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**UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
Washington, DC 20549**

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**FORM 10-Q**

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

For the quarterly period ended August 31, 2016

- 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

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**CYTODYN INC.**

(Exact name of registrant as specified in its charter)

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**Delaware**

(State or other jurisdiction of incorporation or organization)

**75-3056237**

(I.R.S. Employer or Identification No.)

**1111 Main Street, Suite 660**

**Vancouver, Washington**

(Address of principal executive offices)

**98660**

(Zip Code)

(Registrant's telephone number, including area code) **(360) 980-8524**

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

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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 and posted on its corporate Web site, if any, every Interactive Data File required to be submitted and posted 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 and post such files). Yes  No

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

Large Accelerated Filer

Accelerated Filer

Non-accelerated Filer

Smaller Reporting Company

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

On September 30, 2016 there were 138,221,981 shares outstanding of the registrant's \$0.001 par value common stock.

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**CytoDyn Inc.**  
Consolidated Balance Sheets

	<u>August 31, 2016</u> (unaudited)	<u>May 31, 2016</u>
<b>Assets</b>		
Current assets:		
Cash	\$ 4,444,259	\$ 9,641,776
Prepaid expenses	276,504	141,714
Prepaid clinical service fees	<u>2,369,321</u>	<u>1,710,852</u>
Total current assets	7,090,084	11,494,342
Furniture and equipment, net	22,946	24,550
Intangibles, net	<u>2,179,739</u>	<u>2,267,239</u>
<b>Total Assets</b>	<b>\$ 9,292,769</b>	<b>\$ 13,786,131</b>
<b>Liabilities and Stockholders' Equity</b>		
Current liabilities:		
Accounts payable	\$ 2,914,513	\$ 2,467,973
Accrued liabilities and salaries	58,125	242,708
Accrued license fee	<u>66,800</u>	<u>870,000</u>
Total current liabilities	<u>3,039,438</u>	<u>3,580,681</u>
<b>Total Liabilities</b>	<b>3,039,438</b>	<b>3,580,681</b>
<b>Stockholders' equity</b>		
Series B convertible preferred stock, \$0.001 par value; 400,000 shares authorized, 95,100 shares issued and outstanding at August 31, 2016 and May 31, 2016, respectively	95	95
Common stock, \$0.001 par value; 350,000,000 and 250,000,000 shares authorized, 124,883,821 and 123,335,634 issued and outstanding at August 31, 2016 and May 31, 2016, respectively	124,864	123,336
Additional paid-in capital	108,708,671	107,307,933
Accumulated (deficit)	<u>(102,580,299)</u>	<u>(97,225,914)</u>
Total stockholders' equity	<u>6,253,331</u>	<u>10,205,450</u>
<b>Total liabilities and stockholders' equity</b>	<b>\$ 9,292,769</b>	<b>\$ 13,786,131</b>

See accompanying notes to consolidated financial statements.

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CytoDyn Inc.  
Consolidated Statements of Operations  
(Unaudited)

	Three Months Ended August 31,	
	2016	2015
<b>Operating expenses:</b>		
General and administrative	\$ 1,366,016	\$ 856,660
Amortization and depreciation	92,584	90,191
Research and development	3,685,473	5,309,241
Legal fees	<u>214,047</u>	<u>401,389</u>
Total operating expenses	<u>5,358,120</u>	<u>6,657,481</u>
Operating loss	(5,358,120)	(6,657,481)
Interest income	3,735	358
Loss on extinguishment of convertible notes	—	(584,177)
Change in fair value of derivative liability	—	646,505
<b>Interest expense:</b>		
Amortization of discount on convertible notes	—	(1,006,590)
Amortization of debt issuance costs	—	(350,339)
Amortization of discount on related party convertible notes	—	(94,344)
Inducement interest	—	(757,871)
Interest on notes payable	<u>—</u>	<u>(91,076)</u>
Total interest expense	<u>—</u>	<u>(2,300,220)</u>
Loss before income taxes	(5,354,385)	(8,895,015)
Provision for taxes on income	—	—
Net loss	<u>\$ (5,354,385)</u>	<u>\$ (8,895,015)</u>
Basic and diluted loss per share	<u>\$ (0.04)</u>	<u>\$ (0.12)</u>
Basic and diluted weighted average common shares outstanding	<u>124,411,980</u>	<u>71,984,053</u>

See accompanying notes to consolidated financial statements.

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**CytoDyn Inc.**  
**Consolidated Statements of Cash Flows**  
**(Unaudited)**

	Three Months Ended August 31,	
	2016	2015
<b>Cash flows from operating activities:</b>		
Net loss	\$(5,354,385)	\$(8,895,015)
Adjustments to reconcile net loss to net cash used by operating activities:		
Amortization and depreciation	92,584	90,191
Amortization of debt issuance costs	—	350,339
Amortization of discount on convertible notes	—	1,006,590
Amortization of discount on related party notes	—	94,344
Change in fair value of derivative liability	—	(646,505)
Loss on extinguishment of convertible notes	—	584,177
Interest expense associated with conversion and exercise inducement	—	757,871
Stock-based compensation	335,349	351,564
Changes in current assets and liabilities:		
(Increase) decrease in prepaid expenses	(793,259)	232,716
(Decrease) increase in accounts payable and accrued expenses	(541,243)	824,875
Net cash used in operating activities	(6,260,954)	(5,248,853)
<b>Cash flows from investing activities:</b>		
Furniture and equipment purchases	(3,480)	—
Net cash used in investing activities	(3,480)	—
<b>Cash flows from financing activities:</b>		
Proceeds from sale of common stock and warrants	729,500	8,014,241
Exercise of common stock warrants	397,880	—
Payment of offering costs	(60,463)	(983,101)
Net cash provided by financing activities	1,066,917	7,031,140
Net change in cash	(5,197,517)	1,782,287
Cash, beginning of period	9,641,776	1,050,060
Cash, end of period	\$ 4,444,259	\$ 2,832,347
<b>Non-cash investing and financing transactions:</b>		
Common stock issued upon conversion of convertible debt	\$ —	\$ 4,678,543
Common stock issued or to be issued for accrued interest payable	\$ —	\$ 53,972

See accompanying notes to consolidated financial statements.

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### CYTODYN INC. NOTES TO CONSOLIDATED FINANCIAL STATEMENTS AS OF AUGUST 31, 2016 (UNAUDITED)

#### **Note 1 – Organization**

CytoDyn Inc. (the “Company”) was originally incorporated under the laws of Colorado on May 2, 2002 under the name RexRay Corporation (its previous name) and, effective August 27, 2015, reincorporated under the laws of Delaware. We are a clinical-stage biotechnology company focused on the clinical development and potential commercialization of humanized monoclonal antibodies to treat Human Immunodeficiency Virus (“HIV”) infection. Our lead product candidate, PRO 140, belongs to a class of HIV therapies known as entry inhibitors. These therapies block HIV from entering into and infecting certain cells.

The Company is developing a class of therapeutic monoclonal antibodies to address unmet medical needs in the areas of HIV and graft versus host disease.

#### **Note 2 – Summary of Significant Accounting Policies**

##### **Basis of Presentation**

The accompanying consolidated financial statements are unaudited and have been prepared in accordance with accounting principles generally accepted in the United States of America (“U.S. GAAP”) and reflect all adjustments, which consist solely of normal recurring adjustments, needed to fairly present the financial results for these periods. The consolidated financial statements and notes thereto are presented as prescribed by Form 10-Q. Accordingly, certain information and note disclosures normally included in financial statements prepared in accordance with accounting principles generally accepted in the United States of America have been omitted. The accompanying consolidated financial statements should be read in conjunction with the financial statements for the fiscal years ended May 31, 2016 and 2015 and notes thereto in the Company’s Annual Report on Form 10-K for the fiscal year ended May 31, 2016, filed with the Securities and Exchange Commission on July 19, 2016. Operating results for the three months ended August 31, 2016 are not necessarily indicative of the results that may be expected for the entire year. In the opinion of management, all adjustments have been made, which consist only of normal recurring adjustments necessary for a fair statement of (a) the results of operations for the three month periods ended August 31, 2016 and August 31, 2015, (b) the financial position at August 31, 2016 and (c) cash flows for the three month periods ended August 31, 2016 and August 31, 2015.

##### **Principles of Consolidation**

The consolidated financial statements include the accounts of the Company and its wholly owned subsidiaries, AGTI and CVM, both of which are dormant entities. All intercompany transactions and balances are eliminated in consolidation.

##### **Reclassifications**

Certain prior year amounts shown in the accompanying consolidated financial statements have been reclassified to conform to the 2016 presentation. These reclassifications did not have any effect on total current assets, total assets, total current liabilities, total liabilities, total stockholders’ equity, net loss or earnings per share.

##### **Going Concern**

The consolidated accompanying financial statements have been prepared on a going concern basis, which contemplates the realization of assets and the satisfaction of liabilities in the normal course of business. As shown in the accompanying consolidated financial statements, the Company had losses for all periods presented. The Company incurred a net loss of \$5,354,385 for the three months ended August 31, 2016 and has an accumulated deficit of \$102,580,299 as of August 31, 2016. These factors, among others, raise substantial doubt about the Company’s ability to continue as a going concern.

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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 candidates, obtain U.S. Food & Drug Administration ("FDA") approval, outsource manufacturing of the product candidates, and ultimately achieve initial revenues and attain profitability. The Company is currently engaging in significant research and development activities related to these product candidates, 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 our future development activities and our working capital needs largely from the sale of equity and debt securities, combined with additional funding from other traditional sources. There can be no assurance, however, that the Company will be successful in these endeavors.

### **Use of Estimates**

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

### **Cash**

Cash is maintained at federally insured financial institutions and, at times, balances may exceed federally insured limits. The Company has never experienced any losses related to these balances. Balances in excess of federally insured limits at August 31, 2016 and May 31, 2016 approximated \$4.2 million and \$9.4 million, respectively.

### **Identified Intangible Assets**

The Company follows the provisions of FASB ASC Topic 350 Intangibles-Goodwill and Other, which establishes accounting standards for the impairment of long-lived assets such as intangible assets subject to amortization. The Company reviews long-lived assets to be held and used for impairment whenever events or changes in circumstances indicate that the carrying amount of the assets may not be recoverable. If the sum of the undiscounted expected future cash flows over the remaining useful life of a long-lived asset group is less than its carrying value, the asset is considered impaired. Impairment losses are measured as the amount by which the carrying amount of the asset group exceeds the fair value of the asset. There were no impairment charges for the three months ended August 31, 2016 and 2015. The value of the Company's patents would be significantly impaired by any adverse developments as they relate to the clinical trials pursuant to the patents acquired as discussed in Notes 7 and 9.

### **Research and Development**

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

### **Pre-launch Inventory**

The Company may scale-up and make commercial quantities of its product candidate prior to the date it anticipates that such product will receive final FDA approval. The scale-up and commercial production of pre-launch inventories involves the risk that such products may not be approved for marketing by the FDA on a timely basis, or ever. This risk notwithstanding, the Company may scale-up and build pre-launch inventories of product that have not yet received final governmental approval when the Company believes that such action is appropriate in relation to the commercial value of the product launch opportunity. The determination to capitalize is made once the Company (or its third party development partners) has filed a Biologics License Application that has been acknowledged by the FDA as containing sufficient information to allow the FDA to conduct its review in an efficient and timely manner and management is reasonably certain that all regulatory and legal hurdles will be cleared. This determination is based on the particular facts and circumstances relating to the expected FDA approval of the drug product being considered. As of August 31, 2016 and May 31, 2016 the Company did not have pre-launch inventory that qualified for capitalization pursuant to U.S. GAAP ASC 330 "Inventory."

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### **Fair Value of Financial Instruments**

At August 31, 2016 and May 31, 2016 the carrying value of the Company's cash, accounts payable and accrued liabilities approximate their fair value due to the short-term maturity of the instruments. The Company carries derivative financial instruments at fair value as required by U.S. GAAP.

Derivative financial instruments consist of financial instruments that contain a notional amount and one or more underlying variables (e.g., interest rate, security price, variable conversion rate or other variables), require no initial net investment and permit net settlement.

Derivative financial instruments may be free-standing or embedded in other financial instruments. The Company follows the provisions of FASB ASC 815 "Derivatives and Hedging" ("ASC 815"), as their instruments are recorded as a derivative liability, at fair value, with changes in fair value reflected in income.

#### *Fair Value Hierarchy*

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

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

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

Level 3. Unobservable inputs to the valuation methodology are significant to the measurement of the fair value of assets or liabilities.

These Level 3 inputs also include non-binding market consensus prices or non-binding broker quotes that we were unable to corroborate with observable market data.

### **Stock-Based Compensation**

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

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

### **Common Stock**

On March 18, 2016, at a special meeting of stockholders, a proposal was approved to increase the total number of authorized shares of common stock of the Company from 200,000,000 to 250,000,000. Subsequently, on August 24, 2016, at the Annual Meeting of Stockholders, a proposal was approved to increase the total number of authorized shares of common stock from 250,000,000 to 350,000,000.

### **Preferred Stock**

The Company's Board of Directors is authorized to issue up to 5,000,000 shares of preferred stock without stockholder approval. As of August 31, 2016, the Company has authorized the issuance of 400,000 shares of Series B convertible preferred stock, of which 95,100 shares are outstanding. The remaining preferred shares authorized have no specified rights.

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### **Debt Issuance Costs**

During the year ended May 31, 2015, the Company incurred direct costs associated with the issuance of short-term convertible notes, as described in Note 4, and recorded approximately \$709,000 of debt issuance costs and approximately \$ -0- and \$350,000 of related amortization for the three months ended August 31, 2016 and 2015, respectively.

### **Offering Costs**

During the three months ended August 31, 2016 and August 31, 2015, the Company incurred approximately \$61,000 and \$1.0 million in direct incremental costs associated with the sale of the equity securities, as described in Note 10. The offering costs were recorded as a component of equity when the proceeds were received.

### **Stock for Services**

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

### **Loss per Common Share**

Basic loss per share is computed by dividing the net loss by the weighted average number of shares of common stock outstanding during the period. Diluted loss per share would include the weighted average number of shares of common stock outstanding and potentially dilutive common stock equivalents. Because of the net losses for all periods presented, the basic and diluted weighted average shares outstanding are the same since including the additional shares would have an anti-dilutive effect on the loss per share. For this reason, common stock options and warrants to purchase 62,588,165 and 40,003,836 shares of common stock were not included in the computation of basic and diluted weighted average number of shares of common stock outstanding for the three months ended August 31, 2016 and August 31, 2015, respectively. Additionally, as of August 31, 2016, shares of Series B convertible preferred stock in the aggregate of 95,100 shares can potentially convert into 951,000 shares of common stock.

### **Income Taxes**

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

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

### **Note 3 – Recent Accounting Pronouncements**

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

In February 2016, the FASB issued Accounting Standards Update No. 2016-02 (ASU 2016-02), *Leases (Topic 842)* effective for annual periods beginning after December 15, 2018, and interim periods within those annual periods. The ASU is to be applied using a modified retrospective approach with optional practical expedients and other special transition provisions. Early adoption is permitted.)—The ASU supersedes FASB ASC 840, *Leases*, and adds FASB ASC 842. It also amends and supersedes a number of other paragraphs throughout the FASB ASC. Management is currently assessing the impact the adoption of ASU 2016-02 will have on the Company’s Consolidated Financial Statements.

