as amended.

The sale of equity and convertible debt securities to raise additional capital may result in dilution to stockholders and those securities may have rights senior to those of common shares. If the Company raises funds through the issuance of additional preferred stock, convertible debt securities or other debt financing, the related transaction documents could contain covenants restricting its operations. On April 2 and April 23, 2021, the Company entered into long-term convertible notes that are secured by all of our assets (excluding our intellectual property), and include certain restrictive provisions, including limitations on incurring additional indebtedness and future dilutive issuances of securities, any of which could impair our ability to raise additional capital on acceptable terms and conditions. Any other third-party funding arrangements could require the Company to relinquish valuable rights. The Company expects to require additional capital beyond currently anticipated needs. Additional capital, if available, may not be available on reasonable or non-dilutive terms. Please refer to the matters discussed under Item 1A in our 2021 Form 10-K and Item 1A. in Part II of this Form 10-Q.

The accompanying consolidated financial statements have been prepared on a going concern basis, which contemplates the realization of assets and the satisfaction of liabilities in the normal course of business. The Company has incurred losses for all periods presented and has a substantial accumulated deficit. As of November 30, 2021, 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 assets and liabilities that might be necessary should the Company be unable to continue as a going concern. The Company's continuation as a going concern is dependent upon its ability to obtain a significant amount of additional operating capital, to continue its research into multiple indications for and development of its product candidate, to obtain FDA approval of its product candidate for use in treating one or more indications, to outsource manufacturing of its product, and ultimately to attain profitability. The Company intends to seek additional funding through equity or debt offerings, licensing agreements, supply and distribution agreements, and strategic alliances to implement its business plan. There are no assurances, however, that it 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.

Critical Accounting Estimates

Our critical accounting estimates are those estimates that require the most significant judgments and estimates in presenting the Company's consolidated financial statements. The Company evaluates its estimates, judgments, and assumptions on an ongoing basis. Actual results may differ from these estimates under different assumptions or conditions. A summary of our critical accounting policies is presented in Part II, Item 7, of our 2021 Form 10-K and Note 2 of the Notes to Consolidated Financial Statements included in Part I, Item 1 of this Form 10-Q. The application of our critical accounting policies require management to make judgments and estimates about the amounts reflected in the consolidated financial statements. Management uses historical experience and all available information to make these estimates and judgments. Different amounts could be reported using different assumptions and estimates.

Recent Accounting Pronouncements

Please refer to Note 2, *Summary of Significant Accounting Policies – Recent Accounting Pronouncements*, of the Notes to Consolidated Financial Statements included in Part I, Item 1 of this Form 10-Q for a discussion of recent accounting pronouncements and their anticipated effect on our business.

Item 3. Quantitative and Qualitative Disclosures about Market Risk.

Interest Rate Risk

We are exposed to market risks in the ordinary course of business. These risks primarily include interest rate sensitivities. As of November 30, 2021, we had $8.9 million in cash and cash equivalents. We intend to hold our cash in interest-bearing money market accounts. Our primary exposure to market risk is interest rate sensitivity, which is affected by changes in the general level of U.S. interest rates. Due to the short-term maturities of our cash and the low risk profile of its investment, an immediate 100 basis point change in interest rates would not have a material effect on the fair market value of our cash.

Common Stock Price Volatility

The Compensation Committee of the Board of Directors has historically granted stock incentive awards to management and employees in the form of stock options. Stock-based compensation expense is recognized for stock options over the requisite service period using the fair value of these grants as estimated at the date of grant using the Black-Scholes pricing

model and the market value of our publicly traded common stock on the date of grant. This expense is reflected in the "*General and administrative*" expense line item in our consolidated statements of operations. In addition to the market value of our common stock, one of the inputs into this model that significantly impacts the fair value of the options is the expected volatility of our common stock over the estimated life of the option. We estimate expected volatility by using the most recent historical experience.

Since November 2019, our common stock has experienced periods of elevated volatility in trading. Grants of stock options and compensatory warrants during 2022 will continue to reflect increased expected volatility in the estimation of grant date fair value of stock options that would result in a higher value and related stock-based compensation expense for these awards when compared to prior years.

Additionally, we periodically negotiate the settlement of debt payment obligations in exchange for equity securities of the Company, which can create a non-cash loss or gain upon extinguishment of debt as the price of our common stock fluctuates. If we continue to enter into these settlements, the increased levels of volatility in our common stock trading price will result in increased dilution and extinguishment gains or losses.

Item 4. Controls and Procedures.

Evaluation of Disclosure Controls and Procedures

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

Our management, with the participation of our Chief Executive Officer and Chief Financial Officer, evaluated the effectiveness of our disclosure controls and procedures as of November 30, 2021 (as defined in Rules 13a-15(e) and 15d-15(e) under the Exchange Act). Our management recognizes that any controls and procedures, no matter how well designed and operated, can provide only reasonable assurance of achieving their objectives, and management necessarily applies its judgment in evaluating the cost-benefit relationship of possible controls and procedures. Our Chief Executive Officer and Chief Financial Officer have concluded, based upon the evaluation described above, that, as of November 30, 2021, our disclosure controls and procedures were not effective due to the material weakness in internal control over financial reporting described below.

Material Weakness

In connection with the preparation of our financial statements for the three and six months ended November 30, 2021, we identified an error that resulted in revisions to additional paid-in capital and non-cash inducement interest expense beginning in fiscal year 2018 through the three months ended August 31, 2021. The error relates to a pre-existing model used to calculate non-cash inducement interest expense designed to calculate inducement interest expense specific to modification of a warrant term (e.g., extension of the term or modification of exercise price) without settling the instrument. However, starting in fiscal year 2018 and to date, inducements have been primarily structured to be a settlement of the warrant, not a modification. We believe the failure to identify these errors on a timely basis resulted from a material weakness related to the evaluation of complex accounting issues due to staffing constraints and lack of technical expertise.

In connection with the identification of the material weakness in our internal control over financial reporting, we continue to evaluate, design and implement controls and procedures to address this weakness. In recent periods, we have entered into consulting arrangements for external resources and have hired additional personnel with accounting skills to strengthen internal control over financial reporting, specifically in the areas of technical accounting and financial reporting. To date, resources have been added in each of these specific areas, and we intend to continue these arrangements and to further supplement internal personnel. We also are enhancing risk assessment and monitoring controls to ensure that control activities are appropriately designed, implemented and operating effectively and have

engaged an external accounting firm to assist with this process. A material weakness in internal control over financial reporting is a matter that may require some period of time to correct. We will continue to evaluate, design and implement policies and procedures to address the material weakness, including enhancing accounting personnel to adequately execute our accounting processes and address our internal control over financial reporting as a public company.

Changes in Internal Control Over Financial Reporting

Other than the changes to date described above, there have been no changes in our internal control over financial reporting, as such term is defined in Rules 13a-15(f) and 15(d)-15(f) promulgated under the Exchange Act, that have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

PART II

Item 1. Legal Proceedings.

For a description of pending material legal proceedings, please see Note 10, *Commitments and Contingencies*, of the Notes to Consolidated Financial Statements included in Part I, Item 1 of this Form 10-Q.

Item 1A. Risk Factors.

We are subject to various risks, including those set forth below, and those risk factors identified in our Annual Report on Form 10-K, for the year ended May 31, 2021, filed with the SEC on July 30, 2021, as amended by Amendment No. 1 filed with the SEC on September 28, 2021, and our subsequent filings with the SEC, that could have a negative effect on our financial condition and could cause results to differ materially from those expressed in forward-looking statements contained in this report or other reports filed with the SEC. You should carefully consider these risk factors in addition to the other information in this Form 10-Q.

Our cash reserves are extremely low, requiring that we raise substantial additional financing to satisfy our current payment obligations and to fund our operations.

We must raise substantial additional funds in the near term to meet our payment obligations and fund our operations. This funding may not be available on acceptable terms or at all. If we fail to raise additional funds on a timely basis, we may be forced to delay, reduce the scope of, or eliminate one or more of our clinical trials or postpone our regulatory submissions and commercialization initiatives, which would adversely affect our business, financial condition, and stock price. If we deplete our cash reserves, we may have no choice but to discontinue our operations and liquidate our assets.

We are required to post a $6.5 million bond in the dispute with our former contract research organization, which requires us to provide cash collateral to secure the full amount of the bond.

As discussed in Note 10, *Commitments and Contingencies*, of the Notes to Consolidated Financial Statements included in Part I, Item 1 of this Form 10-Q, the court issued an injunction requiring Amarex to provide the Company with access to the databases and other information Amarex acquired in the course of providing services to the Company with regard to its clinical trials. As a condition to the injunction, the court ordered the Company to post a $6.5 million bond to cover a portion of disputed invoices for services in the related arbitration. To obtain the bond, the Company must tender $6.5 million in cash as collateral to the surety issuing the bond. If the Company is unable to provide the collateral in a timely fashion, its ability to review the databases and related information that Amarex holds may be delayed, potentially for several months or longer, resulting in additional delays in completion of the BLA resubmission process.

We have received notice of a material breach of our payment obligations to Samsung, which could result in termination of our agreements for manufacturing of our drug product and related services by Samsung.

On January 6, 2022, Samsung, one of our contract manufacturing organizations, sent written notice to the Company that it had materially breached its agreements with Samsung by failing to pay approximately $13.5 million due on December 31, 2021. An additional $22.8 million is due under the agreements on January 31, 2022. These amounts are included in accounts payable at November 30, 2021. Under the agreements, the Company has 45 days to make commercially reasonable efforts to commence curing the breach. If such steps have not been taken during the cure period, Samsung may terminate the agreements upon 45 days' notice. Management intends to and has communicated to Samsung its intent to commence curing the breach prior to the expiration of the cure period. See Note 10, *Commitments and Contingencies*, of the Notes to Consolidated Financial Statements included in Part I, Item 1 and *"Commitments and Contingencies"* in Part I, Item 2 of this Form 10-Q for additional information.

Additional delays in the completion of the resubmission of our BLA may substantially hinder our efforts to commercialize our drug product and decrease stockholder value.

In September 2021, we notified the FDA of an expected delay in the completion of resubmission of our BLA for the use of leronlimab as a combination therapy with HAART for highly treatment-experienced HIV patients. The delay was caused by what we believe to be performance failures by our former contract research organization, coupled with the additional time for a new team to address the deficiencies. We currently expect to complete our BLA resubmission process during the first calendar quarter of 2022. This timing will further delay receipt of FDA approval, if any, of the use of our drug product in HIV patients, and the related achievement of our strategic goals with regard to the marketing and sale of our drug product in the U.S., including the realization of significant revenues from the commercialization of leronlimab. It will also give other pharmaceutical companies additional time to develop drugs intended to address similar patient needs, which may place us at a competitive disadvantage. We may need to write down the value of our inventories due to obsolescence and likely will need to obtain significant additional funding to continue our business operations, which may not be available on acceptable terms, if at all. It may also lead to reduced investor confidence in our company, which may adversely affect the market price of our common stock and decrease stockholder value.

Our Commercialization and License Agreement with Vyera was assigned in December 2021 to Regnum Corp., which has no operations and virtually no assets.

Our Commercialization and License Agreement with Vyera (the "License Agreement"), under which it had exclusive rights to commercialize leronlimab for use with HIV patients in the U.S., gave Vyera the right to assign its rights and obligations under the agreement to an affiliate of Vyera. In October 2020, Vyera assigned the agreement to SevenScore Pharmaceuticals, which in turn assigned the agreement to Regnum Corp. in December 2021. Vyera, SevenScore and Regnum are each affiliates controlled by their parent Phoenixus AG. Phoenixus acquired Regnum in April 2021; at September 30, 2021, Regnum had $4,000 in assets and had no operations or revenues during the nine months ended September 30, 2021. Regnum likely will require a significant infusion of capital to fund its obligations under the License Agreement following approval by the FDA, if any, of the use of leronlimab in the treatment of HIV patients. See "*Licensing*" in Part I, Item 2 of this Form 10-Q for additional information regarding the License Agreement.

We have identified a material weakness in our internal control over financial reporting as of November 30, 2021, which could, if not remediated, result in material misstatements in or untimely reporting of our financial results which could lead to substantial additional costs and an adverse impact on our stock price.

Section 404 of the Sarbanes-Oxley Act of 2002 and related regulations require us to evaluate the effectiveness of our internal control over financial reporting as of the end of each fiscal quarter, and to include a management report assessing the effectiveness of our internal control over financial reporting in our Annual Report on Form 10-K for each fiscal year. Management determined that, as of November 30, 2021, we had a material weakness in our internal control over financial reporting and that, accordingly, our disclosure controls and procedures were ineffective. A material weakness is defined as a deficiency, or a combination of deficiencies, in internal control over financial reporting, such that there is a reasonable possibility that a material misstatement of our annual or interim financial statements will not be prevented or detected on a timely basis. Specifically, in connection the preparation of our financial statements for the three and six months ended November 30, 2021, we identified an error that resulted in revisions to additional paid-in capital and non-cash inducement interest expense beginning in fiscal year 2018 through the three months ended August 31, 2021. We continue to evaluate, design and work through the process of implementing controls and procedures under a remediation plan designed to address the material weakness. If our remedial measures are insufficient to address the material weakness, or if additional material weaknesses or significant deficiencies in our internal control are discovered or occur in the future, our financial statements may contain material misstatements and we could be required to restate our financial results, potentially resulting in substantial additional costs for accounting and legal fees, shareholder litigation and a decline in our stock price. See Part I, Item 4 of this Form 10-Q for additional information regarding the material weakness in our internal control over financial reporting.

Our business, operating results and financial condition could be negatively affected as a result of actions by activist investors.

On October 20, 2021, the Delaware Court of Chancery denied a motion by a group of investors (the "Activist Group") that had purported to nominate five nominees for election to the Company's Board of Directors (the "Board") at the 2021 Annual Meeting of Stockholders (the "Annual Meeting"). As a result, the Activist Group was unable to

nominate their slate and the Board's six nominees for election as directors were elected at the Annual Meeting. Although the Activist Group was unsuccessful in its proxy contest, similar actions may occur in the future.While the Company welcomes the opinions of all stockholders, responding to demands, litigation, proxy contests or other initiatives by activist investors may divert the attention of our Board, management team, and employees from their regular duties and the pursuit of business opportunities to enhance stockholder value. Such actions may also cause our existing or potential customers, employees, strategic partners and stockholders to have questions or doubts about the future direction of the Company and may provide our competitors with an opportunity to exploit these concerns. Such circumstances could cause significant fluctuations in our stock price based on temporary or speculative market perceptions or other factors that do not necessarily reflect the underlying fundamentals and prospects of our business.

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.

As described in Note 10, *Commitments and Contingencies*, of the Notes to Consolidated Financial Statements included in Part I, Item 1 of this Form 10-Q, on January 7, 2022, the Delaware Court of Chancery entered an order that declared that a portion of Article VI, Section 5, of the Company's certificate of incorporation was null and void and of no legal effect under Delaware law. The order was entered pursuant to a stipulation submitted by the Company and the plaintiffs in a putative class-action lawsuit filed on September 22, 2021, to resolve the matter. As a result of the court order, the language in brackets below was stricken:

> "5. Removal. Subject to the rights, if any, of any series of Preferred Stock to elect Directors and to remove any Director whom the holders of any such stock have the right to elect, any Director (including persons elected by Directors to fill vacancies in the Board of Directors) may be removed from office [(i) only with cause and (ii)] only by the affirmative vote of the holders of at least a majority in voting power of the shares then entitled to vote at an election of Directors.".

The Company intends to file a certificate of amendment with the Secretary of State of the State of Delaware pursuant to the Delaware General Corporation Law to cause the amendment of Article VI, Section 5, to reflect removal of the bracketed language.

Item 6. Exhibits.

(a) Exhibits:

Exhibit No	Description	Filed Herewith	Incorporated by Reference		
			Form	Exhibit No.	Filing Date
3.1	Amended and Restated Certificate of Incorporation, as amended November 24, 2021.	X			
10.1	Form of Subscription Agreement.		8-K	10.1	11/23/2021
31.1	Rule 13a-14(a) Certification by CEO of Registrant.	X			
31.2	Rule 13a-14(a) Certification by CFO of the Registrant.	X			
32.1	Certification of CEO of the Registrant pursuant to 18 U.S.C. Section 1350.*	X			
32.2	Certification of CFO of the Registrant pursuant to 18 U.S.C. Section 1350.*	X			
101.INS	Inline XBRL Instance Document.	X			
101.SCH	Inline XBRL Taxonomy Extension Schema Document.	X			
101.CAL	Inline XBRL Taxonomy Extension Calculation Linkbase Document.	X			
101.DEF	Inline XBRL Taxonomy Extension Definition Linkbase Document.	X			
101.LAB	Inline XBRL Taxonomy Extension Label Linkbase Document.	X			
101.PRE	Inline XBRL Taxonomy Extension Presentation Linkbase Document.	X			
104	Cover Page Interactive Data File (formatted as Inline XBRL and contained in Exhibit 101).	X			

* Furnished, not filed.

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 10, 2022

/s/ Nader Z. Pourhassan
Nader Z. Pourhassan
President and Chief Executive Officer
(Principal Executive Officer)

Dated: January 10, 2022

/s/ Antonio Migliarese
Antonio Migliarese
Chief Financial Officer
(Principal Financial and Accounting Officer)

Exhibit 3.1

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

AMENDED AND RESTATED

CERTIFICATE OF INCORPORATION OF

POINT NEWCO INC.

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

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

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

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

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

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

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

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

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

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

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

EXHIBIT A

AMENDED AND RESTATED

CERTIFICATE OF INCORPORATION

OF

CYTODYN INC.

ARTICLE I

The name of the Company is CytoDyn Inc.

ARTICLE II

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

ARTICLE III

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

ARTICLE IV

CAPITAL STOCK

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

The number of authorized shares of Common Stock or Preferred Stock may from time to time be increased or decreased (but not below the number of shares then outstanding) by the affirmative vote of the holders of a majority in voting power of the outstanding shares of stock of the Company entitled to vote thereon irrespective of the provisions of Section 242(b)(2) of the DGCL (or any successor provision thereto), and no vote of the holders of any of the Common Stock or the Preferred Stock voting separately as a class shall be required therefor, unless a vote of any such holder is required pursuant to this Certificate (including pursuant to any certificate of designation of any series of Preferred Stock).

The powers, preferences and rights of, and the qualifications, limitations and restrictions upon, each class or series of stock shall be determined in accordance with, or as set forth below in, this Article IV.

A. COMMON STOCK

I. Voting. Each holder of record of Common Stock, as such, shall have one vote for each share of Common Stock which is outstanding in his, her or its name on the books of the Company on all matters on which stockholders are entitled to vote generally. Except as otherwise required by law, holders of Common Stock shall not be entitled to

vote on any amendment to this Certificate (including any certificate of designation relating to any series of Preferred Stock) that relates solely to the terms of one or more outstanding series of Preferred Stock if the holders of such affected series are entitled, either separately or together with the holders of one or more other such series, to vote thereon pursuant to this Certificate (including any certificate of designation relating to any series of Preferred Stock) or pursuant to the DGCL. Except as otherwise required by law, holders of any series of Preferred Stock shall be entitled to only such voting rights, if any, as shall expressly be granted thereto by this Certificate (including any certificate of designation relating to such series of Preferred Stock).

2. Dividends. Subject to applicable law and the rights, if any, of the holders of any outstanding series of Preferred Stock or any class or series of stock having a preference over or the right to participate with the Common Stock with respect to the payment of dividends, dividends may be declared and paid or set apart for payment upon the Common Stock out of any assets or funds of the Company legally available for the payment of dividends, but only when and as declared by the Board of Directors or any authorized committee thereof.

3. Liquidation. Upon the dissolution, liquidation or winding up of the Company, after payment or provision for payment of the debts and other liabilities of the Company and subject to the rights, if any, of the holders of any outstanding series of Preferred Stock or any class or series of stock having a preference over or the right to participate with the Common Stock with respect to the distribution of assets of the Company upon such dissolution, liquidation or winding up of the Company, the holders of Common Stock shall be entitled to receive the remaining assets of the Company available for distribution to its stockholders ratably in proportion to the number of shares held by them.

B. PREFERRED STOCK

The Board of Directors is hereby expressly authorized, by resolution or resolutions, to provide, out of the unissued shares of Preferred Stock, for one or more series of Preferred Stock and, with respect to each such series, to fix the number of shares constituting such series and the designation of such series, and the powers (including voting powers, if any), preferences and relative, participating, optional and other special rights, if any, and any qualifications, limitations or restrictions thereof, of the shares of such series of Preferred Stock. The powers, preferences and relative, participating, optional and other special rights of, and the qualifications, limitations or restrictions thereof, of each series of Preferred Stock, if any, may differ from those of any and all other series at any time outstanding.

The following is a statement of the designations, preferences, qualifications, limitations, privileges and restrictions and the special or relative rights granted to or imposed upon the shares of each class of Preferred Stock of the Corporation which has been designated as of the date hereof:

Series B Convertible Preferred Stock

The number of shares of this series of Preferred Stock shall be 400,000 shares. The powers, designations, preferences and relative, participating, optional or other special rights of the shares of this series of Preferred Stock and the qualifications, limitations and restrictions of such preferences and rights shall be as follows:

1. Dividend Provisions.

(a) The holders of record of the outstanding shares of Series B Convertible Preferred Stock shall be entitled to receive, out of any assets at the time legally available therefore and when and as declared by the Board of Directors, dividends at the rate of $.25 per share per annum from the date of issuance of the Series B Convertible Preferred Stock. Dividends on the Series B Convertible Preferred Stock shall be cumulative, shall accrue, whether or not declared and whether or not there are any profits, surplus or other funds or assets of the Corporation legally available therefore, and, at the Corporation's option, at the time the shares of Series B Convertible Preferred Stock are converted into shares of the Corporation's common stock shall either (i) be paid in cash, or (ii) be paid with restricted shares of the Corporation's common stock. In the event the Corporation shall declare a distribution (other than any distribution described above) payable in securities of other persons, evidences of indebtedness issued by

the Corporation or other persons, assets (excluding cash dividends) or options or rights to purchase any such securities or evidences of indebtedness, then, in each such case the holders of the Series B Convertible Preferred Stock shall be entitled to a proportionate share of any such distribution as though the holders of the Series B Convertible Preferred Stock were the holders of the number of shares of Common Stock of the Corporation into which their respective shares of Series B Convertible Preferred Stock are convertible as of the record date fixed for the determination of the holders of Common Stock of the Corporation entitled to receive such distribution.

(b) In the event that the Corporation elects to pay any dividends with shares of the Corporation's common stock, the shares being issued for the interest will be valued at $.50 per share.

2. Liquidation Preference.

(a) In the event of any voluntary or involuntary liquidation, dissolution or winding up of the affairs of the Corporation, the holder of each share of Series B Convertible Preferred Stock shall be entitled to receive, out of the assets of the Corporation available for distribution to its stockholders, before any payment or distribution shall be made on the Common Stock, an amount per share equal to $5.00 plus any accrued and unpaid dividends. If the assets and funds to be distributed among the holders of the Series B Convertible Preferred Stock shall be insufficient to permit the payment of the full aforesaid preferential amount to such holders, then the entire assets and funds of the Corporation legally available for the distribution shall be distributed among the holders of the Series B Convertible Preferred Stock in proportion to the aggregate preferential amount of all shares of Series B Convertible Preferred Stock held by them.

3. Conversion. The Series B Convertible Preferred Stock may be converted into shares of the Corporation's Common Stock on the following terms and conditions (the "Conversion Rights"):

(a) Option to Convert. Commencing as soon as the Corporation has sufficient authorized and unissued shares of its Common Stock available for all outstanding shares of Series B Convertible Preferred Stock to be converted, holders of the Series B Convertible Preferred Stock shall have the right to convert all or a portion of their shares into shares of Common Stock at any time or from time to time upon notice to the Corporation on the terms and conditions set forth herein.

(b) Mechanics of Conversion. Upon the election of a holder of the Series B Convertible Preferred Stock to convert shares of such Preferred Stock, the holder of the shares of Series B Convertible Preferred Stock which are converted shall surrender the certificate or certificates therefor, duly endorsed, at the office of the Corporation or any authorized transfer agent for such stock together with a written statement that he elects to convert his preferred stock to common stock. The Corporation or the transfer agent shall promptly issue and deliver at such office to such holder of Series B Convertible Preferred Stock a certificate or certificates for the number of shares of Common Stock to which such holder is thereby entitled. The effective date of such conversion shall be a date not later than 30 days after the date upon which the holder provides written notice of his election to convert to the Corporation or transfer agent.

(c) Conversion Ratio. Each share of Series B Convertible Preferred Stock may be converted into ten (10) fully paid restricted shares of Common Stock (except as adjusted pursuant to paragraph 3(d) below). In the event that upon conversion of shares of Series B Convertible Preferred Stock a holder shall be entitled to a fraction of a share of Common Stock, no fractional share shall be issued and in lieu thereof the Corporation shall pay to the holder cash equal to the fair value of such fraction of a share.

(d) Adjustment of Conversion Rate. If the Corporation shall at any time, or from time to time, after the effective date hereof effect a reverse stock split of the outstanding Common Stock, or if the Corporation at any time or from time to time after the effective date hereof shall make or issue, or fix a record date for the determination of holders of Common Stock entitled to receive, a dividend or other distribution payable in additional shares of Common Stock, then and in each such event the number of shares of Common Stock issuable upon conversion of the Series B Convertible Preferred Stock shall be proportionately adjusted as of the time of such issuance or, in the event such a record date shall have been fixed, as of the close of business on such record date.

(e) Adjustment for Merger or Reorganization. If at any time after the issuance date there shall occur any reorganization, recapitalization, consolidation, merger or other reorganization event involving the Corporation, then following any such reorganization each share of Series B Convertible preferred Stock shall thereafter be convertible, in lieu of the shares of common stock into which it was convertible prior to such event, into the kind and amount of securities, cash or other property which a holder of the number of shares of common stock of the Corporation issuable upon conversion of one share of Series B Convertible Preferred Stock immediately prior to such reorganization would have been entitled to receive pursuant to such transaction.

(f) No Impairment. The Corporation will not, by amendment of its Articles of lncorporation or through any reorganization, transfer of assets, consolidation, merger, dissolution, issue or sale of securities or any other voluntary action, avoid or seek to avoid the observance or performance of any of the terms to be observed or performed hereunder by the Corporation, but will at all times in good faith assist in the carrying out of all of the provisions of this Section 3 and in the taking of all such action as may be necessary or appropriate in order to protect the Conversion Rights of the holders of the Series B Convertible Preferred Stock against impairment.

(g) Reservation of Stock Issuable Upon Conversion. The Corporation shall at all times use its best efforts to reserve and keep available out of its authorized but unissued shares of Common Stock, solely for the purpose of effecting the conversion of the shares of Series B Convertible Preferred Stock, such number of its shares of Common Stock as shall from time to time be sufficient to effect the conversion of all outstanding shares of Series B Convertible Preferred Stock; and if at any time the number of authorized but unissued shares of Common Stock shall not be sufficient to effect the conversion of all outstanding shares of Series B Convertible Preferred Stock, the Corporation will take such corporate action as is necessary to increase its authorized but unissued shares of Common Stock to such number of shares as shall be sufficient for such purpose.