In March 2016, the FASB issued Accounting Standards Update No. 2016-09 (ASU 2016-09), *Compensation—Stock Compensation (Topic 718): Improvements to Employee Share-Based Payment Accounting* effective for annual periods beginning after December 15, 2016, and interim periods within those annual periods. Early application is permitted for reporting periods where financial statements have not yet been made available for issuance. The ASU requires different transition methods and disclosures based on the type of amendment included in the ASU.). Management is currently assessing the impact the adoption of ASU 2016-09 will have on the Company’s Consolidated Financial Statements.

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In August 2014, the FASB issued Accounting Standards Update No. 2014-15, “Presentation of Financial Statements—Going Concern (Subtopic 205-40): Disclosure of Uncertainties about an Entity’s Ability to Continue as a Going Concern” (“ASU 2014-15”). ASU 2014-15 is intended to define management’s responsibility to evaluate whether there is substantial doubt about an organization’s ability to continue as a going concern and to provide related footnote disclosures. The amendments in ASU 2014-15 are effective for reporting periods beginning after December 15, 2016, with early adoption permitted. Management is currently assessing the impact the adoption of ASU 2014-15 will have on our Consolidated Financial Statements.

### **Note 4 – Convertible Instruments**

#### *Series B Convertible Preferred Stock*

During fiscal 2010, the Company issued 400,000 shares of Series B, \$0.001 par value Convertible Preferred Stock (“Series B”) at \$5.00 per share for cash proceeds totaling \$2,009,000, of which 95,100 shares remain outstanding at August 31, 2016. Each share of the Series B is convertible into ten shares of the Company’s \$0.001 par common stock including any accrued dividends, with an effective fixed conversion price of \$.50 per share. The holders of the Series B can only convert their shares to common shares provided the Company has sufficient authorized common shares at the time of conversion. Accordingly, the conversion option was contingent upon the Company increasing its authorized common shares, which occurred in April 2010, when the Company’s stockholders approved an increase in the authorized shares of common stock to 100,000,000. At the commitment date, which occurred upon such stockholder approval, the conversion option related to the Series B was beneficial. The intrinsic value of the conversion option at the commitment date resulted in a constructive dividend to the Series B holders of approximately \$6,000,000. The constructive dividend increased and decreased additional paid-in capital by identical amounts. The Series B has liquidation preferences over the common shares at \$5.00 per share plus any accrued dividends. Dividends are payable to the Series B holders when declared by the board of directors at the rate of \$.25 per share per annum. Such dividends are cumulative and accrue whether or not declared and whether or not there are any profits, surplus or other funds or assets of the Company legally available. The Series B holders have no voting rights.

#### *2013 Convertible Notes*

During the year ended May 31, 2013, the Company issued \$6,588,250 in aggregate original principal amount of unsecured convertible notes (the “2013 Convertible Notes”) to investors for cash. Each outstanding 2013 Convertible Note is convertible at the election of the holder at any time into common shares at a fixed conversion price. At issuance, total principal of \$6,208,250 was convertible at \$0.75 per share, and \$380,000 was convertible at \$0.65 per share. The 2013 Convertible Notes were payable in full between November 30, 2013 and March 6, 2016, and bore interest at rates ranging from 5% to 10% per year, payable in cash semi-annually in arrears beginning on April 1, 2013. At August 31, 2016 and May 31, 2016, there were no convertible notes outstanding.

In connection with the initial sale of the 2013 Convertible Notes, detachable common stock warrants with a two-year term to purchase a total of 8,527,984 common shares at exercise prices ranging from \$0.75 to \$2.00 per share were issued to the investors. The Company determined the fair value of the warrants at issuance using the Black-Scholes option pricing model utilizing certain weighted average assumptions such as expected stock price volatility, term of the warrants, risk-free interest rates, and expected dividend yield at the grant date.

Additionally, at the commitment date, the Company determined that the conversion feature related to the 2013 Convertible Notes was beneficial to the investors. As a result, the Company determined the intrinsic value of the conversion feature utilizing the fair value of the underlying common stock at the commitment date and the effective conversion price after discounting the 2013 Convertible Notes for the fair value of the warrants. The fair value of the warrants and the intrinsic value of the beneficial conversion feature were recorded as a debt discount to the 2013 Convertible Notes, with a corresponding increase to additional paid-in capital. The debt discount is amortized over the life of the 2013 Convertible Notes. During the three months ended August 31, 2016 and 2015, the Company recognized approximately \$ - 0- and \$4,100, respectively, as interest expense related to amortization of the debt discount. The unamortized discount was fully amortized upon any conversion of the 2013 Convertible Notes before maturity. Activity related to the 2013 Convertible Notes for the three months ended August 31, 2016 and fiscal year ended May 31, 2016 was as follows:

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	<u>August 31, 2016</u>	<u>May 31, 2016</u>
Face amount of Notes	\$ —	\$ 50,000
Unamortized discount	—	—
Conversions	—	(50,000)
Total carrying value of Notes	\$ —	\$ —

### *AVCP Convertible Notes*

During the year ended May 31, 2015, the Company issued a three-month unsecured convertible promissory note (the “AVCP Bridge Note” and together with the AVCP Two-Year Note, the “AVCP Convertible Notes”) in the aggregate principal amount of \$1,500,000 to Alpha Venture Capital Partners, L.P. (“AVCP”), an affiliate of one of the Company’s directors. As described in greater detail below, the AVCP Bridge Note, along with the AVCP Two-Year Note, were subsequently converted in a transaction occurring during the year ended May 31, 2016. The principal amount of the AVCP Bridge Note plus unpaid accrued interest was convertible at the election of the holder into shares of the Company’s common stock at any time prior to maturity at an initial conversion price of \$1.00 per share. The AVCP Bridge Note bore simple interest of 1.2% per month, payable at maturity on May 5, 2015, and monthly thereafter, upon the Company’s election to exercise a one-time option to extend the maturity by an additional three months, which the Company exercised on April 1, 2015 (extending the maturity date to August 5, 2015). Prepayment was permitted without penalty subject to the Company’s obligation to pay at least three months’ interest on the principal amount. The conversion price was subject to (i) adjustment for stock splits and similar corporate events and (ii) reduction to a price per share that is 10% below the lowest sale price that is below \$.9444 per share, for shares of common stock sold or deemed sold in future securities offerings, including sales to AVCP and its designees subject to certain exempt transactions. Without AVCP’s prior written consent, the Company was not permitted to incur additional indebtedness for borrowed money, other than up to an additional \$6.0 million in convertible promissory notes that may be issued to AVCP or related parties, unless such indebtedness was subordinated in right of payment to the Company’s obligations under the AVCP Bridge Note and any additional notes issued to AVCP or related parties.

During the year ended May 31, 2015, the Company issued an additional two-year term unsecured convertible promissory note (the “AVCP Two-Year Note”) in the aggregate principal amount of \$2,000,000 to AVCP, an affiliate of one of the Company’s directors as described under Note 9 below. As described in greater detail below, along with the AVCP Bridge Note, the AVCP Two-Year Note has subsequently been converted in a transaction occurring during the year ended May 31, 2016. The AVCP Two-Year Note bore simple interest at the annual rate of 5%, payable quarterly. The principal balance of the AVCP Two-Year Note was due and payable in full on September 26, 2016, subject to acceleration of payment in the event of default. Prepayment was permitted without penalty. The AVCP Two-Year Note included events of default for nonpayment of principal or interest when due or other breaches of the AVCP Two-Year Note, as well as for breach of any term of the AVCP Two-Year Note and related warrant agreement. The principal amount of the AVCP Two-Year Note plus unpaid accrued interest was convertible at the election of the holder into shares of the Company’s common stock at any time prior to maturity at an initial conversion price of \$1.00 per share. The conversion price was subject to adjustment on the same terms, and contained similar consent rights to the issuance of additional indebtedness, as the AVCP Bridge Note above.

As a result of the private placement of approximately \$4 million in convertible notes during the fourth quarter of fiscal year ended May 31, 2015, as described below, the conversion price of the AVCP Convertible Notes was reduced to \$0.675 per share of common stock, which was 90% of the weighted-average price of the deemed issued shares of \$0.75 related to the approximately \$4 million offering of 2015 Convertible Notes described below. The decrease in the conversion price caused the number of shares of common stock issuable upon conversion of the AVCP Convertible Notes to increase from 3,500,000 to 5,185,185 shares of common stock.

The Company accounted for the AVCP Convertible Notes and related warrants, fully described below, as a financing transaction, wherein proceeds were allocated to the financial instruments issued. Prior to making the accounting allocation, the AVCP Convertible Notes and warrants were evaluated for proper classification under FASB ASC 480 “Distinguishing Liabilities from Equity” and ASC 815. The debt discounts associated with the notes were amortized over the term of the notes and the Company recognized approximately \$ -0- and \$94,000 in non-cash amortization expense for the three months ended August 31, 2016 and August 31, 2015, respectively.

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In connection with the original issuance of the two AVCP Convertible Notes, the Company issued warrants to AVCP covering 250,000 and 75,000 shares of the Company's common stock exercisable at a price of \$0.50 per share on September 26, 2014 and February 6, 2015, respectively. The warrants are currently exercisable in full, include a cashless exercise feature, and will expire on December 31, 2019 and February 29, 2020, respectively. The aforementioned warrants have a term of five years from inception and an exercise price of \$0.50 per share and meet the conditions for equity classification per ASC 815. The fair value of the warrants was determined using a Black-Scholes option model using the following assumptions:

	Warrants issued on September 26, 2014	Warrants issued on February 6, 2015
Risk free interest rate	1.82%	1.48%
Expected life	5 years	5 years
Expected volatility	136%	119%
Dividend yield	0.00%	0.00%

Based on the previous conclusions, the Company allocated the cash proceeds first to the derivative liability at its fair value and then to the warrants at their relative fair value, with the residual allocated to the host AVCP Convertible Notes as presented below.

On June 23, 2015, the Company, Alpha Venture Capital Management, LLC and AVCP entered into a Debt Conversion and Termination Agreement pursuant to which (i) AVCP agreed to convert the \$3,535,627 in aggregate indebtedness as of June 23, 2015 under the AVCP Convertible Notes in exchange for 5,237,966 shares of the Company's common stock; (ii) subject to the conversion of the two AVCP Convertible Notes, the Company agreed to issue AVCP an additional five-year warrant covering 1,000,000 shares of common stock at an exercise price of \$0.675 per share and (iii) subject to the AVCP's receipt of the common shares and warrant, the parties agreed to (a) terminate the subscription agreements; and (b) release and discharge each other party from all claims and obligations arising under the two AVCP Convertible Notes and subscription agreements. As a result of the debt conversion, during the three months ended August 31, 2015, the Company recognized a loss on extinguishment of the AVCP Convertible Notes of approximately \$584,000, a non-cash gain on the change in the fair value of the derivative liability of approximately \$647,000 and non-cash inducement interest expense of approximately \$758,000 arising from the aforementioned warrant.

	Year Ended May 31, 2016				
	May 31, 2015	Debt Discount	Fair Value	Conversion	May 31, 2016
AVCP Convertible notes payable	\$ 2,637,618	\$ 94,344	\$ —	\$(2,731,962)	\$ —
Compound embedded derivative	2,008,907	—	(646,505)	(1,362,402)	—
Warrants (equity allocation)	215,732	—	—	—	—
Accrued interest on notes payable				(35,627)	
Fair Value of Common Stock Issued				4,714,168	
Loss on conversion				(584,177)	
	<u>\$ 4,862,257</u>	<u>\$ 94,344</u>	<u>\$(646,505)</u>	<u>\$ —</u>	<u>\$ —</u>

### *Short-Term Convertible Notes*

During the year ended May 31, 2015, the Company issued approximately \$4.0 million of six-month unsecured convertible promissory notes (the "Short-Term Convertible Notes") and related warrants to investors for cash, of which approximately \$1.3 million in aggregate original principal amount remains outstanding, following the consummation of the tender offer transaction on September 21, 2015, as described below. Each Short-Term Convertible Note was originally convertible, at the election of the holder, at any time into common shares at a \$0.75 per share. The Short-Term Convertible Notes bore interest of 7% per annum, payable in cash upon maturity. In connection with the issuance of the Short-Term Convertible Notes, the Company also issued warrants with a five-year term to purchase a total of 1,061,586 shares of \$.001 par value common stock at an exercise price of \$0.75. The Company determined the fair value of the warrants using the Black-Scholes option pricing model utilizing certain weighted-average assumptions, such as expected stock price volatility, term of the warrants, risk-free interest rate and expected dividend yield at the commitment date.

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The Company utilized the following weighted-average assumptions to value the above investor warrants:

	2015
Expected dividend yield	0%
Stock price volatility	88.79%
Expected term	5 years
Risk-free interest rate	1.46% - 1.58%
Grant-date fair value	\$0.52 - \$0.76

Additionally, at the commitment date, the Company determined that the conversion feature related to the Short-Term Convertible Notes was beneficial to the investors. As a result, the Company determined the intrinsic value of the beneficial conversion feature utilizing the fair value of the underlying common stock at the commitment date and the effective conversion price after discounting the Short-Term Convertible Notes for the fair value of the warrants. The fair value of the warrants and the intrinsic value of the conversion feature were recorded as a debt discounts to the Short-Term Convertible Notes, and a corresponding increase to additional paid-in capital. The debt discounts are amortized over the life of the Short-Term Convertible Notes. The Company recognized approximately \$ -0- and \$1,007,000 as interest expense related to the amortization of the debt during the three months ended August 31, 2016 and 2015, respectively. There were no Short-Term Convertible Notes outstanding at May 31, 2016. The unamortized discounts were fully amortized upon any conversion of the Short-Term Convertible Notes before maturity.

During the year ended May 31, 2016, the Company tendered an offer to settle the balances of the Short-Term Convertible Notes. The Company offered to exchange the Short-Term Convertible Notes for (i) the issuance of restricted shares of common stock, for the settlement of the balance of the Short-Term Convertible Notes, principal and accrued but unpaid interest as of September 21, 2015, which was the commitment date, at a conversion price of \$0.675 per share, and (ii) the amendment of the related warrants to reduce the exercise price to \$0.675 per share. The offer represented a 10.0% discount to \$0.75, which was the current conversion price of the Short-Term Convertible Notes and current exercise price of the related warrants. On September 21, 2015, the offering period and withdrawal rights for the exchange offer expired, and the Company completed the exchange offer for approximately \$2.7 million in aggregate original principal amount of Short-Term Convertible Notes.

Following the consummation of the exchange offer described above, an aggregate principal amount of \$525,000 and accrued but unpaid interest of \$17,830 converted into 723,773 shares of common stock. The principal and interest for Short-Term Convertible Notes that were not exchanged in the exchange offer, or that are not otherwise converted pursuant to their terms, became due and payable between October 30, 2015 and November 15, 2015, six months from their issuance. The Company repaid the remaining aggregate principal and interest on such Convertible Notes of approximately \$789,000 Short-Term Convertible Notes on their respective maturity dates. Related to the tender offer conversions, the Company recognized approximately \$330,000 in non-cash interest expense and approximately \$108,000 commission expense to assist the Company in conversion of the debt at the commitment date.