4. Status of Converted or Reacquired Stock. In case any shares of Series B Convertible Preferred Stock shall be converted pursuant to Section 3 hereof, the shares so converted shall cease to be a part of the authorized capital stock of the Corporation.

5. Voting Rights. The Series B Convertible Preferred Stock does not have any voting rights.

6. Notices. Any notice required to be given to holders of shares of Series B Convertible Preferred Stock shall be deemed given upon deposit in the United States mail, postage prepaid, addressed to such holder of record at his address appearing on the books of the Corporation, or upon personal delivery of the aforementioned address."

ARTICLE V

STOCKHOLDER ACTION

1. Action without Meeting. Except as otherwise provided herein, any action required or permitted to be taken by the stockholders of the Company at any annual or special meeting of stockholders of the Company must be effected at a duly called annual or special meeting of stockholders at which a quorum is present and acting throughout and may not be taken or effected by a written consent of stockholders in lieu thereof, *provided, however,* that any action required or permitted to be taken by the holders of Preferred Stock, voting separately as a series or separately as a class with one or more other such series, may be taken without a meeting, without prior notice and without a vote, to the extent expressly so provided by the applicable certificate of designation relating to such series of Preferred Stock.

2. Special Meetings. Except as otherwise required by statute and subject to the rights, if any, of the holders of any series of Preferred Stock, special meetings of the stockholders of the Company may be called only by the Board of Directors acting pursuant to a resolution approved by the affirmative vote of a majority of the Whole Board. For purposes of this Certificate, the term "Whole Board" shall mean the total number of authorized Directors whether or not there exist any vacancies in previously authorized directorships. Only those matters set forth in the notice of the special meeting may be considered or acted upon at a special meeting of stockholders of the Company.

ARTICLE VI

DIRECTORS

1. General. The business and affairs of the Company shall be managed by or under the direction of the Board of Directors except as otherwise provided herein or required by law.

2. Election of Directors. Election of Directors need not be by written ballot unless the Bylaws of the Company (the "Bylaws") shall so provide.

3. Number of Directors; Term of Office. Except as otherwise provided for or fixed pursuant to the provisions of Article IV (including any certificate of designation of any series of Preferred Stock) and this Article VI relating to the rights of the holders of any series of Preferred Stock to elect additional directors, the number of Directors of the Company shall be fixed solely and exclusively by resolution duly adopted from time to time by the Board of Directors. At each annual meeting of stockholders, Directors elected to succeed those Directors whose terms expire shall be elected for a term of office to expire at the next annual meeting of stockholders after their election.

Notwithstanding the foregoing, whenever, pursuant to the provisions of Article IV of this Certificate, the holders of any one or more series of Preferred Stock shall have the right, voting separately as a series or together with holders of other such series, to elect Directors at an annual or special meeting of stockholders, the election, term of office, filling of vacancies and other features of such directorships shall be governed by the terms of this Certificate and any certificate of designations applicable thereto.

During any period when the holders of any series of Preferred Stock have the right to elect additional Directors, then upon commencement and for the duration of the period during which such right continues: (i) the then otherwise total authorized number of Directors shall automatically be increased by such specified number of Directors, and the holders of such Preferred Stock shall be entitled to elect the additional Directors so provided for or fixed pursuant to said provisions, and (ii) each such additional Director shall serve until such Director's successor shall have been duly elected and qualified, or until such Director's right to hold such office terminates pursuant to said provisions, whichever occurs earlier, subject to his or her earlier death, resignation, retirement, disqualification or removal. Except as otherwise provided by the Board of Directors in the resolution or resolutions establishing such series, whenever the holders of any series of Preferred Stock having such right to elect additional Directors are divested of such right pursuant to the provisions of such stock, the terms of office of all such additional Directors elected by the holders of such stock, or elected to fill any vacancies resulting from the death, resignation, disqualification or removal of such additional Directors, shall forthwith terminate and the total authorized number of directors of the Company shall be reduced accordingly.

4. Vacancies. Subject to the rights, if any, of the holders of any series of Preferred Stock to elect Directors and to fill vacancies in the Board of Directors relating thereto, any and all vacancies in the Board of Directors, however occurring, including, without limitation, by reason of an increase in size of the Board of Directors, or the death, resignation, disqualification or removal of a Director, shall be filled solely and exclusively by the affirmative vote of a majority of the remaining Directors then in office, even if less than a quorum of the Board of Directors, and not by the stockholders. Any Director appointed in accordance with the preceding sentence shall hold office for the remainder of the full term and until such Director's successor shall have been duly elected and qualified or until his or her earlier resignation, death or removal.

5. Removal. Subject to the rights, if any, of any series of Preferred Stock to elect Directors and to remove any Director whom the holders of any such stock have the right to elect, any Director (including persons elected by Directors to fill vacancies in the Board of Directors) may be removed from office (i) only with cause and (ii) only by the affirmative vote of the holders of at least a majority in voting power of the shares then entitled to vote at an election of Directors.

ARTICLE VII

LIMITATION OF LIABILITY

A Director of the Company shall not be personally liable to the Company or its stockholders for monetary damages for breach of fiduciary duty as a Director, except for liability (a) for any breach of the Director's duty of loyalty to the Company or its stockholders, (b) for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law, (c) under Section 174 of the DOCL or (d) for any transaction from which the Director derived an improper personal benefit. If the DGCL is amended after the effective date of this Certificate to authorize corporate action further eliminating or limiting the personal liability of Directors, then the liability of a Director of the Company shall be eliminated or limited to the fullest extent permitted by the DGCL, as so amended.

Any repeal or modification of this Article VII, shall not adversely affect any right or protection existing at the time of such repeal or modification with respect to any acts or omissions occurring before such repeal or modification of a person serving as a Director at the time of such repeal or modification.

ARTICLE VIII

AMENDMENT OF BY-LAWS

1. Amendment by Directors. Except as otherwise provided by law, the Bylaws of the Company may be amended or repealed by the Board of Directors by the affirmative vote of a majority of the Board.

2. Amendment by Stockholders. The Bylaws of the Company may be amended or repealed by the stockholders at any annual meeting of stockholders, or special meeting of stockholders called for such purpose as provided in the Bylaws, by the affirmative vote of the holders of at least a majority in voting power of the outstanding shares entitled to vote on such amendment or repeal, voting together as a single class.

ARTICLE IX

AMENDMENT OF CERTIFICATE OF INCORPORATION

The Company reserves the right to amend or repeal this Certificate in the manner now or hereafter prescribed by statute and this Certificate, and all rights conferred upon stockholders herein are granted subject to this reservation. In addition to any other vote required by law or this Certificate, the affirmative vote of the holders of at least a majority in voting power of the outstanding shares entitled to vote on such amendment or repeal, shall be required to amend or repeal any provision of Article V, Article VI, Article VII, Article VIII or Article IX of this Certificate.

ARTICLE X

EXCLUSIVE JURISDICTION

Unless the Company consents in writing to the selection of an alternative forum, the Court of Chancery of the State of Delaware shall, to the fullest extent permitted by law, be the sole and exclusive forum for (i) any derivative action or proceeding brought on behalf of the Company; (ii) any action asserting a claim of breach of a fiduciary duty owed by any director, officer or other employee of the Company to the Company or the Company's stockholders, creditors or other constituents; (iii) any action asserting a claim against the Company or any Director or officer of the Company arising pursuant to, or a claim against the Company or any Director or officer of the Company with respect to the interpretation or application of any provision of, the DGCL, this Certificate or the Bylaws of the Company; or (iv) any action asserting a claim governed by the internal affairs doctrine in each such case subject to said court having personal jurisdiction over the indispensable parties named as defendants therein; provided, that, if

and only if the Court of Chancery of the State of Delaware dismisses any such action for lack of subject matter jurisdiction, such action may be brought in another state court sitting in the State of Delaware. To the fullest extent permitted by law, any person or entity purchasing or otherwise acquiring any interest in shares of capital stock of the Company shall be deemed to have notice of and consented to the provisions of this Article X.

State of Delaware
Secretary of State
Division of Corporations
Delivered 11:35 AM 03/20/2019
FILED 11:35 AM 03/20/2019
SR 20192127945 -File Number 7032132

CYTODYN INC.

CERTIFICATE OF DESIGNATION OF PREFERENCES,
RIGHTS AND LIMITATIONS
OF
SERIES C CONVERTIBLE PREFERRED STOCK

PURSUANT TO SECTION 151 OF THE
DELAWARE GENERAL CORPORATION LAW

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

1. He is the President and Chief Executive Officer of CytoDyn Inc., a Delaware corporation (the "Corporation").

2. The Corporation is authorized to issue 5,000,000 shares of preferred stock, of which 400,000 shares have been designated as Series B Convertible Preferred Stock, par value $0.001 per share (the "Series B Preferred Stock");

3. The following resolutions were duly adopted by the board of directors of the Corporation (the "Board of Directors"):

WHEREAS, the certificate of incorporation of the Corporation provides for a class of its authorized stock known as preferred stock, consisting of 5,000,000 shares, $0.00 l par value per share, issuable from time to time in one or more series;

WHEREAS, 400,000 of such preferred shares have already been designated as Series B Preferred Stock;

WHEREAS, the Board of Directors is authorized to fix the dividend rights, dividend rate, voting rights, conversion rights, rights and terms of redemption and liquidation preferences of any wholly unissued series of preferred stock and the number of shares constituting any series and the designation thereof, of any of them; and

WHEREAS, it is the desire of the Board of Directors, pursuant to its authority as aforesaid, to fix the rights, preferences, restrictions and other matters relating to a series of the preferred stock, which shall consist of 5,000 shares of the preferred stock which the Corporation has the authority to issue, as follows:

NOW, THEREFORE, BE IT RESOLVED, that the Board of Directors does hereby provide for the issuance of a series of preferred stock for cash or exchange of other securities, rights or property and does hereby fix and determine the rights, preferences, restrictions and other matters relating to such series of preferred stock as follows:

TERMS OF SERIES C CONVERTIBLE PREFERRED STOCK

Section 1. Designation, Amount and Par Value. The series of preferred stock shall be designated as its Series C Convertible Preferred Stock (the "Series C Preferred Stock") and the number of shares so designated shall be up to 5,000 (which shall not be subject to increase without the written consent of holders of a majority in interest of the Series C Preferred Stock then outstanding (each, a "Holder" and collectively, the "Holders")). Each share of Series

C Preferred Stock shall have a par value of $0.001 per share and a stated value equal to $1,000.00 (the "Stated Value").

Section 2. Definitions. For the purposes hereof, the following terms shall have the following meanings:

"Affiliate" means any Person that, directly or indirectly through one or more intermediaries, controls or is controlled by or is under common control with a Person, as such terms are used in and construed under Rule 405 of the Securities Act.

"Alternate Consideration" shall have the meaning set forth in Section 7(d).

"Business Day" means any day except any Saturday, any Sunday, any day which is a federal legal holiday in the United States or any day on which banking institutions in the State of New York are authorized or required by law or other governmental action to close.

"Chancery Courts" shall have the meaning set forth in Section 9(d).

"Certificate of Designation" means this Certificate of Designation of Preferences, Rights and Limitations of Series C Convertible Preferred Stock dated as of the date hereof.

"Commission" means the United States Securities and Exchange Commission.

"Common Stock" means the Corporation's common stock, par value $0.001 per share, and stock of any other class of securities into which such securities may hereafter be reclassified or changed.

"Common Stock Equivalents" means any securities of the Corporation or the Subsidiaries which would entitle the holder thereof to acquire at any time Common Stock, including, without limitation, any debt, preferred stock, rights, options, warrants or other instrument that is at any time convertible into or exercisable or exchangeable for, or otherwise entitles the holder thereof to receive, Common Stock.

"Conversion Date" shall have the meaning set forth in Section 6(a).

"Conversion Price" shall have the meaning set forth in Section 6(b).

"Conversion Shares" means, collectively, the shares of Common Stock issuable upon conversion of the shares of Series C Preferred Stock in accordance with the terms hereof.

"Distribution" shall have the meaning set forth in Section 7(c).

"Dividend Payment Date" shall have the meaning set forth in Section 3.

"Exchange Act" means the Securities Exchange Act of 1934, as amended, and the rules and regulations promulgated thereunder.

"Fundamental Transaction" shall have the meaning set forth in Section 7(d)

"Holder" shall have the meaning given such term in Section 1.

"Liquidation" shall have the meaning set forth in Section 5.

"Notice of Conversion" shall have the meaning set forth in Section 6(a).

"Person" means an individual or corporation, partnership, trust, incorporated or unincorporated association, joint venture, limited liability company, joint stock company, government (or an agency or subdivision thereof) or other entity of any kind.

"Purchase Rights" shall have the meaning set forth in Section 7(b).

"Securities Act" means the Securities Act of 1933, as amended, and the rules and regulations promulgated thereunder.

"Series C Preferred Dividends" shall have the meaning set forth in Section 3.

"Series C Preferred Stock" shall have the meaning set forth in Section 1.

"Share Delivery Date" shall have the meaning set forth in Section 6(c).

"Standard Settlement Period" shall have the meaning set forth in Section 6(c).

"Stated Value" shall have the meaning set forth in Section 1.

"Subsidiary" means any subsidiary of the Corporation as set forth on Exhibit 21 to the Corporation's Annual Report on Form 10-K most recently filed with the Commission.

"Successor Entity" shall have the meaning set forth in Section 7(d).

"Trading Day" means a day on which the primary Trading Market is open for business.

"Trading Market" means any of the following markets or exchanges on which the Common Stock is listed or quoted for trading on the date in question: the NYSE American, the Nasdaq Capital Market, the Nasdaq Global Market, the Nasdaq Global Select Market, the New York Stock Exchange, the OTCQB, OTCQX or Pink markets of the OTC Markets marketplace, or the OTC Bulletin Board (or any successors to any of the foregoing).