Activity related to the Short-Term Convertible Notes for the three months ended August 31, 2016, and fiscal year ended May 31, 2016 was as follows:

	August 31, 2016	May 31, 2016
Face amount of Notes	\$ —	\$ 3,981,050
Unamortized discounts	—	—
Tender offer conversions	—	(2,693,800)
Conversions	—	(525,000)
Payments upon maturity	—	(762,250)
Total carrying value of Notes	<u>\$ —</u>	<u>\$ —</u>

### **Note 5 – Derivative Liability:**

The following tables summarize the fair value of the derivative liability and linked common shares as of the derivative liability inception dates (September 26, 2014 and February 6, 2015) and fiscal year end May 31, 2016:

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	September 26, 2014	February 6, 2015	May 31, 2015	May 31, 2016
Total derivative liability	<u>\$ 767,038</u>	<u>\$ 403,266</u>	<u>\$2,008,907</u>	<u>\$ —</u>
Shares indexed to derivative liability	<u>2,000,000</u>	<u>1,500,000</u>	<u>5,185,185</u>	<u>—</u>

Changes in the fair value of the derivative liability, carried at fair value, are reported as “Change in fair value of derivative liability” in the Consolidated Statements of Operations. During the three months ended August 31, 2015, the Company recognized a non-cash gain of approximately \$647,000, due to the change in derivative liability related to the embedded derivative in the AVCP Notes.

ASC 815 does not permit an issuer to account separately for individual derivative terms and features embedded in hybrid financial instruments that require bifurcation and liability classification as derivative financial instruments. Rather, such terms and features must be combined together and fair valued as a single, compound embedded derivative. The Company selected a Binomial Lattice Model to value the compound embedded derivative because it believes this technique is reflective of all significant assumptions that market participants would likely consider in negotiating the transfer of this convertible note. Such assumptions include, among other inputs, stock price volatility, risk-free rates, credit risk assumptions, early redemption and conversion assumptions, and the potential for future adjustment of the conversion price due to a future dilutive financing.

Significant inputs and assumptions used in the Binomial Lattice Model for the derivative liability are as follows:

	September 26, 2014	February 6, 2015	May 31, 2015	June 23, 2015
Quoted market price on valuation date	\$ 0.79	\$ 0.96	\$ 0.99	\$ 0.90
Contractual conversion rate	\$ 1.00	\$ 1.00	\$ 1.00	\$ 1.00
Adjusted conversion price (a)	\$ 0.9759	\$ 1.0000	\$ 0.675	\$ 0.675
Contractual term to maturity (years)	2.00	0.49	0.18-1.33	0.12
Expected volatility	123%	124%	90%-114%	48%
Contractual interest rate	5%	2%	1.5%-5.0%	1.2%
Risk-free rate	0.59%	0.045%	0.041% - 0.48%	0.001%
Risk adjusted rate	2.69%	2.78%	2.80%	2.80%
Probability of event of default	5.00%	5.00%	5.00%	5.00%

- (a) The adjusted conversion price input used in the Binomial Lattice Model considers both (i) the reduction of the conversion price to \$0.675 on April 30, 2015, as result of a private placement offering in which Common Stock was sold for a weighted average price of \$0.75 and (ii) potential adjustment to the stated conversion price due to a future dilutive issuance. This input was calculated using a probability-weighted approach which considered the likelihood of various scenarios occurring including (i) potential success or failure of various phases for PRO 140, (ii) the probability the Company will enter into a future financing and (iii) and the potential price of a future financing.

The fair value of the derivative liability is significantly influenced by the Company’s trading market price, stock price volatility, changes in interest, assumptions regarding the adjusted conversion price and early redemption or conversion of the AVCP Notes.

### **Note 6 – Stock Options and Warrants**

The Company has one active stock-based equity plan at August 31, 2016, the CytoDyn Inc. 2012 Equity Incentive Plan (the “2012 Plan”) and one stock-based equity plan that is no longer active, but under which certain prior awards remain outstanding, the CytoDyn Inc. 2004 Stock Incentive Plan (the “2004 Plan” and, together with the 2012 Plan, the “Incentive Plans”). The 2012 Plan was approved by stockholders at the Company’s 2012 annual meeting to replace the 2004 Plan. The 2012 Plan was amended by stockholder approval in February 2015 to increase the number of shares available for issuance from 3,000,000 to 5,000,000 shares of common stock and in March 2016 to increase the number of shares available for issuance from 5,000,000 to 7,000,000 shares of common stock. As of August 31, 2016, the Company had 650,930 shares available for future stock-based grants under the 2012 Plan.

#### *Stock Options*

During the three months ended August 31, 2016, the Company granted annual stock option awards to directors to purchase a total of 300,000 shares of common stock to directors with an exercise price of \$1.09 per share. These option awards vest quarterly over one year and have a ten-year term. The grant date fair value related to these options was \$0.78 per share.

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During the three months ended August 31, 2016, the Company granted options, covering an aggregate of 1,050,000 shares of common stock, to executive management and employees with exercise prices of \$1.09 and \$1.10 per share. The options vest annually over three years, have a ten-year term and grant date fair values of \$0.75 and \$0.76 per share, respectively.

### *Warrants*

During the three months ended August 31, 2016, in connection with private equity offerings, as fully described in Note 10, the Company issued common stock warrants, covering 182,375 shares of common stock to investors. The warrants have a five-year term and an exercise price of \$1.35 per share. During the three months ended August 31, 2016, holders of warrants covering 774,097 shares of common stock exercised the right to purchase such shares at either \$0.50 or \$0.75 per share and the Company received proceeds of approximately \$398,000. Additionally, warrants covering 122,362 shares with an exercise price of \$0.75 per share were exercised pursuant to a cashless exercise provision.

Compensation expense related to stock options and warrants was approximately \$335,000 and \$352,000 for the three months ended August 31, 2016 and August 31, 2015, respectively. The grant date fair value of options and warrants vested during the three month periods ended August 31, 2016 and August 31, 2015 was approximately \$252,000 and \$337,000, respectively. As of August 31, 2016, there was approximately \$1,404,000 of unrecognized compensation expense related to share-based payments for unvested options, which is expected to be recognized over a weighted average period of 1.87 years.

The following table represents stock option and warrant activity as of and for the three-months ended August 31, 2016:

	Number of Shares	Weighted Average Exercise Price	Weighted Average Remaining Contractual Life in Years	Aggregate Intrinsic Value
Options and warrants outstanding – May 31, 2016	63,307,150	\$ 0.83	3.20	\$ 9,863,492
Granted	1,532,375	1.12	—	—
Exercised	(896,459)	0.55	—	—
Forfeited/expired/cancelled	(1,354,901)	1.67	—	—
Options and warrants outstanding – August 31, 2016	<u>62,588,165</u>	0.83	3.73	14,738,579
Outstanding exercisable – August 31, 2016	<u>59,097,832</u>	\$ 0.82	3.47	\$14,427,145

### **Note 7 – Acquisition of Patents**

As discussed in Note 8 below, the Company consummated an asset purchase on October 16, 2012, and paid \$3,500,000 for certain assets, including intellectual property, certain related licenses and sublicenses, FDA filings and various forms of the PRO 140 drug substance. The Company followed the guidance in Financial Accounting Standards Topic 805 to determine if the Company acquired a business. Based on the prescribed accounting, the Company acquired assets and not a business. As of August 31, 2016, the Company has recorded and is amortizing \$3,500,000 of intangible assets in the form of patents. The Company estimates the acquired patents have an estimated life of ten years. Subsequent to the acquisition date, the Company has continued to expand, amend and file new patents central to its current trial strategies, which, in turn, have extended the protection period for certain methods of using PRO 140 and formulations comprising PRO 140 out through at least 2026 and 2031, respectively, in various countries.

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The following presents intangible assets activity:

	August 31, 2016	May 31, 2016
Gross carrying amounts	\$ 3,500,000	\$ 3,500,000
Accumulated amortization	<u>(1,356,250)</u>	<u>(1,268,750)</u>
Total amortizable intangible assets, net	2,143,750	2,231,250
Patents currently not amortized	35,989	35,989
Carrying value of intangibles, net	<u>\$ 2,179,739</u>	<u>\$ 2,267,239</u>

Amortization expense related to patents was approximately \$87,500 for the three months ended August 31, 2016 and 2015. The estimated aggregate future amortization expense related to the Company's intangible assets with finite lives is estimated at approximately \$350,000 per year for the next five years.

### **Note 8 – License Agreements**

During the year ended May 31, 2016, the Company executed a license agreement 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 PRO 140 material. In connection with this license agreement, the Company became the primary obligor of an additional £600,000 (approximately US\$807,000 utilizing current exchange rates), which was timely paid by June 30, 2016. During the year ended May 31, 2016, the Company accrued an additional expense of £600,000 (approximately US\$870,000) in connection with the June 30, 2016 obligation. Future annual license fees and royalty rate will vary depending on whether we manufacture PRO 140 ourselves, utilize the third-party licensor as a contract manufacturer, or utilize an independent party as a contract manufacturer. The licensor does not charge an annual license fee of £300,000 (approximately US\$432,000) when it serves as the manufacturer.

### **Note 9 – Commitment and Contingencies**

Under the Asset Purchase Agreement, dated July 25, 2012, between the Company and Progenics Pharmaceuticals, Inc. ("Progenics") (the "Asset Purchase Agreement"), the Company acquired from Progenics its rights to the HIV viral-entry inhibitor drug candidate PRO 140 ("PRO 140"), a humanized anti-CCR5 monoclonal antibody, as well as certain other related assets, including the existing inventory of bulk PRO 140 drug product, intellectual property, certain related licenses and sublicenses, and U.S. Food and Drug administration ("FDA") regulatory filings. On October 16, 2012, the Company paid to Progenics \$3,500,000 in cash to close the transaction. The Company is also required to pay Progenics the following milestone payments and royalties: (i) \$1,500,000 at the time of the first dosing in a U.S. Phase 3 trial or non-US equivalent, which was paid during the year ended May 31, 2016; (ii) \$5,000,000 at the time of the first U.S. new drug application approval by the FDA or other non-U.S. approval for the sale of PRO 140; and (iii) royalty payments of up to 5% on net sales during the period beginning on the date of the first commercial sale of PRO 140 until the later of (a) the expiration of the last to expire patent included in the acquired assets, and (b) 10 years, in each case determined on a country-by country basis. During the year ended May 31, 2016 the Company paid \$1.5 million of such milestones owed to Progenics as a result of the first dosing in a U.S. Phase 3 trial. To the extent that such milestone payments and royalties are not timely made, under the terms of the Asset Purchase Agreement, Progenics has certain repurchase rights relating to the assets sold to the Company thereunder.

Payments to the third-party licensor and to Progenics are in addition to payments due under a Development and License Agreement, dated April 30, 1999 (the "PDL License"), between Protein Design Labs (now AbbVie Inc.) ("PDL") and Progenics, which was assigned to the Company in the Asset Purchase Agreement, pursuant to which the Company has an exclusive worldwide license to develop, make, have made, import, use, sell, offer to sell or have sold products that incorporate the humanized form of the PRO 140 antibody developed by PDL under the agreement and must pay additional milestone payments and royalties as follows: (i) \$1,000,000 upon initiation of a Phase 3 clinical trial, which was paid during the year ended May 31, 2016; (ii) \$500,000 upon filing a Biologic License Application with the FDA or non-U.S. equivalent regulatory body; (iii) \$500,000 upon FDA approval or approval by another non-U.S. equivalent regulatory body; and (iv) royalties of up to 7.5% 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. During the year ended May 31, 2016 the Company paid \$1 million of such milestones. To the extent that such milestone payments and royalties are not timely made, under the terms of the PDL License, AbbVie Inc. has certain termination rights relating to the Company's license of PRO 140 thereunder. Pursuant to the foregoing Asset Purchase Agreement and PDL License, the Company accrued an expense of \$2,500,000 as of May 31, 2015 in connection with the anticipated milestone payments related to the first patient dosing in a Phase 3 clinical trial, all of which was paid during the year ended May 31, 2016, as described above.

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The Company has entered into project work orders for each of its clinical trials with its clinical research organization (“CRO”) and related laboratory vendors. Under the terms of these agreements, the Company has paid approximately \$3.0 million towards execution fees for direct services costs. The fees are reflected as a current asset and have an unamortized balance of approximately \$2.4 million at August 31, 2016. In connection with the Company’s clinical trials, it has entered into separate project work orders for each trial with its CRO. In the event the Company were to terminate any trial, it may incur certain financial penalties which would become payable to the CRO.

Conditioned upon the form of termination of any one trial, the financial penalties may range from an approximate low of \$0.1 million to an approximate high of \$0.4 million. In the remote circumstance that the Company would terminate all clinical trials, the collective financial penalties may range from an approximate low of \$0.5 million to an approximate high of \$1.6 million.

### **Note 10 – Private Securities Offering**

During the year ended May 31, 2016, the Company conducted private equity offerings (the “Equity Offerings”), in which accredited investors purchased unregistered common stock at either \$0.75 or \$1.00 per share with warrant coverage of 50% or 25%, respectively, based on the number of shares of common stock purchased. Pursuant to the Equity Offerings, the Company sold a total of 48,659,338 shares of common stock, \$0.001 par value, for aggregate gross proceeds of approximately \$37.6 million and issued five-year warrants covering 23,254,230 shares of common stock. In conjunction with the Equity Offerings, the Company paid an aggregate cash fee of approximately \$3.9 million to the placement agent and issued warrants covering an aggregate of 4,960,314 shares of common stock to the placement agent as additional compensation. The placement agent warrants had aggregate Black-Scholes valuations of approximately \$2.7 million at issuance.

During the three months ended August 31, 2016, the Company conducted a private equity offering (the “Offering”), in which accredited investors purchased unregistered common stock at \$1.00 per share with warrant coverage of 25%, based on the number of shares of common stock purchased. Pursuant to the Offering, the Company sold a total of 729,500 shares of common stock, \$0.001 par value, for aggregate gross proceeds of \$729,500 and issued to the investors five-year warrants covering 182,375 shares of common stock with an exercise price of \$1.35 per share.

### **Note 11 – Employee Benefit Plan**

The Company has an employee savings plan (the “Plan”) pursuant to Section 401(k) of the Internal Revenue Code (the “Code”), covering all of its employees. The Company makes a qualified non-elective contribution of 3%, which consequently vests immediately. In addition, participants in the Plan may contribute a percentage of their compensation, but not in excess of the maximum allowed under the Code. During the three months ended August 31, 2016 and 2015, the Company incurred an expense of approximately \$8,800 and \$5,700, respectively, for qualified non-elective contributions.

### **Note 12 – Related Party Transactions**

On January 19, 2016, the Company entered into an amendment to its existing Consulting Agreement with Denis R. Burger, Ph.D., dated February 21, 2014, as previously amended November 3, 2014 (the “Consulting Agreement”). The Amendment names Dr. Burger, who is currently a member of the Board of Directors, to the non-executive position of Chief Science Officer and increases Dr. Burger’s advisory responsibilities in that capacity. The Amendment also increases the compensation payable to Dr. Burger under the Consulting Agreement to \$20,000 per month, which is in addition to any fees that Dr. Burger currently earns as a director. The Amendment was approved by the Audit Committee of the Board of Directors.

On May 10, 2016, Jordan G. Naydenov, a director with the Company, participated in the private equity offerings, as fully described in Note 9 above. Mr. Naydenov invested \$1 million and received 1 million shares of common stock and a warrant covering 250,000 shares of common stock at an exercise price of \$1.35. The terms and conditions of Mr. Naydenov’s investment were identical to those offered to all other investors in the offering.

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

### **Note 13 – Subsequent Events**

On September 12, 2016, the Company entered into Securities Purchase Agreements with certain institutional investors for the sale of 13,333,334 shares of \$0.001 par value common stock at a purchase price of \$0.75 per share in a registered direct offering pursuant to a registration statement on Form S-3. The investors in this offering also received warrants to purchase 6,666,667 shares of common stock with an exercise price of \$1.00 per share and a five-year term. The Company received net proceeds from the offering of approximately \$9 million after placement fees of 8% of the gross proceeds and various expenses. In addition, the placement agent received warrants covering 1,066,667 shares (or 8% of total shares sold to investors) with a per share exercise price of \$0.825 and a five-year term.

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

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

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

#### **Results of Operations**

##### ***Clinical Trials Update***

**Phase 2b Extension Study for HIV, as Monotherapy.** As previously disclosed, there were 11 trial participants in the extension study who successfully passed 29 weeks of therapy and were not discontinued. Currently, 10 out of those 11 trial participants are approaching two years of suppressed viral load, with PRO 140 as a single agent therapy. This extension study remains ongoing.

**Phase 3 Trial for HIV, as Combination Therapy.** A pivotal 25-week trial for PRO 140 as a combination therapy to existing HAART drug regimens originally designed for 300 patients. One patient has completed this trial and has transitioned to a compassionate use (roll-over) protocol, as requested by the treating physician to enable the patient to continue with a suppressed viral load. Previously, the FDA agreed to reduce the number of patients in this study from 300 to 150 patients. Most recently, the FDA agreed to additional protocol modifications, including a further reduction in patients for this trial from 150 to 30 patients and lowered the primary endpoint for viral load reduction from a viral load of 0.7log to viral load of 0.5log. Based upon these new protocol modifications, management will revise and update its total cost estimate of this trial, which is expected to be significantly lower than the original estimated range of \$12 million to \$14 million.

**Investigative Trial for HIV, as Long-term Monotherapy.** A strategic trial including 300 patients to assess the treatment strategy of using PRO 140 subcutaneously as a long-acting single-agent maintenance therapy for 48 weeks in patients with suppressed viral load with CCR5-tropic HIV-1 infection. The primary endpoint is the number of patients who can maintain suppressed viral load under a PRO 140 monotherapy replacing their HAART regimen for 48 weeks. The secondary endpoint is the number of weeks a patient is off of their ART regimen. Enrollment of first patient is expected to occur within the fourth quarter of calendar 2016 and is expected to accelerate, as experienced in the previous Phase 2b monotherapy trial. Management estimates the total cost of this trial to range from \$15 million to \$17 million.

**Phase 2 Trial for Graft versus Host Disease.** This Phase 2, randomized, double-blind, placebo-controlled, multi-center 100-day study with 60 patients is designed to evaluate the feasibility of the use of PRO 140 as an add-on therapy to standard GvHD prophylaxis treatment for prevention of acute GvHD in adult patients with acute myeloid leukemia ("AML") or myelodysplastic syndrome ("MDS") undergoing allogeneic hematopoietic stem cell transplantation ("HST"). Enrollment of the first patient is expected in the fourth quarter of calendar 2016. Management estimates the cost of this trial to be approximately \$3.5 million to \$4 million.

##### ***Results of Operations for the three months ended August 31, 2016 and 2015 are as follows:***

For the three months ended August 31, 2016 and August 31, 2015, we had no activities that produced revenues from operations.

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For the three months ended August 31, 2016, we incurred a net loss of approximately \$5.4 million, as compared to a net loss of approximately \$8.9 million for the corresponding period in 2015. The reduction in net loss of approximately \$3.5 million, related primarily to a reduction in operating expenses of approximately \$1.3 million, as described below, and also to a reduction in interest expense of approximately \$2.3 million.

For the three months ended August 31, 2016 and August 31, 2015, operating expenses totaled approximately \$5.4 million and \$6.7 million, respectively, consisting primarily of research and development, stock based compensation, salaries and benefits, professional fees, legal fees, amortization and depreciation and various other operating expenses. The reduction in operating expenses of approximately \$1.3 million reflected lower research and development of approximately \$1.6 million, coupled with reduced legal fees of approximately \$0.2 million. General and administrative expenses for the three months ended August 31, 2016 increased approximately \$0.5 million over the comparable period a year ago due to higher salaries owing, in part, to increased number of employees and increased expenses for certain professional fees and corporate insurance coverages. We expect our research and development expenses to begin to trend higher again, as we continue our self-sponsored and funded Phase 3 trials with our drug candidate PRO 140, and we continue with activities related to manufacturing cGMP PRO 140 material for future use. Our ability to continue to fund our operating expenses will depend on our ability to raise additional capital. Stock-based compensation may also increase, as we continue to compensate consultants, directors, and employees with stock options and warrants.

For the three months ended August 31, 2016 we did not incur any interest expense, as compared to \$2.3 of primarily non-cash interest expense incurred in the comparable quarter of 2015, as all outstanding debt was converted or repaid during the year ended May 31, 2016. The Company continues to evaluate the need for additional financing as described under the heading "Liquidity and Capital Resources" below.

The future trends in all of our expenses will be driven, in part, by the future outcomes of clinical trials and the correlative effect on research and development expenses, as well as general and administrative expenses, especially FDA regulatory requirements, in addition to the manufacturing of new commercial grade PRO 140, along with the necessary regulatory processes to confirm its qualification for future sale, if approved. Our ability to continue to fund operations will continue to depend on its ability to raise additional capital. See, in particular, Item 1A Risk Factors in our Annual Report on Form 10-K for the year ended May 31, 2016.

### Liquidity and Capital Resources

The Company's cash position for the three months ended August 31, 2016 decreased approximately \$5.2 million to approximately \$4.4 million as compared to a balance of approximately \$9.6 million as of May 31, 2016. The net decrease in cash for the three months ended August 31, 2016 was attributable to cash used in operating activities, offset in part by the private equity proceeds of approximately \$0.7 million and proceeds from warrant exercises of approximately \$0.4 million.

As of August 31, 2016, the Company had positive working capital of approximately \$4.1 million compared to positive working capital of approximately \$7.9 million at May 31, 2016, a decrease of approximately \$3.8 million attributable primarily to cash used in operations.

Net cash used in operating activities totaled approximately \$6.3 million during the three months ended August 31, 2016, which reflects an increase of approximately \$1 million of net cash used in operating activities for the three months ended August 31, 2015. The increase in net cash used in operating activities was primarily attributable to the effect on working capital owing to a comparable increase in certain prepaid expenses of approximately \$0.8 million, coupled with a reduction in accrued liabilities of approximately \$1.5 million, offset in part by a lower net loss.

Net cash used in investing totaled approximately \$3,500 during the three months ended August 31, 2016, compared to no investing activities in the comparable quarter a year ago.

Cash flows provided by financing activities of approximately \$1.1 million during the three months ended August 31, 2016 arose from private placements of common stock in the aggregate of approximately \$0.7 million and proceeds of approximately \$0.4 million from the exercise of warrants. This is a reduction of approximately \$6 million from the comparable quarter a year ago, which included net proceeds of approximately \$7 million from a private placement of equity securities.

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As reported in the accompanying financial statements, for the three months ended August 31, 2016 and August 31, 2015, the Company incurred net losses of approximately \$5.4 million and \$8.9 million, respectively. The Company has no activities that produced revenue in the periods presented and has sustained operating losses since inception. The Company's ability to continue as a going concern is dependent upon its ability to raise additional capital, commence operations and achieve a level of profitability. Since inception, the Company has financed its activities principally from the sale of public and private equity securities and proceeds from convertible notes payable and related party notes payable. The Company intends to finance its future operating activities and its working capital needs largely from the sale of debt and equity securities, combined with additional funding from other traditional financing sources. The sale of equity and convertible debt securities may result in dilution to our stockholders and those securities may have rights senior to those of common shares. If the Company raises additional funds through the issuance of preferred stock, convertible debt securities or other debt financing, these activities or other debt could contain covenants that would restrict the Company's operations. Any other third-party funding arrangements could require the Company to relinquish valuable rights. The Company may require additional capital beyond our currently anticipated needs. Additional capital, if available, may not be available on reasonable terms. Please refer to the risk factors under Item 1.A. to the Company's Annual Report on Form 10-K.

We have not generated revenue to date, and will not generate product revenue in the foreseeable future. We expect to continue to incur operating losses as we proceed with our clinical trials with respect to PRO 140 and continue to advance it through the product development and regulatory process. The future trends of all expenses will be driven, in part, by the future outcomes of the clinical trials and their correlative effect on general and administrative expenses, especially FDA regulatory requirements, in addition to the manufacturing of new commercial grade PRO 140, along with the necessary regulatory processes to confirm its qualification for future sale, if approved. The Company will require a significant amount of additional capital in the future to fulfill BLA requirements related to manufacturing PRO 140 for commercial use.

On August 26, 2016, the Company filed a registration statement on Form S-3 universal shelf registration statement covering \$100 million of securities. On September 9, 2016, the registration statement was declared effective and on September 15, 2016, the Company closed on a \$10 million registered direct offering of its common stock pursuant to the registration statement.

Under the Asset Purchase Agreement (the "Asset Purchase Agreement"), dated July 25, 2012, between the Company and Progenics Pharmaceuticals, Inc. ("Progenics"), the Company acquired from Progenics its proprietary HIV viral-entry inhibitor drug candidate PRO 140 ("PRO 140"), a humanized anti-CCR5 monoclonal antibody, as well as certain other related assets, including the existing inventory of bulk PRO 140 drug product, intellectual property, certain related licenses and sublicenses, and U.S. Food and Drug Administration ("FDA") regulatory filings. On October 16, 2012, the Company paid \$3,500,000 in cash to Progenics to close the acquisition transaction. The Company is also required to pay Progenics the following milestone payments and royalties: (i) \$1,500,000 at the time of the first dosing in a U.S. Phase 3 trial or non-US equivalent, which was paid during the three months ended February 29, 2016; (ii) \$5,000,000 at the time of the first US new drug application approval by the FDA or other non-U.S. approval for the sale of PRO 140; and (iii) royalty payments of up to five percent (5%) on net sales during the period beginning on the date of the first commercial sale of PRO 140 until the later of (a) the expiration of the last to expire patent included in the acquired assets, and (b) 10 years, in each case determined on a country-by country basis. Payments to Progenics are in addition to payments due under a Development and License Agreement, dated April 30, 1999 (the "PDL License"), between Protein Design Labs (now AbbVie Inc.) and Progenics, which was assigned to us in the PRO 140 transaction, pursuant to which we must pay additional milestone payments and royalties as follows: (i) \$1,000,000 upon initiation of a Phase 3 clinical trial, which was paid during the three months ended February 29, 2016; (ii) \$500,000 upon filing a Biologic License Application with the FDA or non-U.S. equivalent regulatory body; (iii) \$500,000 upon FDA approval or approval by another non-U.S. equivalent regulatory body; and (iv) royalties of up to 7.5% of net sales for the longer of 10 years and the date of expiration of the last to expire licensed patent. Additionally, the PDL License provides for an annual maintenance fee of \$150,000 until royalties paid exceed that amount.

As of the date of this filing, it is management's conclusion that the probability of achieving the subsequent future scientific research milestones is not reasonably determinable, thus the future milestone payments payable to Progenics and its sub-licensors are deemed contingent consideration and, therefore are not currently accrueable.

## 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.

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### **Item 3. Quantitative and Qualitative Disclosures about Market Risk.**

Not Applicable.

### **Item 4. Controls and Procedures.**

#### Disclosure Controls and Procedures

As of August 31, 2016, under the supervision and with the participation of the Company's Chief Executive Officer and Chief Financial Officer, management has evaluated the effectiveness of the design and operations of the Company's disclosure controls and procedures (as defined in Rule 13a-15(e) and 15d-15(e) under the Securities Exchange Act of 1934) as of August 31, 2016. Based on that evaluation, the Chief Executive Officer and Chief Financial Officer concluded that the Company's disclosure controls and procedures were not effective as of August 31, 2016, as a result of the material weakness in internal control over financial reporting because of inadequate segregation of duties over authorization, review and recording of transactions, as well as the financial reporting of such transactions. Although management continues to implement controls and procedures surrounding cash disbursements, internal financial accounting, including detailed internal financial reporting compared to regular financial projections, multiple-cross reconciliations covering all equity transactions and engaging a full service provider of information technology support services, a limited number of material weaknesses remain. Accordingly, with the assistance of a third party expert engaged during the quarter, management has initiated a detailed best-practices risk assessment of all general ledger accounts in its financial accounting system and is proceeding to document and map the related internal controls for each account. This will be followed by third party testing of the effectiveness of the internal control framework, which will commence during the second fiscal quarter ending November 30, 2016. Despite the existence of these material weaknesses, we believe the financial information presented herein is materially correct and fairly presents the financial position and operating results of the quarter ended August 31, 2016 in accordance with U.S. GAAP.

#### Internal Control Over Financial Reporting

##### *Changes in Control Over Financial Reporting*

Although changes in the Company's internal control over financial reporting occurred during the quarter ended August 31, 2016, management believes that such changes did not materially affect, or are not reasonably likely to materially affect, the Company's internal control over financial reporting. Notwithstanding the foregoing, the Company recently engaged an independent third party with the relevant expertise to assist management with the development and implementation of a plan to remediate the remaining material weaknesses in internal controls over financial reporting, with the goal of attempting to fully mitigate all material weaknesses by the end of the May 31, 2017 fiscal year.

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**PART II**

**Item 1. Legal Proceedings.**

None.

**Item 1A. Risk Factors.**

There have been no material changes in the risk factors applicable to us from those identified in our Annual Report on Form 10-K filed with the SEC on July 19, 2016.

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

During the three months ended August 31, 2016, the Company conducted private equity offerings (the “Equity Offerings”), in which accredited investors purchased unregistered common stock at \$1.00 per share with warrant coverage of 25%, based on the number of shares of common stock purchased. Pursuant to the Equity Offerings, the Company sold a total of 729,500 shares of common stock, \$0.001 par value, for aggregate gross proceeds of \$729,500 and issued to the investors five-year warrants covering 182,375 shares of common stock with an exercise price of \$1.35 per share.

**Item 3. Defaults Upon Senior Securities.**

None.

**Item 4. Mine Safety Disclosures.**

Not Applicable.

**Item 5. Other Information.**

None.

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**Item 6. Exhibits.**

(a) Exhibits:

- |           |   |
|-----------|---|
| 3.1       | Certificate of Amendment to Certificate of Incorporation of CytoDyn Inc. (incorporated by reference to Exhibit 3.1 to the Registrant's Current Report on Form 8-K filed August 24, 2016). |
| 10.1*     | Form of Subscription Agreement.   |
| 31.1*     | Rule 13a-14(a) Certification by CEO of Registrant.  |
| 31.2 *    | Rule 13a-14(a) Certification by CFO of the Registrant.  |
| 32.1 *    | Certification of CEO of the Registrant pursuant to 18 U.S.C. Section 1350.  |
| 32.2 *    | Certification of CFO of the Registrant pursuant to 18 U.S.C. Section 1350.  |
| 101.INS * | XBRL Instance Document.   |
| 101.SCH * | XBRL Taxonomy Extension Schema Document.  |
| 101.CAL * | XBRL Taxonomy Extension Calculation Linkbase Document.  |
| 101.DEF * | XBRL Taxonomy Extension Definition Linkbase Document.   |
| 101.LAB * | XBRL Taxonomy Extension Label Linkbase Document.  |
| 101.PRE * | XBRL Taxonomy Extension Presentation Linkbase Document.   |

\* Filed herewith.