"Transfer Agent" means Computershare, the current transfer agent of the Corporation, with a mailing address of 211 Quality Circle, Suite 210, College Station, TX 77845, and a telephone number is 1-800-962-4284, and any successor transfer agent of the Corporation.

Section 3. Dividends. The holders of record of the outstanding shares of Series C Preferred Stock shall be entitled to receive, out of any assets at the time legally available therefore and when and as declared by the Board of Directors, dividends at the rate of ten percent (10%) per share per annum of the Stated Value from the date of issuance of the Series C Preferred Stock (the "Series C Preferred Dividends"). Dividends on the Series C Preferred Stock shall be cumulative, shall accrue, whether or not declared and whether or not there are any profits, surplus or other funds or assets of the Corporation legally available therefore, and shall be computed on the basis of a 360-day year, compounded annually. At the Holder's option, the Series C Preferred Dividends shall either (i) be paid in cash, or (ii) be paid with restricted shares of the Corporation's Common Stock, computed on the basis of the Conversion Price in effect upon the Dividend Payment Date (as defined below). The Series C Preferred Dividends shall be paid annually in arrears on the last day of December in each year (the "Dividend Payment Date"), commencing on December 31, 2019. The Corporation shall mail written notice to each Holder, not less than fifteen (15) Business Days prior to each Dividend Payment Date, specifying the amount of the Series C Preferred Dividend per share of Series C Preferred Stock and requesting a written election of the Holder regarding the form of payment. For any Holder that has not made such a written election by the close of business five (5) Business Days prior to the Dividend Payment Date, the Corporation (and not the Holder) shall have the option to elect whether to pay the Series C Preferred Dividend in cash or with restricted shares of Common Stock. Unless otherwise agreed in writing with respect to any Holder, any payment obligation of the Corporation with respect to the Series C Preferred Dividends hereunder shall be satisfied by mailing a check or stock certificate, as the case may be, to the name and address of such Holder as recorded in the stock register for the Series C Preferred Stock.

Section 4. Voting Rights. Except as otherwise required by applicable law or this Certificate of Designation, the Holders shall have no voting rights with respect to their shares of Series C Preferred Stock. Whenever, under this Certificate of Designation or otherwise, the Holders of the Series C Preferred Stock are required to take any action, such Holders may take action without a meeting, without prior notice and without a vote, if a consent or consents in writing, setting forth the action so taken, shall be signed by the Holders of more than a majority of the then

outstanding shares of Series C Preferred Stock, or such greater percentage as may be required by applicable law or this Certificate of Designation.

Section 5. Liquidation. Upon any liquidation, dissolution or winding-up of the Corporation, whether voluntary or involuntary (a "Liquidation"), the Holders shall be entitled, before any distributions shall be made to the holders of the Series B Preferred Stock or the Common Stock, to be paid an amount per share equal to the Stated Value plus any accrued and unpaid dividends. If upon such liquidation, dissolution or winding up of the Corporation, whether voluntary or involuntary, the assets to be distributed among the Holders shall be insufficient to permit payment to the Holders of their respective liquidation amount, then the entire assets of the Corporation to be distributed shall be distributed pro rata to the Holders. In the event of any such liquidation, dissolution or winding up of the Corporation, after the payment of all preferential amounts required to be paid to the Holders, the remaining assets of the Corporation available for distribution to its stockholders shall be distributed among the holders of the Series B Preferred Stock and the Common Stock, and any other class or series of capital stock of the Corporation, in accordance with the Certificate of Incorporation of the Corporation as then in effect. The Corporation shall mail written notice of any such Liquidation, not less than 45 days prior to the payment date stated therein, to each Holder.

Section 6. Conversion.

a) Conversion at Option of Holder. Each share of Series C Preferred Stock shall be convertible, at any time and from time to time from and after the Initial Conversion Date at the option of the Holder thereof, into that number of shares of Common Stock determined by dividing the Stated Value of such share of Series C Preferred Stock by the Conversion Price. Holders shall effect conversion by providing the Corporation with the form of conversion notice attached hereto as Annex A (a "Notice of Conversion"). Each Notice of Conversion shall specify the number of shares of Series C Preferred Stock to be converted, the number of shares of Series C Preferred Stock owned prior to the conversion at issue and the date on which such conversion is to be effected, which date may not be prior to the date the applicable Holder delivers by facsimile such Notice of Conversion to the Corporation (such date, the "Conversion Date"). If no Conversion Date is specified in a Notice of Conversion, the Conversion Date shall be the date that such Notice of Conversion to the Corporation is deemed delivered hereunder. No ink original Notice of Conversion shall be required, nor shall any medallion guarantee (or other type of guarantee or notarization) of any Notice of Conversion form be required. The calculations and entries set forth in the Notice of Conversion shall control in the absence of manifest or mathematical error. To effect conversions of the shares of Series C Preferred Stock, a Holder shall not be required to surrender the certificate(s) representing the shares of Series C Preferred Stock to the Corporation unless all of the shares of Series C Preferred Stock represented thereby are so converted, in which case such Holder shall deliver the certificate representing such shares of Series C Preferred Stock promptly following the Conversion Date at issue. Shares of Series C Preferred Stock converted into Common Stock in accordance with the terms hereof shall be canceled and shall not be reissued.

b) Conversion Price. The conversion price for the Series C Preferred Stock shall equal $0.50, subject to adjustment as provided herein (the "Conversion Price").

c) Mechanics of Conversion.

i) Delivery of Conversion Shares Upon Conversion. Not later than the earlier of (i) two (2) Trading Days and (ii) the number of Trading Days comprising the Standard Settlement Period (as defined below) after each Conversion Date (the "Share Delivery Date"), the Corporation shall deliver, or cause to be delivered, to the converting Holder (A) the number of Conversion Shares being acquired upon the conversion of the Series C Preferred Stock and (B) a bank check or shares of Common Stock, at the Holder's option, calculated in accordance with Section 3 hereof, in the amount of accrued and unpaid dividends. As used herein, "Standard Settlement Period" means the standard settlement period, expressed in a number of Trading Days, on the Corporation's primary Trading Market with respect to the Common Stock as in effect on the date of delivery of the Notice of Conversion Date.

ii) Fractional Shares. No fractional shares or scrip representing fractional shares shall be issued upon the conversion of the Series C Preferred Stock. As to any fraction of a share which the Holder would otherwise be entitled to purchase upon such conversion, the Corporation shall at its election, either pay a cash adjustment in respect of such final fraction in an amount equal to such fraction multiplied by the Conversion Price or round up to the next whole share.

iii) Transfer Taxes and Expenses. The issuance of Conversion Shares on conversion of this Series C Preferred Stock shall be made without charge to any Holder for any documentary stamp or similar taxes that may be payable in respect of the issue or delivery of such Conversion Shares, provided that the Corporation shall not be required to pay any tax that may be payable in respect of any transfer involved in the issuance and delivery of any such Conversion Shares upon conversion in a name other than that of the Holders of such shares of Series C Preferred Stock and the Corporation shall not be required to issue or deliver such Conversion Shares unless or until the Person or Persons requesting the issuance thereof shall have paid to the Corporation the amount of such tax or shall have established to the satisfaction of the Corporation that such tax has been paid.

Section 7. Certain Adjustments.

a) Stock Dividends and Stock Splits. If the Corporation, at any time while this Series C Preferred Stock is outstanding: (i) pays a stock dividend or otherwise makes a distribution or distributions payable in shares of Common Stock on shares of Common Stock or any other Common Stock Equivalents (which, for avoidance of doubt, shall not include any shares of Common Stock issued by the Corporation upon conversion of, or payment of a dividend on, this Series C Preferred Stock), (ii) subdivides outstanding shares of Common Stock into a larger number of shares, (iii) combines (including by way of a reverse stock split) outstanding shares of Common Stock into a smaller number of shares, or (iv) issues, in the event of a reclassification of shares of the Common Stock, any shares of capital stock of the Corporation, then the Conversion Price shall be multiplied by a fraction of which the numerator shall be the number of shares of Common Stock (excluding any treasury shares of the Corporation) outstanding immediately before such event, and of which the denominator shall be the number of shares of Common Stock outstanding immediately after such event. Any adjustment made pursuant to this Section 7(a) shall become effective immediately after the record date for the determination of stockholders entitled to receive such dividend or distribution and shall become effective immediately after the effective date in the case of a subdivision, combination or re-classification.

b) Subsequent Rights Offerings. In addition to any adjustments pursuant to Section 7(a) above, if at any time the Corporation grants, issues or sells any Common Stock Equivalents or rights to purchase stock, warrants, securities or other property pro rata to the record holders of any class of shares of Common Stock (the "Purchase Rights"), then the Holder of will be entitled to acquire, upon the terms applicable to such Purchase Rights, the aggregate Purchase Rights which the Holder could have acquired if the Holder had held the number of shares of Common Stock acquirable upon complete conversion of such Holder's Series C Preferred Stock immediately before the date on which a record is taken for the grant, issuance or sale of such Purchase Rights, or, if no such record is taken, the date as of which the record holders of shares of Common Stock are to be determined for the grant, issue or sale of such Purchase Rights.

c) Pro Rata Distributions. During such time as this Series C Preferred Stock is outstanding, if the Corporation declares or makes any dividend or other distribution of its assets (or rights to acquire its assets) to holders of shares of Common Stock, by way of return of capital or otherwise (including, without limitation, any distribution of cash, stock or other securities, property or options by way of a dividend, spin off, reclassification, corporate rearrangement, scheme of arrangement or other similar transaction) (a "Distribution"), at any time after the issuance of this Series C Preferred Stock, then, in each such case, the Holder shall be entitled to participate in such Distribution to the same extent that the Holder would have participated therein if the Holder had held the number of shares of Common Stock acquirable upon complete conversion of this Series C Preferred Stock immediately before the date of which a record is taken for such Distribution, or, if no such record is taken, the date as of which the record holders of shares of Common Stock are to be determined for the participation in such Distribution.

d) Fundamental Transaction. If, at any time while this Series C Preferred Stock is outstanding, (i) the Corporation, directly or indirectly, in one or more related transactions effects any merger or consolidation of the Corporation with or into another Person for which approval of the stockholders of the Corporation is required, (ii) the Corporation, directly or indirectly, effects any sale, lease, license, assignment, transfer, conveyance or other disposition of all or substantially all of its assets in one or a series of related transactions, (iii) any, direct or indirect, purchase offer, tender offer or exchange offer (whether by the Corporation or another Person) is completed pursuant to which holders of Common Stock are permitted to sell, tender or exchange their shares for other securities, cash or

property and has been accepted by the holders of 50% or more of the outstanding Common Stock, (iv) the Corporation, directly or indirectly, in one or more related transactions effects any reclassification, reorganization or recapitalization of the Common Stock or any compulsory share exchange pursuant to which the Common Stock is effectively converted into or exchanged for other securities, cash or property, or (v) the Corporation, directly or indirectly, in one or more related transactions consummates a stock or share purchase agreement or other business combination (including, without limitation, a reorganization, recapitalization, spin-off or scheme of arrangement) with another Person whereby such other Person acquires more than 50% of the outstanding shares of Common Stock (not including any shares of Common Stock held by the other Person or other Persons making or party to, or associated or affiliated with the other Persons making or party to, such stock or share purchase agreement or other business combination) (each a "Fundamental Transaction"), then, upon any subsequent conversion of this Series C Preferred Stock, the Holder shall have the right to receive, for each Conversion Share that would have been issuable upon such conversion immediately prior to the occurrence of such Fundamental Transaction, the number of shares of Common Stock of the successor or acquiring corporation or of the Corporation, if it is the surviving corporation, and any additional consideration (the "Alternate Consideration") receivable as a result of such Fundamental Transaction by a holder of the number of shares of Common Stock for which this Series C Preferred Stock is convertible immediately prior to such Fundamental Transaction. For purposes of any such conversion, the determination of the Conversion Price shall be appropriately adjusted to apply to such Alternate Consideration based on the amount of Alternate Consideration issuable in respect of one share of Common Stock in such Fundamental Transaction, and the Corporation shall apportion the Conversion Price among the Alternate Consideration in a reasonable manner reflecting the relative value of any different components of the Alternate Consideration. If holders of Common Stock are given any choice as to the securities, cash or property to be received in a Fundamental Transaction, then the Holder shall be given the same choice as to the Alternate Consideration it receives upon any conversion of this Series C Preferred Stock following such Fundamental Transaction; provided, however, that if the Fundamental Transaction is not within the Corporation's control, including not approved by the Corporation's Board of Directors, the Holder shall only be entitled to receive from the Corporation or any successor or acquiring entity, as of the date of consummation of such Fundamental Transaction, the same type or form of consideration (and in the same proportion) that is being offered and paid to holders of Common Stock in the aggregate in connection with the Fundamental Transaction, whether that consideration be in the form of cash, shares or any combination thereof, or whether the holders of Common Stock are given a choice to receive from among alternative forms of consideration in connection with the Fundamental Transaction. To the extent necessary to effectuate the foregoing provisions, any successor to the Corporation or surviving entity in such Fundamental Transaction shall file a new Certificate of Designation with the same terms and conditions and issue to the Holders new preferred stock consistent with the foregoing provisions and evidencing the Holders' right to convert such preferred stock into Alternate Consideration. The Corporation shall cause any successor entity in a Fundamental Transaction in which the Corporation is not the survivor (the "Successor Entity") to assume in writing all of the obligations of the Corporation under this Certificate of Designation in accordance with the provisions of this Section 7(d) pursuant to written agreements in form and substance reasonably satisfactory to the Holder and approved by the Holder (without unreasonable delay) prior to such Fundamental Transaction and shall, at the option of the holder of this Series C Preferred Stock, deliver to the Holder in exchange for this Series C Preferred Stock a security of the Successor Entity evidenced by a written instrument substantially similar in form and substance to this Series C Preferred Stock which is convertible for a corresponding number of shares of capital stock of such Successor Entity (or its parent entity) equivalent to the shares of Common Stock acquirable and receivable upon conversion of this Series C Preferred Stock prior to such Fundamental Transaction, and with a conversion price which applies the conversion price hereunder to such shares of capital stock (but taking into account the relative value of the shares of Common Stock pursuant to such Fundamental Transaction and the value of such shares of capital stock, such number of shares of capital stock and such conversion price being for the purpose of protecting the economic value of this Series C Preferred Stock immediately prior to the consummation of such Fundamental Transaction). Upon the occurrence of any such Fundamental Transaction, the Successor Entity shall succeed to, and be substituted for (so that from and after the date of such Fundamental Transaction, the provisions of this Certificate of Designation referring to the "Corporation" shall refer instead to the Successor Entity), and may exercise every right and power of the Corporation and shall assume all of the obligations of the Corporation under this Certificate of Designation with the same effect as if such Successor Entity had been named as the Corporation herein.

e) Calculations. All calculations under this Section 7 shall be made to the nearest cent or the nearest 1/100th of a share, as the case may be. For purposes of this Section 7, the number of shares of Common Stock

deemed to be issued and outstanding as of a given date shall be the sum of the number of shares of Common Stock (excluding any treasury shares of the Corporation) issued and outstanding.

f) Notice to the Holders. Whenever the Conversion Price is adjusted pursuant to any provision of this Section 7, the Corporation shall promptly deliver to each Holder by facsimile or email a notice setting forth the Conversion Price after such adjustment and setting forth a brief statement of the facts requiring such adjustment.

Section 8. Registration and Transfer.

a) The Corporation shall maintain at its principal offices (or at the offices of its transfer agent or such other office or agency as it may designate by notice to the Holders) a stock register for the Series C Preferred Stock in which the Corporation shall record the names and addresses of the Holders.

b) Prior to due presentment for registration of any permitted transferee of any Series C Preferred Stock, the Corporation may deem and treat the person in whose name any Series C Preferred Stock is registered as the absolute owner of such Series C Preferred Stock and the Corporation shall not be affected by notice to the contrary.

c) Anything contained herein to the contrary notwithstanding, the Corporation shall not register as a holder of any shares of Series C Preferred Stock any proposed transferee thereof, and such proposed transferee shall not be deemed a Holder for any purposes hereunder, unless: (i) such proposed transferee (A) represents to the Corporation in writing that such proposed transferee is an accredited investor, as such term is defined in Rule 501 of Regulation D promulgated under the Securities Act and (B) provides written certification to the Corporation of the basis of such transferee's status as an accredited investor, which certification shall be satisfactory to the Corporation in its sole discretion, exercised in good faith; (C) agrees, in writing, to abide by the terms of, and to assume the obligations of the initial Holder under any written agreement between the Corporation and such initial Holder; and (D) is provided a copy of this Certificate of Designation (as the same may be amended from time to time); and (ii) the proposed transfer is made pursuant to an effective registration statement under the Securities Act and applicable state securities laws, or an exemption from such registration is available.

d) Each certificate representing any shares of Series C Preferred Stock shall contain the following legends placed prominently on the front or back of the certificate:

> THESE SECURITIES HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, OR ANY STATE SECURITIES LAWS AND MAY NOT BE SOLD OR OFFERED FOR SALE IN THE ABSENCE OF AN EFFECTIVE REGISTRATION STATEMENT AS TO THE SECURITIES UNDER SAID ACT AND ANY APPLICABLE STATE SECURITIES LAW OR THE AVAILABILITY OF AN EXEMPTION FROM REGISTRATION UNDER SAID ACT.
>
> CYTODYN INC. WILL FURNISH, WITHOUT CHARGE, TO EACH HOLDER OF ITS SERIES C PREFERRED STOCK WHO SO REQUESTS A COPY OF THE CERTIFICATE OF DESIGNATION SETTING FORTH THE POWERS, DESIGNATIONS, PREFERENCES AND RELATIVE, PARTICIPATING, OPTIONAL OR OTHER SPECIAL RIGHTS OF SUCH STOCK AND ANY OTHER CLASS OR SERIES THEREOF AND THE QUALIFICATIONS, LIMITATIONS OR RESTRICTIONS OF SUCH PREFERENCES AND/OR RIGHTS.

e) No service charge shall be made to any Holder for any registration, transfer or exchange.

Section 9. Miscellaneous.

a) Notices. Any and all notices or other communications or deliveries to be provided by the Holders hereunder including, without limitation, any Notice of Conversion, shall be in writing and delivered personally, by facsimile or email, or sent by a nationally recognized overnight courier service, addressed to the Corporation, at the address set forth above Attention: Corporate Secretary, facsimile number (360) 980-8549, e-mail address: mmulholland@cytodyn.com, or such other facsimile number, e-mail address or address as the Corporation may specify for such purposes by notice to the Holders delivered in accordance with this Section 9. Any and all notices

or other communications or deliveries to be provided by the Corporation hereunder shall be in writing and delivered personally, by facsimile or email, or sent by a nationally recognized overnight courier service addressed to each Holder at the facsimile number, email address or address of such Holder appearing on the books of the Corporation. Any notice or other communication or deliveries hereunder shall be deemed given and effective on the earliest of (i) the date of transmission, if such notice or communication is delivered via facsimile at the facsimile number or via email at the email address set forth in this Section prior to 5:30 p.m. (New York City time) on any date, (ii) the next Trading Day after the date of transmission, if such notice or communication is delivered via facsimile at the facsimile number or via email at the email address set forth in this Section on a day that is not a Trading Day or later than 5:30 p.m. (New York City time) on any Trading Day, (iii) the second Trading Day following the date of mailing, if sent by U.S. nationally recognized overnight courier service, or (iv) upon actual receipt by the party to whom such notice is required to be given.

b) Absolute Obligation. Except as expressly provided herein, no provision of this Certificate of Designation shall alter or impair the obligation of the Corporation, which is absolute and unconditional, to pay accrued dividends on the shares of Series C Preferred Stock at the time, place, and rate, and in the coin or currency, herein prescribed.

c) Lost or Mutilated Series C Preferred Stock Certificate. If a Holder's Series C Preferred Stock certificate shall be mutilated, lost, stolen or destroyed, the Corporation shall execute and deliver, in exchange and substitution for and upon cancellation of a mutilated certificate, or in lieu of or in substitution for a lost, stolen or destroyed certificate, a new certificate for the shares of Series C Preferred Stock so mutilated, lost, stolen or destroyed, but only upon receipt of evidence of such loss, theft or destruction of such certificate, and of the ownership hereof reasonably satisfactory to the Corporation.

d) Governing Law. All questions concerning the construction, validity, enforcement and interpretation of this Certificate of Designation shall be governed by and construed and enforced in accordance with the internal laws of the State of Delaware, without regard to the principles of conflict of laws thereof. Each party agrees that all legal proceedings concerning the interpretation, enforcement and defense of the transactions contemplated hereby (whether brought against a party hereto or its respective Affiliates, directors, officers, shareholders, employees or agents) shall be commenced in the Court of Chancery of the State of Delaware (the "Chancery Courts"). The Corporation and each Holder hereby irrevocably submits to the exclusive jurisdiction of the Chancery Courts for the adjudication of any dispute hereunder or in connection herewith or with any transaction contemplated hereby or discussed herein, and hereby irrevocably waives, and agrees not to assert in any suit, action or proceeding, any claim that it is not personally subject to the jurisdiction of such Chancery Courts, or such Chancery Courts are improper or inconvenient venue for such proceeding. The Corporation and each Holder hereby irrevocably waives personal service of process and consents to process being served in any such suit, action or proceeding by mailing a copy thereof via registered or certified mail or overnight delivery (with evidence of delivery) to such party at the address in effect for notices to it under this Certificate of Designation and agrees that such service shall constitute good and sufficient service of process and notice thereof. Nothing contained herein shall be deemed to limit in any way any right to serve process in any other manner permitted by applicable law. The Corporation and each Holder hereby irrevocably waives, to the fullest extent permitted by applicable law, any and all right to trial by jury in any legal proceeding arising out of or relating to this Certificate of Designation or the transactions contemplated hereby. If any party shall commence an action or proceeding to enforce any provisions of this Certificate of Designation, then the prevailing party in such action or proceeding shall be reimbursed by the other party for its attorneys' fees and other costs and expenses incurred in the investigation, preparation and prosecution of such action or proceeding.

e) Waiver. Any waiver by the Corporation or a Holder of a breach of any provision of this Certificate of Designation shall not operate as or be construed to be a waiver of any other breach of such provision or of any breach of any other provision of this Certificate of Designation or a waiver by any other Holders. The failure of the Corporation or a Holder to insist upon strict adherence to any term of this Certificate of Designation on one or more occasions shall not be considered a waiver or deprive that party (or any other Holder) of the right thereafter to insist upon strict adherence to that term or any other term of this Certificate of Designation on any other occasion. Any waiver by the Corporation or a Holder must be in writing.

f) Severability. If any provision of this Certificate of Designation is invalid, illegal or unenforceable, the balance of this Certificate of Designation shall remain in effect, and if any provision is inapplicable to any

Person or circumstance, it shall nevertheless remain applicable to all other Persons and circumstances. If it shall be found that any interest or other amount deemed interest due hereunder violates the applicable law governing usury, the applicable rate of interest due hereunder shall automatically be lowered to equal the maximum rate of interest permitted under applicable law.

g) Next Business Day. Whenever any payment or other obligation hereunder shall be due on a day other than a Business Day, such payment shall be made on the next succeeding Business Day.

h) Headings. The headings contained herein are for convenience only, do not constitute a part of this Certificate of Designation and shall not be deemed to limit or affect any of the provisions hereof.

i) Status of Converted or Redeemed Series C Preferred Stock. If any shares of Series C Preferred Stock shall be converted, redeemed or reacquired by the Corporation, such shares shall resume the status of authorized but unissued shares of preferred stock and shall no longer be designated as Series C Convertible Preferred Stock.

****

RESOLVED, FURTHER, that the Chairman, the president or any vice-president, and the secretary or any assistant secretary, of the Corporation be and they hereby are authorized and directed to prepare and file this Certificate of Designation of Preferences, Rights and Limitations in accordance with the foregoing resolution and the provisions of Delaware law.

IN WITNESS WHEREOF, the undersigned have executed this Certificate this 20th day of March, 2019.

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

ANNEX A

NOTICE OF CONVERSION

(TO BE EXECUTED BY THE REGISTERED HOLDER IN ORDER TO CONVERT SHARES OF PREFERRED STOCK)

The undersigned hereby elects to convert the number of shares of Series C Convertible Preferred Stock indicated below into shares of common stock, par value $0.001 per share (the "Common Stock"), of CytoDyn Inc., a Delaware corporation (the "Corporation"), according to the conditions hereof, as of the date written below. If shares of Common Stock are to be issued in the name of a Person other than the undersigned, the undersigned will pay all transfer taxes payable with respect thereto. No fee will be charged to the Holders for any conversion, except for any such transfer taxes.

The undersigned is an "accredited investor" as defined in Regulation D under the Securities Act of 1933, as amended.

Conversion calculations:

Date to Effect Conversion:

Number of shares of Preferred Stock owned prior to Conversion:

Number of shares of Preferred Stock to be Converted:

Stated Value of shares of Preferred Stock to be Converted:

Number of shares of Common Stock to be Issued:

Applicable Conversion Price:

Number of shares of Preferred Stock subsequent to Conversion:

Address for Delivery:

or

DWAC Instructions (if available):
Broker no:
Account no:

[HOLDER]

By:
Name:
Title:

CERTIFICATE OF AMENDMENT
OF
CERTIFICATE OF INCORPORATION
OF
CYTODYN INC.

Pursuant to Section 242 of the General Corporation Law of the State of Delaware, CytoDyn Inc., a corporation organized and existing under the laws of the State of Delaware (the "Corporation"), does hereby certify as follows:

1. The present name of the Corporation is CytoDyn Inc. The Corporation was originally incorporated under the name Point NewCo Inc. by the filing of its original Certificate of Incorporation with the Secretary of State of the State of Delaware on August 27, 2018 (as amended, the "Certificate of Incorporation").

2. The Certificate of Incorporation of the Corporation is hereby amended by deleting the first paragraph under Article IV and replacing such paragraph with the following paragraph:

"The total number of shares of capital stock which the Corporation shall have authority to issue is Seven Hundred and Five Million (705,000,000), of which (i) Seven Hundred Million (700,000,000) shares shall be a class designated as common stock, par value $0.001 per share (the "Common Stock"), and (ii) Five Million (5,000,000) shares shall be a class designated as preferred stock, par value $0.001 per share (the "Preferred Stock")."

3. The Board of Directors of the Corporation has duly adopted a resolution pursuant to Section 242 of the General Corporation Law of the State of Delaware setting forth a proposed amendment to the Certificate of Incorporation of the Corporation and declaring said amendment to be advisable. The requisite stockholders of the Corporation have duly approved said proposed amendment in accordance with Section 242 of the General Corporation Law of the State of Delaware.

4. This Certificate of Amendment and the amendment to the Certificate of Incorporation effected hereby has been duly adopted in accordance with Section 242 of the General Corporation Law of the State of Delaware.

5. This Certificate of Amendment, and the amendment effected hereby, shall become effective upon filing.

[Signature Page Follows]

State of Delaware
Secretary of State
Division of Corporations
Delivered 03:18 PM 05/22/2019
FILED 03:18 PM 05/22/2019
SR 20194359045 - File Number 7032132

IN WITNESS WHEREOF, the Corporation has caused this Certificate of Amendment to be signed by its President and Chief Executive Officer on this 22nd day of May, 2019.

CYTODYN INC.