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**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: October 12, 2016

/s/ Nader Z. Pourhassan

Nader Z. Pourhassan  
President and Chief Executive Officer

Dated: October 12, 2016

/s/ Michael D. Mulholland

Michael D. Mulholland  
Chief Financial Officer, Treasurer and  
Corporate Secretary

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**EXHIBIT INDEX**

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

\* Filed herewith.

## SUBSCRIPTION AGREEMENT

CytoDyn Inc.  
 1111 Main Street, Suite 660  
 Vancouver, Washington 98660

Ladies and Gentlemen:

**1. Subscription.** The undersigned (the "Purchaser"), intending to be legally bound, hereby irrevocably agrees to purchase from CytoDyn Inc., a Delaware corporation (the "Company"), the number of shares of common stock, \$.001 par value, of the Company (the "Common Stock") set forth on the signature page hereof at a purchase price of \$\_\_\_\_ per share (the "Subscribed Shares"), with a minimum investment of \$50,000 ("Minimum Investment Amount"), or such lesser amount accepted by the Company in its sole discretion. In addition, each Purchaser shall also receive a warrant (the "Warrants"), substantially in the form attached hereto as Exhibit A, to purchase a number of shares of Common Stock equal to \_\_\_\_% of the number of Subscribed Shares (such shares of Common Stock issuable upon exercise of the Warrants, the "Warrant Shares" and, collectively with the Subscribed Shares and the Warrants, the "Securities"). The Warrants will be exercisable for a 5-year period commencing at the Closing (as defined below) at which the Subscribed Shares are issued, at an exercise price of \$\_\_\_\_ per share.

**2. The Offering.** This subscription is submitted to you in accordance with and subject to the terms and conditions described in this Subscription Agreement relating to the offering (the "Offering") by the Company of Subscribed Shares and related Warrants. The Securities are being sold to you in the Offering in a closing which may be scheduled at any time after the execution of this Subscription Agreement (the "Closing"). Additional Securities may have been and may continue to be offered and sold from time to time, until the date on which the Offering is concluded, through additional closings conducted by the Company with respect to those additional Securities sold.

**3. Payment.** The Purchaser will immediately make a wire transfer payment to the Company pursuant to the instructions included herein in the full amount of the purchase price of the Securities being subscribed for hereby. Wire transfer instructions are set forth on the Subscription Instructions included on the last page hereof under the heading "To subscribe for Securities in the private offering of CytoDyn Inc." Together with a wire transfer for the full purchase price, the Purchaser is delivering a completed and executed omnibus Signature Page to this Subscription Agreement and an initialed Accredited Investor Certification.

**4. Acceptance of Subscription.** The Purchaser understands and agrees that the Company, in their sole discretion, reserve the right to accept or reject this or any other subscription for Securities, in whole or in part, notwithstanding prior receipt by the Purchaser of notice of acceptance of this subscription. The Company shall have no obligation hereunder until the Company shall execute and deliver to the Purchaser an executed copy of this Subscription Agreement. If this subscription is rejected in whole or the Offering of Securities is terminated, all funds received from the Purchaser will be returned without interest or offset, and this

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Subscription Agreement shall thereafter be of no further force or effect. If this subscription is rejected in part, the funds for the rejected portion of this subscription will be returned without interest or offset, and this Subscription Agreement will continue in full force and effect to the extent this subscription was accepted.

## **5. Registration Rights.**

(a) If at any time, the Company proposes to register the offer and sale of shares of its Common Stock under the Securities Act of 1933, as amended (the “Securities Act”), solely for the benefit of selling stockholders on any form of registration statement and not for any primary offering of the securities of the Company, which registration statement had not been filed prior to the date hereof (a “Piggyback Registration Statement”), the Company shall each such time give the Purchaser prior written notice of the filing of such Piggyback Registration Statement. Upon the written request of the Purchaser received not less than five (5) business days prior to the filing of such Piggyback Registration Statement, the Company shall use its reasonable efforts to cause to be registered under the Securities Act the resale of any Subscribed Shares and/or Warrant Shares issued or issuable to the Purchaser that the Purchaser has requested to be registered at such time, subject to the Purchaser’s provision of an executed Selling Stockholder Notice and Questionnaire, substantially in the form attached hereto as Exhibit B, as well as such other information about the Purchaser as may reasonably be requested to facilitate such registration.

(b) If a Piggyback Registration Statement contemplates an underwritten public offering, the Company shall so advise the Purchaser as part of the written notice given pursuant to Section 5(a) above. The Purchaser agrees in each such instance, as a condition to registering the offer and sale of the Purchaser’s Subscribed Shares and/or Warrant Shares by means of such registration statement, to be party to and to execute an underwriting agreement in customary form.

## **6. Restrictions on Transfer.**

(a) The Purchaser understands and agrees that the Securities have not been registered under the Securities Act or the securities laws of any state or other jurisdiction and, accordingly, that the Securities must be held indefinitely unless they are subsequently registered or unless, in the opinion of counsel reasonably acceptable to the Company, a sale or transfer may be made without registration under United States securities laws and the applicable securities laws of any state or other jurisdiction. The Purchaser further agrees that legends may be placed on the Securities restricting the transfer thereof, and that appropriate notations may be made in the Company’s stock books and stop transfer instructions placed with the transfer agent of the Securities, each in a manner generally consistent with the foregoing.

(b) The Purchaser is aware of the provisions of Rule 144 promulgated under the Securities Act (“Rule 144”) which, in substance, permit limited public resale of “restricted securities” acquired by non-affiliates of the issuer thereof, directly or indirectly, from the issuer (or from an affiliate of such issuer), in a non-public offering subject to the satisfaction of certain conditions, if applicable, including, among other things, the availability of certain public information about the Company and the resale occurring not less than six (6) months after the party has purchased and paid for the securities to be sold.

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(c) The Purchaser further understands that at the time the Purchaser wishes to sell the Shares or the Securities to be issued in connection therewith or upon conversion thereof there may be no public market upon which to make such a sale, and that, even if such a public market then exists, the Company may not have filed all reports and other materials required under Section 13 or 15(d) of the Securities Exchange Act of 1934, as amended, other than Form 8-K reports, during the preceding 12 months, and that, in such event, because the Company is a former “shell company” as contemplated under paragraph (i) of Rule 144, Rule 144 will not be available to the Purchaser.

(d) The Purchaser further understands that, because the Company is a former “shell company” as contemplated under paragraph (i) of Rule 144, regardless of the amount of time that the Purchaser holds the Securities, sales of the Securities may only be made under Rule 144 upon the satisfaction of certain conditions, including that the Company has filed with the United States Securities and Exchange Commission (the “SEC”), during the 12 months preceding the sale, all quarterly and annual reports required under the Securities Exchange Act of 1934, as amended; and that, accordingly, **any restrictive legends placed on the Securities cannot be removed except in connection with an actual sale that is subject to an effective registration statement under, or an applicable exemption from the registration requirements of, the Securities Act, and “blanket” removals of any such restrictive legends will not be possible.**

(e) The Purchaser further understands that in the event all of the requirements of Rule 144 are not satisfied, registration under the Securities Act, compliance with Regulation A promulgated under the Securities Act, or some other registration exemption will be required; and that, notwithstanding the fact that Rule 144 is not exclusive, the staff of the Securities and Exchange Commission has expressed its opinion that persons proposing to sell private placement securities other than in a registered offering and otherwise than pursuant to Rule 144 will have a substantial burden of proof in establishing that an exemption from registration is available for such offers or sales, and that such persons and their respective brokers who participate in such transactions do so at their own risk.

## 7. Representations and Warranties.

The Purchaser hereby acknowledges, represents, warrants, and agrees as follows:

(a) None of the Subscribed Shares, the Warrants, or the Warrant Shares offered hereby are registered under the Securities Act or the securities laws of any state or other jurisdiction. The Purchaser understands that the offering and sale of the Securities (and the issuance of the Warrant Shares upon the exercise of the Warrants) is intended to be exempt from registration under the Securities Act, by virtue of Section 4(a)(2) thereof and the provisions of Regulation D (“Regulation D”) as promulgated by the SEC thereunder, based, in part, upon the representations, warranties and agreements of the Purchaser contained in this Subscription Agreement.

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(b) Prior to the execution of this Subscription Agreement, the Purchaser and the Purchaser's attorney, accountant, purchaser representative and/or tax adviser, if any (collectively, the "Advisers"), have received all documents requested by the Purchaser, have carefully reviewed them and understand the information contained therein.

(c) Neither the SEC nor any state securities commission or other regulatory authority has approved the Subscribed Shares, the Warrants, or the Warrant Shares, or passed upon or endorsed the merits of the offering of securities or confirmed the accuracy or determined the adequacy of the Offering. The Offering has not been reviewed by any federal, state or other regulatory authority.

(d) All documents, records, and books pertaining to the investment in the Securities have been made available for inspection by such Purchaser and its Advisers, if any.

(e) The Purchaser and its Advisers, if any, have had a reasonable opportunity to ask questions of and receive answers from a person or persons acting on behalf of the Company concerning the Offering and sale of the Securities and the business, financial condition and results of operations of the Company, and all such questions have been answered to the full satisfaction of the Purchaser and its Advisers, if any.

(f) In evaluating the suitability of an investment in the Company, the Purchaser has not relied upon any representation or information (oral or written) other than as stated in this Subscription Agreement.

(g) The Purchaser is unaware of, is in no way relying on, and did not become aware of the Offering of the Securities through or as a result of, any form of general solicitation or general advertising including, without limitation, any article, notice, advertisement or other communication published in any newspaper, magazine or similar media or broadcast over television, radio or the Internet (including, without limitation, internet "blogs," bulletin boards, discussion groups and social networking sites) in connection with the Offering and sale of the Securities and is not subscribing for the Securities and did not become aware of the Offering of the Securities through or as a result of any seminar or meeting to which the Purchaser was invited by, or any solicitation of a subscription by, a person not previously known to the Purchaser in connection with investments in securities generally.

(h) The Purchaser, together with its Advisers, if any, has such knowledge and experience in financial, tax, and business matters, and, in particular, investments in securities, so as to enable it to utilize the information made available to it in connection with the Offering to evaluate the merits and risks of an investment in the Securities and the Company and to make an informed investment decision with respect thereto.

(i) The Purchaser has taken no action that would give rise to any claim by any person for brokerage commissions, finders' fees or the like relating to this Subscription Agreement or the transactions contemplated hereby.

(j) The Purchaser is not relying on the Company or any of its respective employees or agents with respect to the legal, tax, economic and related considerations of an investment in the Securities, and the Purchaser has relied on the advice of, or has consulted with, only its own Advisers.

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(k) The Purchaser is acquiring the Securities (including, upon the exercise of the Warrants, the Warrant Shares) solely for such Purchaser's own account for investment purposes only and not with a view to or intent of resale or distribution thereof, in whole or in part. The Purchaser has no agreement or arrangement, formal or informal, with any person to sell or transfer all or any part of the Subscribed Shares, the Warrants, or the Warrant Shares, and the Purchaser has no plans to enter into any such agreement or arrangement.

(l) The Purchaser must bear the substantial economic risks of the investment in the Securities (including, upon the exercise of the Warrants, the Warrant Shares) indefinitely because none of the Securities may be sold, hypothecated or otherwise disposed of unless subsequently registered under the Securities Act and the applicable securities laws of any state or other jurisdiction or an exemption from such registration is available. Legends shall be placed on the Securities to the effect that they have not been registered under the Securities Act or the securities laws of any state or other jurisdiction and appropriate notations thereof will be made in the Company's stock books. Stop transfer instructions will be placed with the transfer agent of the Securities. There will not be any assurance that such securities will be freely transferable at any time in the foreseeable future.

(m) The Purchaser has adequate means of providing for such Purchaser's current financial needs and foreseeable contingencies and has no need for liquidity from its investment in the Securities for an indefinite period of time.

(n) The Purchaser is aware that an investment in the Securities is high risk, involving a number of very significant risks and has carefully read and considered the matters set forth under the caption "Risk Factors" in the Company's filings with the SEC (including the documents incorporated by reference therein) (the "SEC Filings"), and, in particular, acknowledges that the Company has a limited operating history, significant operating losses since inception, no revenues to date, limited assets and is engaged in a highly competitive business.

(o) The Purchaser meets the requirements of at least one of the suitability standards for an "accredited investor" as that term is defined in Regulation D and as set forth on the Accredited Investor Certification contained herein.

(p) The Purchaser (i) if a natural person, represents that the Purchaser has reached the age of 21 and has full power and authority to execute and deliver this Subscription Agreement and all other related agreements or certificates and to carry out the provisions hereof and thereof; (ii) if a corporation, partnership, or limited liability company or partnership, or association, joint stock company, trust, unincorporated organization or other entity, represents that such entity was not formed for the specific purpose of acquiring the Securities, such entity is duly organized, validly existing and in good standing under the laws of the state of its organization, the consummation of the transactions contemplated hereby is authorized by, and will not result in a violation of state law or its charter or other organizational documents, such entity has full power and authority to execute and deliver this Subscription Agreement and all other related

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agreements or certificates and to carry out the provisions hereof and thereof and to purchase and hold the securities constituting the Securities, the execution and delivery of this Subscription Agreement has been duly authorized by all necessary action, this Subscription Agreement has been duly executed and delivered on behalf of such entity and is a legal, valid and binding obligation of such entity; or (iii) if executing this Subscription Agreement in a representative or fiduciary capacity, represents that it has full power and authority to execute and deliver this Subscription Agreement in such capacity and on behalf of the subscribing individual, ward, partnership, trust, estate, corporation, or limited liability company or partnership, or other entity for whom the Purchaser is executing this Subscription Agreement, and such individual, partnership, ward, trust, estate, corporation, or limited liability company or partnership, or other entity has full right and power to perform pursuant to this Subscription Agreement and make an investment in the Company, and represents that this Subscription Agreement constitutes a legal, valid and binding obligation of such entity. The execution and delivery of this Subscription Agreement will not violate or be in conflict with any order, judgment, injunction, agreement or controlling document to which the Purchaser is a party or by which it is bound.

(q) The Purchaser and its Advisers, if any, have had the opportunity to obtain any additional information, to the extent the Company has such information in its possession or could acquire it without unreasonable effort or expense, necessary to verify the accuracy of the information contained in the SEC Filings and all documents received or reviewed in connection with the purchase of the Securities and have had the opportunity to have representatives of the Company provide them with such additional information regarding the terms and conditions of this particular investment and the financial condition, results of operations, business of the Company deemed relevant by the Purchaser or its Advisers, if any, and all such requested information, to the extent the Company had such information in its possession or could acquire it without unreasonable effort or expense, has been provided to the full satisfaction of the Purchaser and its Advisers, if any.

(r) Any information which the Purchaser has heretofore furnished or is furnishing herewith to the Company is complete and accurate and may be relied upon by the Company in determining the availability of an exemption from registration under federal and state securities laws in connection with the Offering and sale of the Securities. The Purchaser further represents and warrants that it will notify and supply corrective information to the Company immediately upon the occurrence of any change therein occurring prior to the Company's issuance of the Securities.

(s) The Purchaser has significant prior investment experience, including investment in non-listed and non-registered securities. The Purchaser is knowledgeable about investment considerations in development-stage companies with limited operating histories. The Purchaser has a sufficient net worth to sustain a loss of its entire investment in the Company in the event such a loss should occur. The Purchaser's overall commitment to investments which are not readily marketable is not excessive in view of the Purchaser's net worth and financial circumstances and the purchase of the Securities will not cause such commitment to become excessive. The investment in the Securities is a suitable one for the Purchaser.

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(t) The Purchaser is satisfied that the Purchaser has received adequate information with respect to all matters which it or its Advisers, if any, consider material to its decision to make this investment.

(u) The Purchaser acknowledges that any estimates or forward-looking statements or projections included in the SEC Filings (including the documents incorporated by reference therein) were prepared by the Company in good faith but that the attainment of any such projections, estimates or forward-looking statements cannot be guaranteed by the Company and should not be relied upon.

(v) No oral or written representations have been made, or oral or written information furnished, to the Purchaser or its Advisers, if any, in connection with the Offering which are in any way inconsistent with the information contained in this Subscription Agreement.

(w) Within five (5) days after receipt of a request from the Company, the Purchaser will provide such information and deliver such documents as may reasonably be necessary to comply with any and all laws and ordinances to which the Company is subject.

(x) THE SECURITIES OFFERED HEREBY HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, OR THE SECURITIES LAWS OF ANY STATE OR OTHER JURISDICTION. THE SECURITIES ARE BEING OFFERED AND SOLD IN RELIANCE ON EXEMPTIONS FROM THE REGISTRATION REQUIREMENTS OF SAID ACT AND SUCH LAWS. THE SECURITIES ARE SUBJECT TO RESTRICTIONS ON TRANSFERABILITY AND RESALE AND MAY NOT BE TRANSFERRED OR RESOLD EXCEPT AS PERMITTED UNDER SAID ACT AND SUCH LAWS PURSUANT TO REGISTRATION OR EXEMPTION THEREFROM. THE SECURITIES HAVE NOT BEEN RECOMMENDED, APPROVED OR DISAPPROVED BY THE SECURITIES AND EXCHANGE COMMISSION, ANY STATE SECURITIES COMMISSION OR ANY OTHER REGULATORY AUTHORITY, NOR HAVE ANY OF THE FOREGOING AUTHORITIES PASSED UPON OR ENDORSED THE MERITS OF THIS OFFERING OR THE ACCURACY OR ADEQUACY OF THE MEMORANDUM OR THIS SUBSCRIPTION AGREEMENT. ANY REPRESENTATION TO THE CONTRARY IS UNLAWFUL.

(y) In making an investment decision investors must rely on their own examination of the Company and the terms of the Offering and sale of the Securities, including the merits and risks involved. The Purchaser should be aware that it will be required to bear the financial risks of this investment for an indefinite period of time.

(z) **(For ERISA plans only)** The fiduciary of the ERISA plan (the “Plan”) represents that such fiduciary has been informed of and understands the Company’s investment objectives, policies and strategies, and that the decision to invest “plan assets” (as such term is defined in ERISA) in the Company is consistent with the provisions of ERISA that require diversification of plan assets and impose other fiduciary responsibilities. The Purchaser fiduciary or Plan (a) is responsible for the decision to invest in the Company; (b) is independent of the Company or any of its affiliates; (c) is qualified to make such investment decision; and (d) in making such decision, the Purchaser fiduciary or Plan has not relied primarily on any advice or recommendation of the Company or any of its affiliates.

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**(aa) The Purchaser should check the Office of Foreign Assets Control (“OFAC”) website at <<http://www.treas.gov/ofac>> before making the following representations.** The Purchaser represents that the amounts invested by it in the Company in the Offering were not and are not directly or indirectly derived from activities that contravene federal, state or international laws and regulations, including anti-money laundering laws and regulations. Federal regulations and Executive Orders administered by OFAC prohibit, among other things, the engagement in transactions with, and the provision of services to, certain foreign countries, territories, entities and individuals. The lists of OFAC prohibited countries, territories, persons and entities can be found on the OFAC website at <<http://www.treas.gov/ofac>>. In addition, the programs administered by OFAC (the “OFAC Programs”) prohibit dealing with individuals<sup>1</sup> or entities in certain countries regardless of whether such individuals or entities appear on the OFAC lists.

**(bb)** To the best of the Purchaser’s knowledge, none of: (1) the Purchaser; (2) any person controlling or controlled by the Purchaser; (3) if the Purchaser is a privately-held entity, any person having a beneficial interest in the Purchaser; or (4) any person for whom the Purchaser is acting as agent or nominee in connection with this investment is a country, territory, individual or entity named on an OFAC list, or a person or entity prohibited under the OFAC Programs. Please be advised that the Company may not accept any amounts from a prospective investor if such prospective investor cannot make the representation set forth in the preceding paragraph. The Purchaser agrees to promptly notify the Company should the Purchaser become aware of any change in the information set forth in these representations. The Purchaser understands and acknowledges that, by law, the Company may be obligated to “freeze the account” of the Purchaser, either by prohibiting additional subscriptions from the Purchaser, declining any redemption requests and/or segregating the assets in the account in compliance with governmental regulations. The Purchaser further acknowledges that the Company may, by written notice to the Purchaser, suspend the redemption rights, if any, of the Purchaser if the Company reasonably deems it necessary to do so to comply with anti-money laundering regulations applicable to the Company or any of the Company’s other service providers. These individuals include specially designated nationals, specially designated narcotics traffickers and other parties subject to OFAC sanctions and embargo programs.

**(cc)** To the best of the Purchaser’s knowledge, none of: (1) the Purchaser; (2) any person controlling or controlled by the Purchaser; (3) if the Purchaser is a privately-held entity, any person having a beneficial interest in the Purchaser; or (4) any person for whom the Purchaser is acting as agent or nominee in connection with this investment is a senior foreign political figure,<sup>2</sup> or any immediate family<sup>3</sup> member or close associate<sup>4</sup> of a senior foreign political figure, as such terms are defined in the footnotes below.

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<sup>1</sup> These individuals include specially designated nationals, specially designated narcotics traffickers and other parties subject to OFAC sanctions and embargo programs.

<sup>2</sup> A “senior foreign political figure” is defined as a current or former senior official in the executive, legislative, administrative, military or judicial branches of a foreign government (whether elected or not), a senior official of a major foreign political party, or a senior executive of a foreign government-owned corporation. In addition, a “senior foreign political figure” includes any corporation, business or other entity that has been formed by, or for the benefit of, a senior foreign political figure.

<sup>3</sup> “Immediate family” of a senior foreign political figure typically includes the figure’s parents, siblings, spouse, children and in-laws.

<sup>4</sup> A “close associate” of a senior foreign political figure is a person who is widely and publicly known to maintain an unusually close relationship with the senior foreign political figure, and includes a person who is in a position to conduct substantial domestic and international financial transactions on behalf of the senior foreign political figure.

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(dd) If the Purchaser is affiliated with a non-U.S. banking institution (a “Foreign Bank”), or if the Purchaser receives deposits from, makes payments on behalf of, or handles other financial transactions related to a Foreign Bank, the Purchaser represents and warrants to the Company that: (1) the Foreign Bank has a fixed address, other than solely an electronic address, in a country in which the Foreign Bank is authorized to conduct banking activities; (2) the Foreign Bank maintains operating records related to its banking activities; (3) the Foreign Bank is subject to inspection by the banking authority that licensed the Foreign Bank to conduct banking activities; and (4) the Foreign Bank does not provide banking services to any other Foreign Bank that does not have a physical presence in any country and that is not a regulated affiliate.

**8. Indemnification.** The Purchaser agrees to indemnify and hold harmless the Company and its respective officers, directors, employees, agents, control persons and affiliates from and against all losses, liabilities, claims, damages, costs, fees and expenses whatsoever (including, but not limited to, any and all expenses incurred in investigating, preparing or defending against any litigation commenced or threatened) based upon or arising out of any actual or alleged false acknowledgment, representation or warranty, or misrepresentation or omission to state a material fact, or breach by the Purchaser of any covenant or agreement made by the Purchaser herein or in any other document delivered in connection with this Subscription Agreement.

**9. Irrevocability; Binding Effect.** The Purchaser hereby acknowledges and agrees that the subscription hereunder is irrevocable by the Purchaser, except as required by applicable laws; provided, however, that in the event the Closing to which this Subscription Agreement relates and the issuance of the Subscribed Shares has not occurred prior to the death of the Purchaser, then unless so elected by Purchaser’s heirs, executors, administrators, successors, legal representatives and permitted assigns, this Subscription Agreement not shall survive the death or disability of the Purchaser and shall not be binding upon the Purchaser and Purchaser’s heirs, executors, administrators, successors, legal representatives, and permitted assigns. If the Purchaser is more than one person, the obligations of the Purchaser hereunder shall be joint and several and the agreements, representations, warranties, and acknowledgments herein shall be deemed to be made by and be binding upon each such person and such person’s heirs, executors, administrators, successors, legal representatives, and permitted assigns.

**10. Modification.** This Subscription Agreement shall not be modified or waived except by an instrument in writing signed by the party against whom any such modification or waiver is sought.

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**11. Notices.** Any notice or other communication required or permitted to be given hereunder shall be in writing and shall be mailed by certified mail, return receipt requested, or delivered against receipt to the party to whom it is to be given (a) if to the Company, at the address set forth above, or (b) if to the Purchaser, at the address set forth on the signature page hereof (or, in either case, to such other address as the party shall have furnished in writing in accordance with the provisions of this Section 11). Any notice or other communication given by certified mail shall be deemed given at the time of certification thereof, except for a notice changing a party's address which shall be deemed given at the time of receipt thereof. If any notice is delivered by fax or email to a party, it will be deemed to have been delivered on the date the fax or email thereof is actually received, provided the original thereof is sent by certified mail, in the manner set forth above, within twenty-four (24) hours after the fax or email is sent.

**12. Assignability.** This Subscription Agreement and the rights, interests and obligations hereunder are not transferable or assignable by the Purchaser and the transfer or assignment of the Subscribed Shares, the Warrants, or the Warrant Shares shall be made only in accordance with all applicable laws. Any purported transfer or assignment in violation of this Section 12 shall be null and void; provided, however, that Purchaser's heirs, executors, administrators, successors, legal representatives and permitted assigns may elect to assume the rights of the Purchaser hereunder, as set forth in Section 9 above.

**13. Applicable Law.** This Subscription Agreement shall be governed by and construed in accordance with the laws of the State of New York applicable to contracts to be wholly performed within said State.

**14. Arbitration.** The parties agree to submit all controversies to arbitration in accordance with the provisions set forth below and understand that:

(a) Arbitration is final and binding on the parties.

(b) The parties are waiving their right to seek remedies in court, including the right to a jury trial.

(c) Pre-arbitration discovery is generally more limited and different from court proceedings.

(d) The arbitrator's award is not required to include factual findings or legal reasoning and any party's right to appeal or to seek modification of rulings by arbitrators is strictly limited.

(e) The panel of arbitrators will typically include a minority of arbitrators who were or are affiliated with the securities industry.

(f) All controversies which may arise between the parties concerning this Subscription Agreement shall be determined by arbitration in Vancouver, Washington. Judgment on any award of any such arbitration may be entered in any court having jurisdiction of the person or persons against whom such award is rendered. Any notice of such arbitration or for the confirmation of any award in any arbitration shall be sufficient if given in accordance with the provisions of this Agreement. The parties agree that the determination of the arbitrators shall be binding and conclusive upon them.

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**15. Blue Sky Qualification.** The purchase of Securities under this Subscription Agreement is expressly conditioned upon the exemption from qualification of the offer and sale of the Securities from applicable federal and state securities laws. The Company shall not be required to qualify this transaction under the securities laws of any jurisdiction and, should qualification be necessary, the Company shall be released from any and all obligations to maintain its offer, and may rescind any sale contracted, in the jurisdiction.

**16. Use of Pronouns.** All pronouns and any variations thereof used herein shall be deemed to refer to the masculine, feminine, neuter, singular or plural as the identity of the person or persons referred to may require.

**17. Confidentiality.** The Purchaser acknowledges and agrees that any information or data the Purchaser has acquired from or about the Company, not otherwise properly in the public domain, was received in confidence. The Purchaser agrees not to divulge, communicate or disclose, except as may be required by law or for the performance of this Agreement, or use to the detriment of the Company or for the benefit of any other person or persons, or misuse in any way, any confidential information of the Company, including any scientific, technical, trade or business secrets of the Company and any scientific, technical, trade or business materials that are treated by the Company as confidential or proprietary, including, but not limited to, ideas, discoveries, inventions, developments and improvements belonging to the Company and confidential information obtained by or given to the Company about or belonging to third parties.

**18. Miscellaneous.**

(a) This Subscription Agreement constitutes the entire agreement between the Purchaser and the Company with respect to the subject matter hereof and supersedes all prior oral or written agreements and understandings, if any, relating to the subject matter hereof. The terms and provisions of this Subscription Agreement may be waived, or consent for the departure therefrom granted, only by a written document executed by the party entitled to the benefits of such terms or provisions.

(b) The representations and warranties of the Company and the Purchaser made in this Subscription Agreement shall survive the execution and delivery hereof and delivery of the Subscribed Shares and Warrant.

(c) Each of the parties hereto shall pay its own fees and expenses (including the fees of any attorneys, accountants, appraisers or others engaged by such party) in connection with this Subscription Agreement and the transactions contemplated hereby whether or not the transactions contemplated hereby are consummated.

(d) This Subscription Agreement may be executed in one or more counterparts each of which shall be deemed an original, but all of which shall together constitute one and the same instrument.

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(e) Each provision of this Subscription Agreement shall be considered separable and, if for any reason any provision or provisions hereof are determined to be invalid or contrary to applicable law, such invalidity or illegality shall not impair the operation of or affect the remaining portions of this Subscription Agreement.

(f) Paragraph titles are for descriptive purposes only and shall not control or alter the meaning of this Subscription Agreement as set forth in the text.

(g) The Purchaser understands and acknowledges that there may be multiple closings for this Offering.