By: /s/ Nader Z. Pourhassan, Ph.D.
Name: Nader Z. Pourhassan

State of Delaware
Secretary of State
Division of Corporations
Delivered 11:46 AM 10/18/2019
FILED 11:46 AM 10/18/2019
SR 20197617216 - File Number 7032132

CERTIFICATE OF AMENDMENT
OF
CERTIFICATE OF DESIGNATION
OF
SERIES C CONVERTIBLE PREFERRED STOCK
OF
CYTODYN INC.

Pursuant to Section 242 of the General Corporation Law of the State of Delaware, CytoDyn Inc., a corporation organized and existing under the laws of the State of Delaware (the "Corporation"), does hereby certify as follows:

1. The Corporation's Certificate of Designation of Preferences, Rights and Limitations of Series C Convertible Preferred Stock was filed with the Secretary of State of the State of Delaware on March 20, 2019 (the "Certificate of Designation").

2. This Certificate of Amendment to the Certificate of Designation amends the Certificate of Designation as set forth below, was duly adopted by the Board of Directors in accordance with the provisions of Section 141 and 242 of the General Corporation Law of the State of Delaware, and has been adopted and approved by the written consent of a majority in interest of the Series C Convertible Preferred Stock, $0.001 par value per share, outstanding.

3. The Certificate of Designation is hereby amended by deleting Section 1 and replacing such section with the following:

Section 1. Designation, Amount and Par Value. The series of preferred stock shall be designated as its Series C Convertible Preferred Stock (the "Series C Preferred Stock") and the number of shares so designated shall be up to 20,000 (which shall not be subject to increase without the written consent of holders of a majority in interest of the Series C Preferred Stock then outstanding (each, a "Holder" and collectively, the "Holders")). Each share of Series C Preferred Stock shall have a par value of $0.001 per share and a stated value equal to $1,000.00 (the "Stated Value").

4. This Certificate of Amendment, and the amendment effected hereby, shall become effective upon filing.

[Signature Page Follows]

IN WITNESS WHEREOF, the Corporation has caused this Certificate of Amendment to be signed by its President and Chief Executive Officer on this 18th day of October, 2019.

CYTODYN INC.

By: /s/ Nader Z. Pourhassan
Name: Nader Z. Pourhassan

State of Delaware
Secretary of State
Division of Corporations
Delivered 04:47 PM 01/28/2020
FILED 04:47 PM 01/28/2020
SR 20200619312 - File Number 7032132

CERTIFICATE OF AMENDMENT
OF
CERTIFICATE OF DESIGNATION
OF
SERIES C CONVERTIBLE PREFERRED STOCK
OF
CYTODYN INC.

Pursuant to Section 242 of the General Corporation Law of the State of Delaware, CytoDyn Inc., a corporation organized and existing under the laws of the State of Delaware (the "Corporation"), does hereby certify as follows:

1. The Corporation's Certificate of Designation of Preferences, Rights and Limitations of Series C Convertible Preferred Stock was filed with the Secretary of State of the State of Delaware on March 20, 2019, and amended on October 18, 2019 (as amended, the "Certificate of Designation").

2. This Certificate of Amendment to the Certificate of Designation further amends the Certificate of Designation as set forth below, was duly adopted by the Board of Directors in accordance with the provisions of Section 141 and 242 of the General Corporation Law of the State of Delaware, and has been adopted and approved by the written consent of a majority in interest of the Series C Convertible Preferred Stock, $0.001 par value per share, outstanding.

3. The Certificate of Designation is hereby amended by deleting Section 1 and replacing such section with the following:

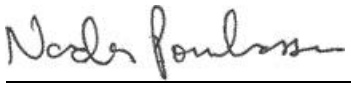
Section 1. Designation, Amount and Par Value. The series of preferred stock shall be designated as its Series C Convertible Preferred Stock (the "Series C Preferred Stock") and the number of shares so designated shall be up to 8,203 (which shall not be subject to increase without the written consent of holders of a majority in interest of the Series C Preferred Stock then outstanding (each, a "Holder" and collectively, the "Holders")). Each share of Series C Preferred Stock shall have a par value of $0.001 per share and a stated value equal to $1,000.00 (the "Stated Value").

4. This Certificate of Amendment, and the amendment effected hereby, shall become effective upon filing.

[Signature Page Follows]

IN WITNESS WHEREOF, the Corporation has caused this Certificate of Amendment to be signed by its President and Chief Executive Officer on this 28th day of January, 2020.

CYTODYN INC.

By: 

Name: Nader Z. Pourhassan

State of Delaware
Secretary of State
Division of Corporations
Delivered 04:52 PM 01/28/2020
FILED 04:52 PM 01/28/2020
SR 20200619588 - File Number 7032132

CYTODYN INC.

CERTIFICATE OF DESIGNATION OF PREFERENCES, RIGHTS AND LIMITATIONS OF SERIES D CONVERTIBLE PREFERRED STOCK

PURSUANT TO SECTION 151 OF THE
DELAWARE GENERAL CORPORATION LAW

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

1. He is the President and Chief Executive Officer of CytoDyn Inc., a Delaware corporation (the "Corporation").

2. The Corporation is authorized to issue 5,000,000 shares of preferred stock, of which 400,000 shares have been designated as Series B Convertible Preferred Stock, par value $0.001 per share (the "**Series B Preferred Stock**"), and 8,203 shares have been designated as Series C Convertible Preferred Stock, par value $0.001 per share (the "**Series C Preferred Stock**");

3. The following resolutions were duly adopted by the board of directors of the Corporation (the "Board of Directors"):

WHEREAS, the certificate of incorporation of the Corporation provides for a class of its authorized stock known as preferred stock, consisting of 5,000,000 shares, $0.001 par value per share, issuable from time to time in one or more series;

WHEREAS, 400,000 of such preferred shares have already been designated as Series B Preferred Stock and 8,203 of such preferred shares have already been designated as Series C Preferred Stock;

WHEREAS, the Board of Directors is authorized to fix the dividend rights, dividend rate, voting rights, conversion rights, rights and terms of redemption and liquidation preferences of any wholly unissued series of preferred stock and the number of shares constituting any series and the designation thereof, of any of them; and

WHEREAS, it is the desire of the Board of Directors, pursuant to its authority as aforesaid, to fix the rights, preferences, restrictions and other matters relating to a series of the preferred stock, which shall consist of 11,737 shares of the preferred stock which the Corporation has the authority to issue, as follows:

NOW, THEREFORE, BE IT RESOLVED, that the Board of Directors does hereby provide for the issuance of a series of preferred stock for cash or exchange of other securities, rights or property and does hereby fix and determine the rights, preferences, restrictions and other matters relating to such series of preferred stock as follows:

TERMS OF SERIES D CONVERTIBLE PREFERRED STOCK

Section 1. Designation, Amount and Par Value. The series of preferred stock shall be designated as its Series D Convertible Preferred Stock (the "Series D Preferred Stock") and the number of shares so designated shall be up to 11,737 (which shall not be subject to increase without the written consent of holders of a majority in interest of the Series D Preferred Stock then outstanding (each, a "Holder" and collectively, the "Holders")). Each share of

Series D Preferred Stock shall have a par value of $0.001 per share and a stated value equal to $1,000.00 (the "Stated Value").

Section 2. Definitions. For the purposes hereof, the following terms shall have the following meanings:

"Affiliate" means any Person that, directly or indirectly through one or more intermediaries, controls or is controlled by or is under common control with a Person, as such terms are used in and construed under Rule 405 of the Securities Act.

"Alternate Consideration" shall have the meaning set forth in Section 7(d).

"Business Day" means any day except any Saturday, any Sunday, any day which is a federal legal holiday in the United States or any day on which banking institutions in the State of New York are authorized or required by law or other governmental action to close.

"Chancery Courts" shall have the meaning set forth in Section 9(d).

"Certificate of Designation" means this Certificate of Designation of Preferences, Rights and Limitations of Series D Convertible Preferred Stock dated as of the date hereof.

"Commission" means the United States Securities and Exchange Commission.

"Common Stock" means the Corporation's common stock, par value $0.001 per share, and stock of any other class of securities into which such securities may hereafter be reclassified or changed.

"Common Stock Equivalents" means any securities of the Corporation or the Subsidiaries which would entitle the holder thereof to acquire at any time Common Stock, including, without limitation, any debt, preferred stock, rights, options, warrants or other instrument that is at any time convertible into or exercisable or exchangeable for, or otherwise entitles the holder thereof to receive, Common Stock.

"Conversion Date" shall have the meaning set forth in Section 6(a)

"Conversion Price" shall have the meaning set forth in Section 6(b).

"Conversion Shares" means, collectively, the shares of Common Stock issuable upon conversion of the shares of Series D Preferred Stock in accordance with the terms hereof.

"Distribution" shall have the meaning set forth in Section 7(c).

"Dividend Payment Date" shall have the meaning set forth in Section 3.

"Exchange Act" means the Securities Exchange Act of 1934, as amended, and the rules and regulations promulgated thereunder.

"Fundamental Transaction" shall have the meaning set forth in Section 7(d)

"Holder" shall have the meaning given such term in Section 1.

"Liquidation" shall have the meaning set forth in Section 5.

"Notice of Conversion" shall have the meaning set forth in Section 6(a).

"Person" means an individual or corporation, partnership, trust, incorporated or unincorporated association, joint venture, limited liability company, joint stock company, government (or an agency or subdivision thereof) or other entity of any kind.

"Purchase Rights" shall have the meaning set forth in Section 7(b).

"Securities Act" means the Securities Act of 1933, as amended, and the rules and regulations promulgated thereunder.

"Series D Preferred Dividends" shall have the meaning set forth in Section 3.

"Series D Preferred Stock" shall have the meaning set forth in Section 1.

"Share Delivery Date" shall have the meaning set forth in Section 6(c).

"Standard Settlement Period" shall have the meaning set forth in Section 6(c).

"Stated Value" shall have the meaning set forth in Section 1.

"Subsidiary" means any subsidiary of the Corporation as set forth on Exhibit 21 to the Corporation's Annual Report on Form 10-K most recently filed with the Commission.

"Successor Entity" shall have the meaning set forth in Section 7(d).

"Trading Day" means a day on which the primary Trading Market is open for business.

"Trading Market" means any of the following markets or exchanges on which the Common Stock is listed or quoted for trading on the date in question: the NYSE American, the Nasdaq Capital Market, the Nasdaq Global Market, the Nasdaq Global Select Market, the New York Stock Exchange, the OTCQB, OTCQX or Pink markets of the OTC Markets marketplace, or the OTC Bulletin Board (or any successors to any of the foregoing).

"Transfer Agent" means Computershare, the current transfer agent of the Corporation, with a mailing address of 211 Quality Circle, Suite 210, College Station, TX 77845, and a telephone number is 1-800-962-4284, and any successor transfer agent of the Corporation.

Section 3. Dividends. The holders of record of the outstanding shares of Series D Preferred Stock shall be entitled to receive, out of any assets at the time legally available therefore and when and as declared by the Board of Directors, dividends at the rate of ten percent (10%) per share per annum of the Stated Value from the date of issuance of the Series D Preferred Stock (the "Series D Preferred Dividends"). Dividends on the Series D Preferred Stock shall be cumulative, shall accrue, whether or not declared and whether or not there are any profits, surplus or other funds or assets of the Corporation legally available therefore, and shall be computed on the basis of a 360-day year, compounded annually. At the Holder's option, the Series D Preferred Dividends shall either (i) be paid in cash, or (ii) be paid with restricted shares of the Corporation's Common Stock, at the rate of $0.50 per value. The Series D Preferred Dividends shall be paid annually in arrears on the last day of December in each year (the "Dividend Payment Date"), commencing on December 31, 2019. The Corporation shall mail written notice to each Holder, not less than fifteen (15) Business Days prior to each Dividend Payment Date, specifying the amount of the Series D Preferred Dividend per share of Series D Preferred Stock and requesting a written election of the Holder regarding the form of payment. For any Holder that has not made such a written election by the close of business five (5) Business Days prior to the Dividend Payment Date, the Corporation (and not the Holder) shall have the option to elect whether to pay the Series D Preferred Dividend in cash or with restricted shares of Common Stock. Unless otherwise agreed in writing with respect to any Holder, any payment obligation of the Corporation with respect to the Series D Preferred Dividends hereunder shall be satisfied by mailing a check or stock certificate, as the case may be, to the name and address of such Holder as recorded in the stock register for the Series D Preferred Stock.

Section 4. Voting Rights. Except as otherwise required by applicable law or this Certificate of Designation, the Holders shall have no voting rights with respect to their shares of Series D Preferred Stock. Whenever, under this Certificate of Designation or otherwise, the Holders of the Series D Preferred Stock are required to take any action, such Holders may take action without a meeting, without prior notice and without a vote, if a consent or consents in writing, setting forth the action so taken, shall be signed by the Holders of more than

a majority of the then outstanding shares of Series D Preferred Stock, or such greater percentage as may be required by applicable law or this Certificate of Designation.

Section 5. Liquidation. Upon any liquidation, dissolution or winding-up of the Corporation, whether voluntary or involuntary (a "Liquidation"), the Holders shall be entitled, on a pari passu basis with the holders of the Series C Preferred Stock (the "Series C Holders") but before any distributions shall be made to the holders of the Series B Preferred Stock or the Common Stock, to be paid an amount per share equal to the Stated Value plus any accrued and unpaid dividends. If upon such liquidation, dissolution or winding up of the Corporation, whether voluntary or involuntary, the assets to be distributed among the Holders and the Series C Holders shall be insufficient to permit payment to the Holders and the Series C Holders of their respective liquidation amount, then the entire assets of the Corporation to be distributed shall be distributed pro rata to the Holders and the Series C Holders. In the event of any such liquidation, dissolution or winding up of the Corporation, after the payment of all preferential amounts required to be paid to the Holders and the Series C Holders, the remaining assets of the Corporation available for distribution to its stockholders shall be distributed among the holders of the Series B Preferred Stock and the Common Stock, and any other class or series of capital stock of the Corporation, in accordance with the Certificate of Incorporation of the Corporation as then in effect. The Corporation shall mail written notice of any such Liquidation, not less than 45 days prior to the payment date stated therein, to each Holder.