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**CYTODYN INC.**  
SIGNATURE PAGE TO THE  
SUBSCRIPTION AGREEMENT

**Subscriber hereby elects to subscribe under the Subscription Agreement for a total of**

**(1) \_\_\_\_\_ Subscribed Shares with an aggregate purchase price of \$\_\_\_\_\_ and**

**(2) Warrants exercisable for \_\_\_\_\_ shares of Common Stock**

**(NOTE: to be completed by subscriber) and executes the Subscription Agreement.**

Date (NOTE: To be completed by subscriber): \_\_\_\_\_

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If the Purchaser is an INDIVIDUAL, and if purchased as JOINT TENANTS, as TENANTS IN COMMON, or as COMMUNITY PROPERTY:

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**Print Name(s)**

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**Social Security Number(s)**

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**Signature(s) of Subscriber(s)**

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**Signature**

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**Date**

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**Address**

If the Purchaser is a PARTNERSHIP, CORPORATION, LIMITED LIABILITY COMPANY or TRUST:

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**Name of Partnership,  
Corporation, Limited  
Liability Company or Trust**

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**Federal Taxpayer  
Identification Number**

By: \_\_\_\_\_

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**State of Organization**

Name:  
Title:

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**Date**

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**Address**

**CYTODYN INC.**

By: \_\_\_\_\_

Authorized Officer

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**CYTODYN INC.**

**ACCREDITED INVESTOR CERTIFICATION**

**For Individual Investors Only**  
**(all Individual Investors must *INITIAL* where appropriate):**

**Initial** \_\_\_\_\_

I have an individual net worth, or joint net worth with my spouse, as of the date hereof in excess of \$1 million. For purposes of calculating net worth under this category, (i) the undersigned's primary residence shall not be included as an asset, (ii) indebtedness that is secured by the undersigned's primary residence, up to the estimated fair market value of the primary residence at the time of the sale of securities, shall not be included as a liability, (iii) to the extent that the indebtedness that is secured by the primary residence is in excess of the fair market value of the primary residence, the excess amount shall be included as a liability, and (iv) if the amount of outstanding indebtedness that is secured by the primary residence exceeds the amount outstanding 60 days prior to the execution of this Subscription Agreement, other than as a result of the acquisition of the primary residence, the amount of such excess shall be included as a liability.

**Initial** \_\_\_\_\_

I have had an annual gross income for the past two years of at least \$200,000 (or \$300,000 jointly with my spouse) and expect my income (or joint income, as appropriate) to reach the same level in the current year.

**Initial** \_\_\_\_\_

I am a director or executive officer of CytoDyn Inc.

**For Non-Individual Investors**  
**(all Non-Individual Investors must *INITIAL* where appropriate):**

**Initial** \_\_\_\_\_

The investor certifies that it is a partnership, corporation, limited liability company or business trust that is 100% owned by persons who meet at least one of the criteria for Individual Investors set forth above.

**Initial** \_\_\_\_\_

The investor certifies that it is a partnership, corporation, limited liability company or any organization described in Section 501(c)(3) of the Internal Revenue Code, Massachusetts or similar business trust that has total assets of at least \$5 million and was not formed for the purpose of investing the Company.

**Initial** \_\_\_\_\_

The investor certifies that it is an employee benefit plan within the meaning of the Employee Retirement Income Security Act of 1974, whose investment decision is made by a plan fiduciary (as defined in ERISA §3(21)) that is a bank, savings and loan association, insurance company or registered investment adviser.

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<b>Initial</b> _____	The investor certifies that it is an employee benefit plan whose total assets exceed \$5,000,000 as of the date of this Agreement.
<b>Initial</b> _____	The undersigned certifies that it is a self-directed employee benefit plan whose investment decisions are made solely by persons who meet either of the criteria for Individual Investors.
<b>Initial</b> _____	The investor certifies that it is a U.S. bank, U.S. savings and loan association or other similar U.S. institution acting in its individual or fiduciary capacity.
<b>Initial</b> _____	The undersigned certifies that it is a broker-dealer registered pursuant to §15 of the Securities Exchange Act of 1934.
<b>Initial</b> _____	The investor certifies that it is an organization described in §501(c)(3) of the Internal Revenue Code with total assets exceeding \$5,000,000 and not formed for the specific purpose of investing in the Company.
<b>Initial</b> _____	The investor certifies that it is a trust with total assets of at least \$5,000,000, not formed for the specific purpose of investing in the Company, and whose purchase is directed by a person with such knowledge and experience in financial and business matters that he is capable of evaluating the merits and risks of the prospective investment.
<b>Initial</b> _____	The investor certifies that it is a plan established and maintained by a state or its political subdivisions, or any agency or instrumentality thereof, for the benefit of its employees, and which has total assets in excess of \$5,000,000.
<b>Initial</b> _____	The investor certifies that it is an insurance company as defined in §2(13) of the Securities Act, or a registered investment company.
<b>Initial</b> _____	An investment company registered under the Investment Company Act of 1940 or a business development company as defined in Section 2(a)(48) of that Act.
<b>Initial</b> _____	A Small Business Investment Company licensed by the U.S. Small Business Administration under Section 301(c) or (d) of the Small Business Investment Act of 1958.
<b>Initial</b> _____	A private business development company as defined in Section 202(a)(22) of the Investment Advisers Act of 1940.

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**EXHIBIT "A"**

**Warrant Number \_\_\_\_**

THE WARRANT REPRESENTED BY THIS CERTIFICATE AND THE SECURITIES ISSUABLE UPON EXERCISE THEREOF HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT") OR THE SECURITIES LAWS OF ANY STATE OR OTHER JURISDICTION. THIS WARRANT AND THE SECURITIES ISSUABLE UPON EXERCISE THEREOF MAY NOT BE OFFERED, SOLD, PLEDGED, ASSIGNED OR OTHERWISE TRANSFERRED UNLESS (1) SUCH TRANSACTION IS MADE PURSUANT TO AN EFFECTIVE REGISTRATION STATEMENT UNDER THE SECURITIES ACT AND THE APPLICABLE SECURITIES LAWS OF ANY STATE OR OTHER JURISDICTION OR (2) THE COMPANY IS PROVIDED WITH AN OPINION OF COUNSEL, SATISFACTORY TO THE COMPANY, STATING THAT SUCH TRANSACTION IS IN COMPLIANCE WITH EXEMPTIONS FROM REGISTRATION UNDER THE SECURITIES ACT AND SUCH OTHER APPLICABLE LAWS. NO TRANSFER OF ANY INTEREST IN THIS WARRANT OR THE SECURITIES ISSUABLE UPON EXERCISE THEREOF MAY BE EFFECTED WITHOUT FIRST SURRENDERING THIS WARRANT OR SUCH SECURITIES, AS THE CASE MAY BE, TO THE COMPANY OR ITS TRANSFER AGENT, IF ANY.

Warrant to Purchase  
Shares of  
Common Stock  
As Herein Described

\_\_\_\_\_, 201\_\_

**WARRANT TO PURCHASE COMMON STOCK OF  
CYTODYN INC.**

This is to certify that, for value received, \_\_\_\_\_, or a proper assignee (the "Holder"), is entitled to purchase up to \_\_\_\_\_ shares ("Warrant Shares") of common stock, \$.001 par value per share (the "Common Stock"), of CytoDyn Inc., a Delaware corporation (the "Company"), subject to the provisions of this Warrant Number \_\_, from the Company. This Warrant shall be exercisable at \_\_\_\_\_ (\$\_\_\_\_) per share (the "Exercise Price"). This Warrant also is subject to the following terms and conditions:

**1. Exercise and Payment; Exchange.**

(a) This Warrant may be exercised in whole or in part at any time from and after the date hereof (the "Commencement Date") through 5:00 p.m., Pacific time, on \_\_\_\_\_ (the "Expiration Date"), at which time this Warrant shall expire and become void, but if such date is a day on which federal or state chartered banking institutions located in the State of Washington are authorized to close, then on the next succeeding day which shall not

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be such a day. Exercise shall be by presentation and surrender to the Company, or at the office of any transfer agent designated by the Company (the "Transfer Agent"), of (i) this Warrant, (ii) the attached exercise form properly executed, and (iii) a certified or official bank check for the Exercise Price for the number of Warrant Shares specified in the exercise form. If this Warrant is exercised in part only, the Company or the Transfer Agent shall, upon surrender of the Warrant, execute and deliver a new Warrant evidencing the rights of the Holder to purchase the remaining number of Warrant Shares purchasable hereunder. Upon receipt by the Company of this Warrant, the properly executed exercise form, and payment as aforesaid, the Holder shall be deemed to be the holder of record of the Common Stock issuable upon such exercise, notwithstanding that the stock transfer books of the Company shall then be closed or that certificates representing such Warrant Shares shall not then be actually delivered to the Holder.

(b) Conditions to Exercise or Exchange. The restrictions in Section 7 shall apply, to the extent applicable by their terms, to any exercise or exchange of this Warrant permitted by this Section 1.

2. Reservation of Shares. The Company shall, at all times until the expiration of this Warrant, reserve for issuance and delivery upon exercise of this Warrant the number of Warrant Shares which shall be required for issuance and delivery upon exercise of this Warrant.

3. Fractional Interests. The Company shall not issue any fractional shares or scrip representing fractional shares upon the exercise or exchange of this Warrant. With respect to any fraction of a share resulting from the exercise or exchange hereof, the Company shall pay to the Holder an amount in cash equal to such fraction multiplied by the current fair market value per share of Common Stock, determined as follows:

(a) If the Common Stock is listed on a national securities exchange or admitted to unlisted trading privileges on such an exchange, the current fair market value shall be the last reported sale price of the Common Stock on such exchange on the last business day prior to the date of exercise of this Warrant or if no such sale is made on such day, the mean of the closing bid and asked prices for such day on such exchange;

(b) If the Common Stock is not so listed or admitted to unlisted trading privileges on a national securities exchange, the current fair market value shall be the mean of the last bid and asked prices reported on the last business day prior to the date of the exercise of this Warrant by the OTC Markets Group, Inc.; or

(c) If the Common Stock is not so listed or admitted to unlisted trading privileges on a national securities exchange and bid and asked prices are not so reported, the current fair market value shall be an amount, not less than book value, determined in such reasonable manner as may be prescribed by the Company in good faith.

4. No Rights as Shareholder. This Warrant shall not entitle the Holder to any rights as a shareholder of the Company, either at law or in equity. The rights of the Holder are limited to those expressed in this Warrant and are not enforceable against the Company except to the extent set forth herein.

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## 5. Adjustments in Number and Exercise Price of Warrant Shares.

5.1 The number of shares of Common Stock for which this Warrant may be exercised and the Exercise Price therefor shall be subject to adjustment as follows:

(a) If the Company is recapitalized through the subdivision or combination of its outstanding shares of Common Stock into a larger or smaller number of shares, the number of Warrant Shares shall be increased or reduced, as of the record date for such recapitalization, in the same proportion as the increase or decrease in the outstanding shares of Common Stock, and the Exercise Price shall be adjusted so that the aggregate amount payable for the purchase of all of the Warrant Shares issuable immediately after the record date for such recapitalization shall equal the aggregate amount so payable immediately before such record date.

(b) If the Company declares a dividend on Common Stock payable in Common Stock or securities convertible into Common Stock, the number of shares of Common Stock for which this Warrant may be exercised shall be increased as of the record date for determining which holders of Common Stock shall be entitled to receive such dividend, in proportion to the increase in the number of outstanding shares (and shares of Common Stock issuable upon conversion of all such securities convertible into Common Stock) of Common Stock as a result of such dividend, and the Exercise Price shall be adjusted so that the aggregate amount payable for the purchase of all the Warrant Shares issuable immediately after the record date for such dividend shall equal the aggregate amount so payable immediately before such record date.

(c) If the Company distributes to holders of its Common Stock, other than as part of its dissolution or liquidation or the winding up of its affairs, any evidence of indebtedness or any of its assets (other than cash, Common Stock or securities convertible into Common Stock), the Company shall give written notice to the Holder of any such distribution at least fifteen (15) days prior to the proposed record date in order to permit the Holder to exercise this Warrant on or before the record date. There shall be no adjustment in the number of shares of Common Stock for which this Warrant may be exercised, or in the Exercise Price, by virtue of any such distribution.

(d) If the Company offers rights or warrants to the holders of Common Stock which entitle them to subscribe to or purchase additional Common Stock or securities convertible into Common Stock, the Company shall give written notice of any such proposed offering to the Holder at least fifteen (15) days prior to the proposed record date in order to permit the Holder to exercise this Warrant on or before such record date. There shall be no adjustment in the number of shares of Common Stock for which this Warrant may be exercised, or in the Exercise Price, by virtue of any such distribution.

(e) If the event, as a result of which an adjustment is made under paragraph (a) or (b) above, does not occur, then any adjustments in the Exercise Price or number of shares issuable that were made in accordance with such paragraph (a) or (b) shall be adjusted to the Exercise Price and number of shares as were in effect immediately prior to the record date for such event.

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5.2 In the event of any reorganization or reclassification of the outstanding shares of Common Stock (other than a change in par value or from no par value to par value, or from par value to no par value, or as a result of a subdivision or combination) or in the event of any consolidation or merger of the Company with another entity after which the Company is not the surviving entity, at any time prior to the expiration of this Warrant, upon subsequent exercise of this Warrant the Holder shall have the right to receive the same kind and number of shares of common stock and other securities, cash or other property as would have been distributed to the Holder upon such reorganization, reclassification, consolidation or merger had the Holder exercised this Warrant immediately prior to such reorganization, reclassification, consolidation or merger, appropriately adjusted for any subsequent event described in this Section 5. The Holder shall pay upon such exercise the Exercise Price that otherwise would have been payable pursuant to the terms of this Warrant. If any such reorganization, reclassification, consolidation or merger results in a cash distribution in excess of the then applicable Exercise Price, the Holder may, at the Holder's option, exercise this Warrant without making payment of the Exercise Price, and in such case the Company shall, upon distribution to the Holder, consider the Exercise Price to have been paid in full, and in making settlement to the Holder, shall deduct an amount equal to the Exercise Price from the amount payable to the Holder. In the event of any such reorganization, merger or consolidation, the corporation formed by such consolidation or merger or the corporation which shall have acquired the assets of the Company shall execute and deliver a supplement hereto to the foregoing effect, which supplement shall also provide for adjustments which shall be as nearly equivalent as may be practicable to the adjustments provided in this Warrant.

5.3 If the Company shall, at any time before the expiration of this Warrant, dissolve, liquidate or wind up its affairs, the Holder shall have the right to receive upon exercise of this Warrant, in lieu of the shares of Common Stock of the Company that the Holder otherwise would have been entitled to receive, the same kind and amount of assets as would have been issued, distributed or paid to the Holder upon any such dissolution, liquidation or winding up with respect to such Common Stock receivable upon exercise of this Warrant on the date for determining those entitled to receive any such distribution. If any such dissolution, liquidation or winding up results in any cash distribution in excess of the Exercise Price provided by this Warrant, the Holder may, at the Holder's option, exercise this Warrant without making payment of the Exercise Price and, in such case, the Company shall, upon distribution to the Holder, consider the Exercise Price to have been paid in full and, in making settlement to the Holder, shall deduct an amount equal to the Exercise Price from the amount payable to the Holder.

6. Notices to Holder. So long as this Warrant shall be outstanding (a) if the Company shall pay any dividends or make any distribution upon the Common Stock otherwise than in cash or (b) if the Company shall offer generally to the holders of Common Stock the right to subscribe to or purchase any shares of any class of Common Stock or securities convertible into Common Stock or any similar rights or (c) if there shall be any capital reorganization of the Company in which the Company is not the surviving entity, recapitalization of the capital stock of the Company, consolidation or merger of the Company with or into another corporation, sale, lease or other transfer of all or substantially all of the property and assets of the Company, or voluntary or involuntary dissolution, liquidation or winding up of the Company, then in such event, the Company shall cause to be mailed to the

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Holder, at least thirty (30) days prior to the relevant date described below (or such shorter period as is reasonably possible if thirty (30) days is not reasonably possible), a notice containing a description of the proposed action and stating the date or expected date on which a record of the Company's shareholders is to be taken for the purpose of any such dividend, distribution of rights, or such reclassification, reorganization, consolidation, merger, conveyance, lease or transfer, dissolution, liquidation or winding up is to take place and the date or expected date, if any is to be fixed, as of which the holders of Common Stock of record shall be entitled to exchange their shares of Common Stock for securities or other property deliverable upon such event.

**7. Transfer, Exercise, Exchange, Assignment or Loss of Warrant, Warrant Shares or Other Securities.**

7.1 This Warrant may be transferred, exercised, exchanged or assigned ("transferred"), in whole or in part, subject to the following restrictions. This Warrant and the Warrant Shares or any other securities ("Other Securities") received upon exercise of this Warrant shall be subject to restrictions on transferability until registered under the Securities Act of 1933, as amended (the "Securities Act"), unless an exemption from registration is available. Until this Warrant and the Warrant Shares or Other Securities are so registered, this Warrant and any certificate for Warrant Shares or Other Securities issued or issuable upon exercise of this Warrant shall contain a legend on the face thereof, in form and substance satisfactory to counsel for the Company, stating that this Warrant the Warrant Shares or Other Securities may not be sold, transferred or otherwise disposed of unless, in the opinion of counsel satisfactory to the Company, which may be counsel to the Company, that this Warrant, the Warrant Shares or Other Securities may be transferred without such registration. This Warrant and the Warrant Shares or Other Securities may also be subject to restrictions on transferability under applicable state securities or blue sky laws. Until this Warrant and the Warrant Shares or Other Securities are registered under the Securities Act, the Holder shall reimburse the Company for its expenses, including attorneys' fees, incurred in connection with any transfer or assignment, in whole or in part, of this Warrant or any Warrant Shares or Other Securities.

7.2 Until this Warrant, the Warrant Shares or other Securities are registered under the Securities Act, the Company may require, as a condition of transfer of this Warrant, the Warrant Shares, or Other Securities, that the transferee (who may be the Holder in the case of an exercise or exchange) represent that the securities being transferred are being acquired for investment purposes and for the transferee's own account and not with a view to or for sale in connection with any distribution of the security.

7.3 Any transfer permitted hereunder shall be made by surrender of this Warrant to the Company or to the Transfer Agent at its offices with a duly executed request to transfer the Warrant, which shall provide adequate information to effect such transfer and shall be accompanied by funds sufficient to pay any transfer taxes applicable. Upon satisfaction of all transfer conditions, the Company or Transfer Agent shall, without charge, execute and deliver a new Warrant in the name of the transferee named in such transfer request, and this Warrant promptly shall be cancelled.

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7.4 Upon receipt by the Company of evidence satisfactory to it of loss, theft, destruction or mutilation of this Warrant and, in the case of loss, theft or destruction, of reasonable satisfactory indemnification, or, in the case of mutilation, upon surrender of this Warrant, the Company will execute and deliver, or instruct the Transfer Agent to execute and deliver, a new Warrant of like tenor and date, any such lost, stolen or destroyed Warrant thereupon shall become void.

8. Representations and Warranties of the Holder. The Holder hereby represents and warrants to the Company with respect to the issuance of the Warrant as follows:

8.1 Experience. The Holder has substantial experience in evaluating and investing in securities in companies similar to the Company so that such Holder is capable of evaluating the merits and risks of such Holder's investment in the Company and has the capacity to protect such Holder's own interests.

8.2 Investment. The Holder is acquiring this Warrant (and the Warrant Shares issuable upon exercise of this Warrant) for investment for such Holder's own account, not as a nominee or agent, and not with the view to, or for resale in connection with, any distribution thereof. The Holder understands that this Warrant (and the Warrant Shares issuable upon exercise of the Warrant) have not been, and will not be, registered under the Securities Act by reason of a specific exemption from the registration provisions of the Securities Act which depends upon, among other things, the bona fide nature of the investment intent and the accuracy of such Holder's representations as expressed herein.

8.3 Held Indefinitely. The Holder acknowledges that this Warrant (and the Warrant Shares issuable upon exercise of this Warrant) must be held indefinitely unless subsequently registered under the Securities Act or an exemption from such registration is available.

8.4 Accredited Holder. The Holder is an "accredited investor" within the meaning of Rule 501 of Regulation D under the Securities Act.

8.5 Legends. The Holder understands and acknowledges that the certificate(s) evidencing the securities issued by the Company will be imprinted with a restrictive legend as referenced in Section 7.1 above.

8.6 Access to Data. The Holder has had an opportunity to discuss the Company's business, management, and financial affairs with the Company's management and the opportunity to review the Company's facilities and business plans. The Holder has also had an opportunity to ask questions of officers of the Company, which questions were answered to its satisfaction.

8.7 Authorization. This Warrant and the agreements contemplated hereby, when executed and delivered by the Holder, will constitute a valid and legally binding obligation of the Holder, enforceable in accordance with their respective terms.

8.8 Brokers or Finders. The Company has not incurred, and will not incur, directly or indirectly, as a result of any action taken by such Holder, any liability for brokerage or finders' fees or agents' commissions or any similar charges in connection with this Warrant or any transaction contemplated hereby.

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9. Notices. All notices, requests, demands or other communications hereunder shall be in writing and shall be deemed to have been duly given, if delivered in person or mailed, certified, return-receipt requested, postage prepaid to the address previously provided to the other party, or sent by fax or email (to the extent stated below). Either party hereto may from time to time, by written notice to the other party, designate a different address. If any notice or other document is sent by certified or registered mail, return receipt requested, postage prepaid, properly addressed as aforementioned, the same shall be deemed delivered seventy-two (72) hours after mailing thereof. If any notice is sent by fax or email, it will be deemed to have been delivered on the date the fax or email thereof is actually received, provided the original thereof is sent by certified mail, in the manner set forth above, within twenty-four (24) hours after the fax or email is sent.

10. Amendment. Any provision of this Warrant may be amended or the observance thereof may be waived (either generally or in a particular instance and either retroactively or prospectively), only with the mutual written consent of the Company and the Holder.

11. Governing Law. This Warrant shall be governed by and construed in accordance with the laws of the State of New York.

*[Signature page follows.]*

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IN WITNESS WHEREOF, the Company and the Holder have executed this Warrant on the respective dates set forth below.

**HOLDER**

Date: \_\_\_\_\_

\_\_\_\_\_  
Name:

Title:

**CYTODYN INC.**

Date: \_\_\_\_\_

By: \_\_\_\_\_

Name: Michael D. Mulholland

Title: Chief Financial Officer

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## FORM OF EXERCISE

**To be executed upon exercise of Warrant  
(please print)**

The undersigned hereby irrevocably elects to exercise the right, represented by this Warrant Number \_\_\_\_\_ certificate, to \_\_\_\_\_ shares of common stock, \$.001 par value per share (“Common Stock”) of CytoDyn Inc. (the “Company”) and herewith tenders payment for such shares of Common Stock to the order of the Company the amount of \$\_\_\_\_\_ per share in accordance with the terms hereof. The undersigned requests that a certificate for such shares of Common Stock be registered in the name of \_\_\_\_\_ whose address is \_\_\_\_\_. If said number of shares of Common Stock is less than all of the shares of Common Stock purchasable hereunder, the undersigned requests that a new Warrant Certificate representing the remaining balance of the shares of Common Stock be registered in the name of \_\_\_\_\_, whose address is \_\_\_\_\_, and that such Warrant Certificate be delivered to \_\_\_\_\_, whose address is \_\_\_\_\_.

Representations of the undersigned.

- a) The undersigned acknowledges that the undersigned has received, read and understood the Warrant and agrees to abide by and be bound by its terms and conditions.
- b) (i) The undersigned has such knowledge and experience in business and financial matters that the undersigned is capable of evaluating the Company and the proposed activities thereof, and the risks and merits of this prospective investment.

YES    NO

(ii) If “No”, the undersigned is represented by a “purchaser representative,” as that term is defined in Regulation D under the Securities Act of 1933, as amended (the “Securities Act”).

YES    NO

- c) (i) The undersigned is an “accredited investor,” as that term is defined in the Securities Act.

YES    NO

(ii) If “Yes,” the undersigned comes within the following category of that definition (check one and complete the blanks as applicable):

- 1. The undersigned is a natural person whose present net worth (or whose joint net worth with his or her spouse), excluding the value of the undersigned’s primary residence, exceeds \$1,000,000. For purposes of calculating the undersigned’s present net worth, the undersigned has

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included the following as liabilities: (i) any indebtedness that is secured by the undersigned's primary residence in excess of the estimated fair market value of the undersigned's primary residence at the time of the sale of the shares, and (ii) any incremental debt secured by the undersigned's primary residence that was incurred in the 60 days before the sale of the shares, other than as a result of the acquisition of the undersigned's primary residence.

- 2. The undersigned is a natural person who had individual income in excess of \$200,000 in each of the last two years or joint income with the undersigned's spouse in excess of \$300,000 during such two years, and the undersigned reasonably expects to have the same income level in the current year.
  - 3. The undersigned is an officer or director of the Company.
  - 4. The undersigned is a corporation or partnership not formed for the specific purpose of acquiring the securities offered, with total assets in excess of \$5,000,000.
  - 5. The undersigned is a trust with total assets in excess of \$5,000,000 whose purchase is directed by a person with such knowledge and experience in financial and business matters that such person is capable of evaluating the merits and risks of the prospective investment.
  - 6. The undersigned is an entity, all of whose equity owners are accredited investors under paragraphs 1, 2, 3, 4 or 5, above.
- d) The undersigned understands that the shares purchased hereunder have not been registered under the Securities Act, in reliance upon the exemption from the registration requirements under the Securities Act pursuant to Section 4(a)(2) of the Securities Act and Rule 506 promulgated thereunder; and, therefore, that the undersigned must bear the economic risk of the investment for an indefinite period of time since the securities cannot be sold, transferred or assigned to any person or entity without compliance with the provisions of the Securities Act.

Submitted by:

Accepted by CytoDyn Inc.:

By: \_\_\_\_\_  
Date: \_\_\_\_\_  
SS/Tax ID: \_\_\_\_\_  
Telephone: \_\_\_\_\_  
Email: \_\_\_\_\_

By: \_\_\_\_\_  
Date: \_\_\_\_\_  
Tax ID: \_\_\_\_\_

(Signature must conform in all respects to name of holder as specified on the face of the Warrant Certificate.)

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**EXHIBIT “B”**

**SELLING STOCKHOLDER  
NOTICE AND QUESTIONNAIRE**

The undersigned is the beneficial owner of certain Securities of CytoDyn Inc., a Delaware corporation (the “Company”), issued in accordance with the terms of the Subscription Agreement (the “Subscription Agreement”) to which the form of this Notice and Questionnaire was originally annexed.

The undersigned understands that the Company has filed or intends to file with the Securities and Exchange Commission (the “Commission”) a registration statement (the “Registration Statement”) to register, under Rule 415 of the Securities Act of 1933, as amended (the “Securities Act”), the resale of the Subscribed Shares and/or the Warrant Shares (collectively, the “Registrable Securities”) beneficially owned by the undersigned.

All capitalized terms not otherwise defined herein shall have the meanings ascribed thereto in the Subscription Agreement. A copy of the Subscription Agreement is available from the Company upon written request at the following address:

CytoDyn Inc.  
1111 Main Street, Suite 660  
Vancouver, Washington 98660.

Certain legal consequences arise from being named as a selling stockholder in the Registration Statement and related prospectus. Accordingly, holders and beneficial owners of Registrable Securities are advised to consult their own securities law counsel regarding the consequences of being named or not being named as a selling stockholder in the Registration Statement and related prospectus.

The undersigned beneficial owner of Registrable Securities (the “Selling Stockholder”) hereby elects to include the Registrable Securities owned by it in the Registration Statement.

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The undersigned hereby provides the following information to the Company and represents and warrants that such information is accurate:

## **SELLING STOCKHOLDER QUESTIONNAIRE**

**1. Name.**

Full Legal Name of Selling Stockholder:

Full Legal Name of Registered Holder (if not the same as (a) above) through which Registrable Securities are held:

Full Legal Name of Natural Control Person (which means a natural person who directly or indirectly alone or with others has power to vote or dispose of the securities covered by this Questionnaire):

**2. Address for Notices to Selling Stockholder:**

Telephone:

Fax:

Contact Person:

**3. Broker-Dealer Status:**

(a) Are you a broker-dealer?

Yes  No

(b) If "yes" to Section 3(a), did you receive your Registrable Securities as compensation for investment banking services to the Company?

Yes  No

**Note: If "no" to Section 3(b), the Commission's staff has indicated that you should be identified as an underwriter in the Registration Statement.**

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(c) Are you an affiliate of broker-dealer?

Yes  No

(d) If “yes” to Section 3(c), do you certify that you purchased the Registrable Securities in the ordinary course of business, and at the time of the purchase of the Registrable Securities to be resold, you had no agreements or understandings, directly or indirectly, with any person to distribute the Registrable Securities?

Yes  No

**Note: If “no” to Section 3(d), the Commission’s staff has indicated that you should be identified as an underwriter in the Registration Statement.**

**4. Beneficial Ownership of Securities of the Company Owned by the Selling Stockholder.**

*Except as set forth below in this Item 4, the undersigned is not the beneficial or registered owner of any securities of the Company other than the securities issuable pursuant to the Subscription Agreement.*

Type and amount of other securities beneficially owned by the Selling Stockholder:

**5. Relationships with the Company:**

*Except as set forth below, neither the undersigned nor any of its affiliates, officers, directors or principal equityholders (owners of 5% or more of the equity securities of the undersigned) has held any position or office or has had any other material relationship with the Company (or its predecessors or affiliates) during the past three years.*

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State any exceptions here:

The undersigned agrees to promptly notify the Company of any inaccuracies or changes in the information provided herein that may occur subsequent to the date hereof at any time while the Registration Statement remains effective.

By signing below, the undersigned consents to the disclosure of the information contained herein in its answers to Items 1 through 5 and the inclusion of such information in the Registration Statement and related prospectus and any amendments or supplements thereto. The undersigned understands that such information will be relied upon by the Company in connection with the preparation or amendment of the Registration Statement and related prospectus and any amendments or supplements thereto.

IN WITNESS WHEREOF the undersigned, by authority duly given, has caused this Notice and Questionnaire to be executed and delivered either in person or by its duly authorized agent.

Date: \_\_\_\_\_

Beneficial  
Owner: \_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**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 annual report is being prepared;
  - b. designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
  - c. evaluated the effectiveness of the Registrant's disclosure controls and procedures and presented in this 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: October 12, 2016

/s/ Nader Z. Pourhassan

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Nader Z. Pourhassan  
President and Chief Executive Officer

**Certification of Chief Financial Officer**

I, Michael D. Mulholland, 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 annual report is being prepared;
  - b. designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
  - c. evaluated the effectiveness of the Registrant's disclosure controls and procedures and presented in this 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: October 12, 2016

/s/ Michael D. Mulholland

Michael D. Mulholland  
Chief Financial Officer

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**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 August 31, 2016, 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: October 12, 2016

/s/ Nader Z. Pourhassan

Nader Z. Pourhassan

President and Chief Executive Officer

**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 August 31, 2016, as filed with the Securities and Exchange Commission on the date hereof (the “Form 10-Q”), I, Michael D. Mulholland, 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: October 12, 2016

/s/ Michael D. Mulholland

Michael D. Mulholland

Chief Financial Officer