Section 6. Conversion.

a) Conversion at Option of Holder. Each share of Series D Preferred Stock shall be convertible, at any time and from time to time from and after the Initial Conversion Date at the option of the Holder thereof, into that number of shares of Common Stock determined by dividing the Stated Value of such share of Series D Preferred Stock by the Conversion Price. Holders shall effect conversion by providing the Corporation with the form of conversion notice attached hereto as Annex A (a "Notice of Conversion"). Each Notice of Conversion shall specify the number of shares of Series D Preferred Stock to be converted, the number of shares of Series D Preferred Stock owned prior to the conversion at issue and the date on which such conversion is to be effected, which date may not be prior to the date the applicable Holder delivers by facsimile such Notice of Conversion to the Corporation (such date, the "Conversion Date"). If no Conversion Date is specified in a Notice of Conversion, the Conversion Date shall be the date that such Notice of Conversion to the Corporation is deemed delivered hereunder. No ink original Notice of Conversion shall be required, nor shall any medallion guarantee (or other type of guarantee or notarization) of any Notice of Conversion form be required. The calculations and entries set forth in the Notice of Conversion shall control in the absence of manifest or mathematical error. To effect conversions of the shares of Series D Preferred Stock, a Holder shall not be required to surrender the certificate(s) representing the shares of Series D Preferred Stock to the Corporation unless all of the shares of Series D Preferred Stock represented thereby are so converted, in which case such Holder shall deliver the certificate representing such shares of Series D Preferred Stock promptly following the Conversion Date at issue. Shares of Series D Preferred Stock converted into Common Stock in accordance with the terms hereof shall be canceled and shall not be reissued.

b) Conversion Price. The conversion price for the Series D Preferred Stock shall equal $0.50, subject to adjustment as provided herein (the "Conversion Price").

c) Mechanics of Conversion.

i) Delivery of Conversion Shares Upon Conversion. Not later than the earlier of (i) two (2) Trading Days and (ii) the number of Trading Days comprising the Standard Settlement Period (as defined below) after each Conversion Date (the "Share Delivery Date"), the Corporation shall deliver, or cause to be delivered, to the converting Holder (A) the number of Conversion Shares being acquired upon the conversion of the Series D Preferred Stock and (B) a bank check or shares of Common Stock, at the Holder's option, calculated in accordance with Section 3 hereof, in the amount of accrued and unpaid dividends. As used herein, "Standard Settlement Period" means the standard settlement period, expressed in a number of Trading Days, on the Corporation's primary Trading Market with respect to the Common Stock as in effect on the date of delivery of the Notice of Conversion Date.

ii) Fractional Shares. No fractional shares or scrip representing fractional shares shall be issued upon the conversion of the Series D Preferred Stock. As to any fraction of a share which the

Holder would otherwise be entitled to purchase upon such conversion, the Corporation shall at its election, either pay a cash adjustment in respect of such final fraction in an amount equal to such fraction multiplied by the Conversion Price or round up to the next whole share.

iii) Transfer Taxes and Expenses. The issuance of Conversion Shares on conversion of this Series D Preferred Stock shall be made without charge to any Holder for any documentary stamp or similar taxes that may be payable in respect of the issue or delivery of such Conversion Shares, provided that the Corporation shall not be required to pay any tax that may be payable in respect of any transfer involved in the issuance and delivery of any such Conversion Shares upon conversion in a name other than that of the Holders of such shares of Series D Preferred Stock and the Corporation shall not be required to issue or deliver such Conversion Shares unless or until the Person or Persons requesting the issuance thereof shall have paid to the Corporation the amount of such tax or shall have established to the satisfaction of the Corporation that such tax has been paid.

Section 7. Certain Adjustments.

a) Stock Dividends and Stock Splits. If the Corporation, at any time while this Series D Preferred Stock is outstanding: (i) pays a stock dividend or otherwise makes a distribution or distributions payable in shares of Common Stock on shares of Common Stock or any other Common Stock Equivalents (which, for avoidance of doubt, shall not include any shares of Common Stock issued by the Corporation upon conversion of, or payment of a dividend on, this Series D Preferred Stock), (ii) subdivides outstanding shares of Common Stock into a larger number of shares, (iii) combines (including by way of a reverse stock split) outstanding shares of Common Stock into a smaller number of shares, or (iv) issues, in the event of a reclassification of shares of the Common Stock, any shares of capital stock of the Corporation, then the Conversion Price shall be multiplied by a fraction of which the numerator shall be the number of shares of Common Stock (excluding any treasury shares of the Corporation) outstanding immediately before such event, and of which the denominator shall be the number of shares of Common Stock outstanding immediately after such event. Any adjustment made pursuant to this Section 7(a) shall become effective immediately after the record date for the determination of stockholders entitled to receive such dividend or distribution and shall become effective immediately after the effective date in the case of a subdivision, combination or re-classification.

b) Subsequent Rights Offerings. In addition to any adjustments pursuant to Section 7(a) above, if at any time the Corporation grants, issues or sells any Common Stock Equivalents or rights to purchase stock, warrants, securities or other property pro rata to the record holders of any class of shares of Common Stock (the "Purchase Rights"), then the Holder of will be entitled to acquire, upon the terms applicable to such Purchase Rights, the aggregate Purchase Rights which the Holder could have acquired if the Holder had held the number of shares of Common Stock acquirable upon complete conversion of such Holder's Series D Preferred Stock immediately before the date on which a record is taken for the grant, issuance or sale of such Purchase Rights, or, if no such record is taken, the date as of which the record holders of shares of Common Stock are to be determined for the grant, issue or sale of such Purchase Rights.

c) Pro Rata Distributions. During such time as this Series D Preferred Stock is outstanding, if the Corporation declares or makes any dividend or other distribution of its assets (or rights to acquire its assets) to holders of shares of Common Stock, by way of return of capital or otherwise (including, without limitation, any distribution of cash, stock or other securities, property or options by way of a dividend, spin off, reclassification, corporate rearrangement, scheme of arrangement or other similar transaction) (a "Distribution"), at any time after the issuance of this Series D Preferred Stock, then, in each such case, the Holder shall be entitled to participate in such Distribution to the same extent that the Holder would have participated therein if the Holder had held the number of shares of Common Stock acquirable upon complete conversion of this Series D Preferred Stock immediately before the date of which a record is taken for such Distribution, or, if no such record is taken, the date as of which the record holders of shares of Common Stock are to be determined for the participation in such Distribution.

d) Fundamental Transaction. If, at any time while this Series D Preferred Stock is outstanding, (i) the Corporation, directly or indirectly, in one or more related transactions effects any merger or consolidation of the Corporation with or into another Person for which approval of the stockholders of the Corporation is required,

(ii) the Corporation, directly or indirectly, effects any sale, lease, license, assignment, transfer, conveyance or other disposition of all or substantially all of its assets in one or a series of related transactions, (iii) any, direct or indirect, purchase offer, tender offer or exchange offer (whether by the Corporation or another Person) is completed pursuant to which holders of Common Stock are permitted to sell, tender or exchange their shares for other securities, cash or property and has been accepted by the holders of 50% or more of the outstanding Common Stock, (iv) the Corporation, directly or indirectly, in one or more related transactions effects any reclassification, reorganization or recapitalization of the Common Stock or any compulsory share exchange pursuant to which the Common Stock is effectively converted into or exchanged for other securities, cash or property, or (v) the Corporation, directly or indirectly, in one or more related transactions consummates a stock or share purchase agreement or other business combination (including, without limitation, a reorganization, recapitalization, spin-off or scheme of arrangement) with another Person whereby such other Person acquires more than 50% of the outstanding shares of Common Stock (not including any shares of Common Stock held by the other Person or other Persons making or party to, or associated or affiliated with the other Persons making or party to, such stock or share purchase agreement or other business combination) (each a "Fundamental Transaction"), then, upon any subsequent conversion of this Series D Preferred Stock, the Holder shall have the right to receive, for each Conversion Share that would have been issuable upon such conversion immediately prior to the occurrence of such Fundamental Transaction, the number of shares of Common Stock of the successor or acquiring corporation or of the Corporation, if it is the surviving corporation, and any additional consideration (the "Alternate Consideration") receivable as a result of such Fundamental Transaction by a holder of the number of shares of Common Stock for which this Series D Preferred Stock is convertible immediately prior to such Fundamental Transaction. For purposes of any such conversion, the determination of the Conversion Price shall be appropriately adjusted to apply to such Alternate Consideration based on the amount of Alternate Consideration issuable in respect of one share of Common Stock in such Fundamental Transaction, and the Corporation shall apportion the Conversion Price among the Alternate Consideration in a reasonable manner reflecting the relative value of any different components of the Alternate Consideration. If holders of Common Stock are given any choice as to the securities, cash or property to be received in a Fundamental Transaction, then the Holder shall be given the same choice as to the Alternate Consideration it receives upon any conversion of this Series D Preferred Stock following such Fundamental Transaction; provided, however, that if the Fundamental Transaction is not within the Corporation's control, including not approved by the Corporation's Board of Directors, the Holder shall only be entitled to receive from the Corporation or any successor or acquiring entity, as of the date of consummation of such Fundamental Transaction, the same type or form of consideration (and in the same proportion) that is being offered and paid to holders of Common Stock in the aggregate in connection with the Fundamental Transaction, whether that consideration be in the form of cash, shares or any combination thereof, or whether the holders of Common Stock are given a choice to receive from among alternative forms of consideration in connection with the Fundamental Transaction. To the extent necessary to effectuate the foregoing provisions, any successor to the Corporation or surviving entity in such Fundamental Transaction shall file a new Certificate of Designation with the same terms and conditions and issue to the Holders new preferred stock consistent with the foregoing provisions and evidencing the Holders' right to convert such preferred stock into Alternate Consideration. The Corporation shall cause any successor entity in a Fundamental Transaction in which the Corporation is not the survivor (the "Successor Entity") to assume in writing all of the obligations of the Corporation under this Certificate of Designation in accordance with the provisions of this Section 7(d) pursuant to written agreements in form and substance reasonably satisfactory to the Holder and approved by the Holder (without unreasonable delay) prior to such Fundamental Transaction and shall, at the option of the holder of this Series D Preferred Stock, deliver to the Holder in exchange for this Series D Preferred Stock a security of the Successor Entity evidenced by a written instrument substantially similar in form and substance to this Series D Preferred Stock which is convertible for a corresponding number of shares of capital stock of such Successor Entity (or its parent entity) equivalent to the shares of Common Stock acquirable and receivable upon conversion of this Series D Preferred Stock prior to such Fundamental Transaction, and with a conversion price which applies the conversion price hereunder to such shares of capital stock (but taking into account the relative value of the shares of Common Stock pursuant to such Fundamental Transaction and the value of such shares of capital stock, such number of shares of capital stock and such conversion price being for the purpose of protecting the economic value of this Series D Preferred Stock immediately prior to the consummation of such Fundamental Transaction). Upon the occurrence of any such Fundamental Transaction, the Successor Entity shall succeed to, and be substituted for (so that from and after the date of such Fundamental Transaction, the provisions of this Certificate of Designation referring to the "Corporation" shall refer instead to the Successor Entity), and may exercise every right and power of the Corporation and shall assume all of the obligations of the Corporation under this Certificate of Designation with the same effect as if such Successor Entity had been named as the Corporation herein.

e) Calculations. All calculations under this Section 7 shall be made to the nearest cent or the nearest 1/100th of a share, as the case may be. For purposes of this Section 7, the number of shares of Common Stock deemed to be issued and outstanding as of a given date shall be the sum of the number of shares of Common Stock (excluding any treasury shares of the Corporation) issued and outstanding.

f) Notice to the Holders. Whenever the Conversion Price is adjusted pursuant to any provision of this Section 7, the Corporation shall promptly deliver to each Holder by facsimile or email a notice setting forth the Conversion Price after such adjustment and setting forth a brief statement of the facts requiring such adjustment.

Section 8. Registration and Transfer.

a) The Corporation shall maintain at its principal offices (or at the offices of its transfer agent or such other office or agency as it may designate by notice to the Holders) a stock register for the Series D Preferred Stock in which the Corporation shall record the names and addresses of the Holders.

b) Prior to due presentment for registration of any permitted transferee of any Series D Preferred Stock, the Corporation may deem and treat the person in whose name any Series D Preferred Stock is registered as the absolute owner of such Series D Preferred Stock and the Corporation shall not be affected by notice to the contrary.

c) Anything contained herein to the contrary notwithstanding, the Corporation shall not register as a holder of any shares of Series D Preferred Stock any proposed transferee thereof, and such proposed transferee shall not be deemed a Holder for any purposes hereunder, unless: (i) such proposed transferee (A) represents to the Corporation in writing that such proposed transferee is an accredited investor, as such term is defined in Rule 501 of Regulation D promulgated under the Securities Act and (B) provides written certification to the Corporation of the basis of such transferee's status as an accredited investor, which certification shall be satisfactory to the Corporation in its sole discretion, exercised in good faith; (C) agrees, in writing, to abide by the terms of, and to assume the obligations of the initial Holder under any written agreement between the Corporation and such initial Holder; and (D) is provided a copy of this Certificate of Designation (as the same may be amended from time to time); and (ii) the proposed transfer is made pursuant to an effective registration statement under the Securities Act and applicable state securities laws, or an exemption from such registration is available.

d) Each certificate representing any shares of Series D Preferred Stock shall contain the following legends placed prominently on the front or back of the certificate:

> THESE SECURITIES HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, OR ANY STATE SECURITIES LAWS AND MAY NOT BE SOLD OR OFFERED FOR SALE IN THE ABSENCE OF AN EFFECTIVE REGISTRATION STATEMENT AS TO THE SECURITIES UNDER SAID ACT AND ANY APPLICABLE STATE SECURITIES LAW OR THE AVAILABILITY OF AN EXEMPTION FROM REGISTRATION UNDER SAID ACT.
>
> CYTODYN INC. WILL FURNISH, WITHOUT CHARGE, TO EACH HOLDER OF ITS SERIES D PREFERRED STOCK WHO SO REQUESTS A COPY OF THE CERTIFICATE OF DESIGNATION SETTING FORTH THE POWERS, DESIGNATIONS, PREFERENCES AND RELATIVE, PARTICIPATING, OPTIONAL OR OTHER SPECIAL RIGHTS OF SUCH STOCK AND ANY OTHER CLASS OR SERIES THEREOF AND THE QUALIFICATIONS, LIMITATIONS OR RESTRICTIONS OF SUCH PREFERENCES AND/OR RIGHTS.

e) No service charge shall be made to any Holder for any registration, transfer or exchange.

Section 9. Miscellaneous.

a) Notices. Any and all notices or other communications or deliveries to be provided by the Holders hereunder including, without limitation, any Notice of Conversion, shall be in writing and delivered personally, by facsimile or email, or sent by a nationally recognized overnight courier service, addressed to the Corporation, at the address set forth above Attention: Corporate Secretary, facsimile number (360) 980-8549, e-mail address:

maura.fleming@cytodyn.com, or such other facsimile number, e-mail address or address as the Corporation may specify for such purposes by notice to the Holders delivered in accordance with this Section 9. Any and all notices or other communications or deliveries to be provided by the Corporation hereunder shall be in writing and delivered personally, by facsimile or email, or sent by a nationally recognized overnight courier service addressed to each Holder at the facsimile number, email address or address of such Holder appearing on the books of the Corporation. Any notice or other communication or deliveries hereunder shall be deemed given and effective on the earliest of (i) the date of transmission, if such notice or communication is delivered via facsimile at the facsimile number or via email at the email address set forth in this Section prior to 5:30p.m. (New York City time) on any date, (ii) the next Trading Day after the date of transmission, if such notice or communication is delivered via facsimile at the facsimile number or via email at the email address set forth in this Section on a day that is not a Trading Day or later than 5:30 p.m. (New York City time) on any Trading Day, (iii) the second Trading Day following the date of mailing, if sent by U.S. nationally recognized overnight courier service, or (iv) upon actual receipt by the party to whom such notice is required to be given.

b) Absolute Obligation. Except as expressly provided herein, no provision of this Certificate of Designation shall alter or impair the obligation of the Corporation, which is absolute and unconditional, to pay accrued dividends on the shares of Series D Preferred Stock at the time, place, and rate, and in the coin or currency, herein prescribed.

c) Lost or Mutilated Series D Preferred Stock Certificate. If a Holder's Series D Preferred Stock certificate shall be mutilated, lost, stolen or destroyed, the Corporation shall execute and deliver, in exchange and substitution for and upon cancellation of a mutilated certificate, or in lieu of or in substitution for a lost, stolen or destroyed certificate, a new certificate for the shares of Series D Preferred Stock so mutilated, lost, stolen or destroyed, but only upon receipt of evidence of such loss, theft or destruction of such certificate, and of the ownership hereof reasonably satisfactory to the Corporation.

d) Governing Law. All questions concerning the construction, validity, enforcement and interpretation of this Certificate of Designation shall be governed by and construed and enforced in accordance with the internal laws of the State of Delaware, without regard to the principles of conflict of laws thereof. Each party agrees that all legal proceedings concerning the interpretation, enforcement and defense of the transactions contemplated hereby (whether brought against a party hereto or its respective Affiliates, directors, officers, shareholders, employees or agents) shall be commenced in the Court of Chancery of the State of Delaware (the "Chancery Courts"). The Corporation and each Holder hereby irrevocably submits to the exclusive jurisdiction of the Chancery Courts for the adjudication of any dispute hereunder or in connection herewith or with any transaction contemplated hereby or discussed herein, and hereby irrevocably waives, and agrees not to assert in any suit, action or proceeding, any claim that it is not personally subject to the jurisdiction of such Chancery Courts, or such Chancery Courts are improper or inconvenient venue for such proceeding. The Corporation and each Holder hereby irrevocably waives personal service of process and consents to process being served in any such suit, action or proceeding by mailing a copy thereof via registered or certified mail or overnight delivery (with evidence of delivery) to such party at the address in effect for notices to it under this Certificate of Designation and agrees that such service shall constitute good and sufficient service of process and notice thereof. Nothing contained herein shall be deemed to limit in any way any right to serve process in any other manner permitted by applicable law. The Corporation and each Holder hereby irrevocably waives, to the fullest extent permitted by applicable law, any and all right to trial by jury in any legal proceeding arising out of or relating to this Certificate of Designation or the transactions contemplated hereby. If any party shall commence an action or proceeding to enforce any provisions of this Certificate of Designation, then the prevailing party in such action or proceeding shall be reimbursed by the other party for its attorneys' fees and other costs and expenses incurred in the investigation, preparation and prosecution of such action or proceeding.

e) Waiver. Any waiver by the Corporation or a Holder of a breach of any provision of this Certificate of Designation shall not operate as or be construed to be a waiver of any other breach of such provision or of any breach of any other provision of this Certificate of Designation or a waiver by any other Holders. The failure of the Corporation or a Holder to insist upon strict adherence to any term of this Certificate of Designation on one or more occasions shall not be considered a waiver or deprive that party (or any other Holder) of the right thereafter to insist upon strict adherence to that term or any other term of this Certificate of Designation on any other occasion. Any waiver by the Corporation or a Holder must be in writing.

f) Severability. If any provision of this Certificate of Designation is invalid, illegal or unenforceable, the balance of this Certificate of Designation shall remain in effect, and if any provision is inapplicable to any Person or circumstance, it shall nevertheless remain applicable to all other Persons and circumstances. If it shall be found that any interest or other amount deemed interest due hereunder violates the applicable law governing usury, the applicable rate of interest due hereunder shall automatically be lowered to equal the maximum rate of interest permitted under applicable law.

g) Next Business Day. Whenever any payment or other obligation hereunder shall be due on a day other than a Business Day, such payment shall be made on the next succeeding Business Day.

h) Headings. The headings contained herein are for convenience only, do not constitute a part of this Certificate of Designation and shall not be deemed to limit or affect any of the provisions hereof.

i) Status of Converted or Redeemed Series D Preferred Stock. If any shares of Series D Preferred Stock shall be converted, redeemed or reacquired by the Corporation, such shares shall resume the status of authorized but unissued shares of preferred stock and shall no longer be designated as Series D Convertible Preferred Stock.

****

ANNEX A

NOTICE OF CONVERSION

(TO BE EXECUTED BY THE REGISTERED HOLDER IN ORDER TO CONVERT SHARES OF PREFERRED STOCK)

The undersigned hereby elects to convert the number of shares of Series D Convertible Preferred Stock indicated below into shares of common stock, par value $0.001 per share (the "Common Stock"), of CytoDyn Inc., a Delaware corporation (the "Corporation"), according to the conditions hereof, as of the date written below. If shares of Common Stock are to be issued in the name of a Person other than the undersigned, the undersigned will pay all transfer taxes payable with respect thereto. No fee will be charged to the Holders for any conversion, except for any such transfer taxes.

The undersigned is an "accredited investor" as defined in Regulation D under the Securities Act of 1933, as amended.

Conversion calculations:

Date to Effect Conversion:

Number of shares of Preferred Stock owned prior to Conversion:

Number of shares of Preferred Stock to be Converted:

Stated Value of shares of Preferred Stock to be Converted:

Number of shares of Common Stock to be Issued:

Applicable Conversion Price:

Number of shares of Preferred Stock subsequent to Conversion:

Address for Delivery:

or

DWAC Instructions (if available):
Broker no:
Account no:

[HOLDER]

By:
Name:
Title:

RESOLVED, FURTHER, that the Chairman, the president or any vice-president, and the secretary or any assistant secretary, of the Corporation be and they hereby are authorized and directed to prepare and file this Certificate of Designation of Preferences, Rights and Limitations in accordance with the foregoing resolution and the provisions of Delaware law.

IN WITNESS WHEREOF, the undersigned have executed this Certificate this 28th day of January, 2020.

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

State of Delaware
Secretary of State
Division of Corporations
Delivered 04:15 PM 07/23/2020
FILED 04:15 PM 07/23/2020
SR 20206382285 - File Number 7032132

CERTIFICATE OF AMENDMENT
OF
CERTIFICATE OF INCORPORATION
OF
CYTODYN INC.

Pursuant to Section 242 of the General Corporation Law of the State of Delaware, CytoDyn Inc., a corporation organized and existing under the laws of the State of Delaware (the "Corporation"), does hereby certify as follows:

1. The present name of the Corporation is CytoDyn Inc. The Corporation was originally incorporated under the name Point NewCo Inc. by the filing of its original Certificate of Incorporation with the Secretary of State of the State of Delaware on August 27, 2018 (as amended, the "Certificate of Incorporation").

2. The Certificate of Incorporation of the Corporation is hereby amended by deleting the first paragraph under Article IV and replacing such paragraph with the following paragraph:

"The total number of shares of capital stock which the Corporation shall have authority to issue is Eight Hundred and Five Million (805,000,000), of which (i) Eight Hundred Million (800,000,000) shares shall be a class designated as common stock, par value $0.001 per share (the "Common Stock"), and (ii) Five Million (5,000,000) shares shall be a class designated as preferred stock, par value $0.001 per share (the "Preferred Stock")."

3. The Board of Directors of the Corporation has duly adopted a resolution pursuant to Section 242 of the General Corporation Law of the State of Delaware setting forth a proposed amendment to the Certificate of Incorporation of the Corporation and declaring said amendment to be advisable. The requisite stockholders of the Corporation have duly approved said proposed amendment in accordance with Section 242 of the General Corporation Law of the State of Delaware.

4. This Certificate of Amendment and the amendment to the Certificate of Incorporation effected hereby has been duly adopted in accordance with Section 242 of the General Corporation Law of the State of Delaware.

5. This Certificate of Amendment, and the amendment effected hereby, shall become effective upon filing.

IN WITNESS WHEREOF, the Corporation has caused this Certificate of Amendment to be signed by its President and Chief Executive Officer on this 23rd day of July, 2020.

CYTODYN INC.

By: /s/ Nader Z. Pourhassan, Ph.D.
Name: Nader Z. Pourhassan
Title: CEO

State of Delaware
Secretary of State
Division of Corporations
Delivered 11:56 AM 11/24/2021
FILED 11:56 AM 11/24/2021
SR 20213894759 – File Number 7032132

CERTIFICATE OF AMENDMENT OF CERTIFICATE OF INCORPORATION OF CYTODYN INC.

Pursuant to Section 242 of the General Corporation Law of the State of Delaware, CytoDyn Inc., a corporation organized and existing under the laws of the State of Delaware (the "Corporation"), does hereby certify as follows:

1. The name of the Corporation is CytoDyn Inc. The Corporation was originally incorporated under the name Point NewCo Inc. by the filing of its original Certificate of Incorporation with the Secretary of State of the State of Delaware on August 27, 2018 (as amended, the "Certificate of Incorporation").

2. The Certificate of Incorporation of the Corporation is hereby amended by deleting the first paragraph under Article IV and replacing such paragraph with the following paragraph:

"The total number of shares of capital stock which the Corporation shall have authority to issue is One Billion and Five Million (1,005,000,000), of which (i) One Billion (1,000,000,000) shares shall be a class designated as common stock, par value $0.001 per share (the "Common Stock"), and (ii) Five Million (5,000,000) shares shall be a class designated as preferred stock, par value $0.001 per share (the "Preferred Stock")."

3. The Board of Directors of the Corporation has duly adopted a resolution pursuant to Section 242 of the General Corporation Law of the State of Delaware setting forth a proposed amendment to the Certificate of Incorporation of the Corporation and declaring said amendment to be advisable. The requisite stockholders of the Corporation have duly approved said proposed amendment in accordance with Section 242 of the General Corporation Law of the State of Delaware.

4. This Certificate of Amendment and the amendment to the Certificate of Incorporation effected hereby has been duly adopted in accordance with Section 242 of the General Corporation Law of the State of Delaware.

5. This Certificate of Amendment, and the amendment effected hereby, shall become effective upon filing.

IN WITNESS WHEREOF, the Corporation has caused this Certificate of Amendment to be signed by its Chief Financial Officer on this 24th day of November, 2021.

CYTODYN INC.

By: /s/ Antonio Migliarese
Antonio Migliarese
Chief Financial Officer

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 Rules 13a-15(f) and 15d-15(f)) for the Registrant and have:
    a. designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the Registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this 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 10, 2022

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

Exhibit 31.2

Certification of Chief Financial Officer

I, Antonio Migliarese, 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 Rules 13a-15(f) and 15d-15(f)) for the Registrant and have:
    a. designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the Registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this 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 10, 2022

/s/ Antonio Migliarese
Antonio Migliarese
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 Form 10-Q for the fiscal quarter ended November 30, 2021, 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 10, 2022

/s/ Nader Z. Pourhassan
Nader Z. Pourhassan, Ph.D.
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 Form 10-Q for the fiscal quarter ended November 30, 2021, as filed with the Securities and Exchange Commission on the date hereof (the "Form 10-Q"), I, Antonio Migliarese, 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 10, 2022

/s/ Antonio Migliarese
Antonio Migliarese
Chief Financial Officer