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

FORM 8-K

**Current Report
Pursuant to Section 13 or 15(d)
of The Securities Exchange Act of 1934**

Date of Report (Date of earliest event reported): November 23, 2021 (November 9, 2021)

CytoDyn Inc.

(Exact name of registrant as specified in its charter)

Delaware
(State or other jurisdiction of
incorporation or organization)

000-49908
(Commission
File Number)

83-1887078
(I.R.S. Employer
Identification No.)

**1111 Main Street, Suite 660
Vancouver, Washington 98660**
(Address of principal executive offices, including zip code)

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

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions:

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
- Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
- Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
- Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

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

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

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

Emerging growth company

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

Item 3.02 Unregistered Sales of Equity Securities.

CytoDyn Inc., a Delaware corporation (the “Company”), is providing this disclosure under Item 3.02 because, as of November 17, 2021, its unregistered sales of equity securities, in the aggregate, exceeded 1% of the shares of its common stock, par value \$0.001 per share (the “Common Stock”), outstanding as of October 31, 2021.

Private Warrant Exchanges

On November 9 and November 20, 2021, the Company entered into Warrant Exercise Inducement Agreements (the “Exercise Agreements”) with accredited investors, pursuant to which the investors purchased shares of Common Stock at prices ranging from \$0.90 to \$1.50 per share in exchange for warrants with exercise prices ranging from \$0.45 to \$0.75 per share. The Company issued approximately 0.3 million shares of common stock, as well as approximately 0.3 million additional shares as an inducement to the investors to exercise their warrants, for a total of approximately 0.5 million shares of common stock. Gross proceeds from these private warrant exchanges were approximately \$0.3 million.

The form of Exercise Agreement was filed as Exhibit 10.2 to the Company’s Current Report on Form8-K filed with the Securities and Exchange Commission (the “SEC”) on September 7, 2021. The foregoing summary of the terms of the Exercise Agreement is subject to, and qualified in its entirety by, such document, which is incorporated herein by reference.

The shares issued pursuant to the Exercise Agreements were sold to accredited investors in reliance on the exemption provided by Rule 506 of Regulation D and Section 4(a)(2) of the Securities Act of 1933, as amended (the “Securities Act”).

Private Placement of Shares of Common Stock and Warrants

On November 12 and 22, 2021, the Company issued in a private placement to accredited investors a total of approximately 1.4 million shares of Common Stock, together with warrants to purchase a total of approximately 0.3 million shares of Common Stock at an exercise price of \$1.10 per share. The warrants have a five-year term and are immediately exercisable. The securities were issued with a combined purchase price of \$1.10 per fixed combination of one share of Common Stock and one quarter of one warrant to purchase one share of Common Stock, for total gross proceeds to the Company of approximately \$1.5 million.

Copies of the forms of warrant and subscription agreement were filed as Exhibits 4.1 and 10.1, respectively, to the Company’s Current Report on Form 8-K filed with the SEC on September 7, 2021. The foregoing summary of the terms of the forms of warrant and subscription agreement is subject to, and qualified in its entirety by, such documents.

The representations, warranties and covenants contained in the subscription agreements were made solely for the benefit of the parties to the subscription agreements. In addition, such representations, warranties and covenants (i) are intended as a way of allocating the risk between the parties to the subscription agreements and not as statements of fact, and (ii) may apply standards of materiality that are different from what may be viewed as material by stockholders of, or other investors in, the Company. Accordingly, the subscription

agreements only provide information to investors regarding the terms of the private placement, and do not provide investors with any other factual information regarding the Company. Stockholders should not rely on the representations, warranties and covenants or any descriptions thereof as characterizations of the actual state of facts regarding or condition of the Company or any of its subsidiaries or affiliates. Moreover, information concerning the subject matter of the representations and warranties may change after the date of each subscription agreement, which subsequent information may or may not be fully reflected in public disclosures.

Exchange of Convertible Promissory Note for Shares of Common Stock

On November 16, 2021, the Company and the holder of its secured convertible promissory note issued April 2, 2021 (the “April 2 Note”), entered into an exchange agreement pursuant to which the April 2 Note was exchanged for a new note (the “November 2021 Note”) with a principal amount of \$2.0 million. The Company and the investor exchanged the November 2021 Note for approximately 2.1 million shares of Common Stock. The Company relied on the exemption from registration afforded by Section 3(a)(9) of the Securities Act for the exchange transaction described above.

Private Placement of Common Stock and Warrants through Placement Agent

On November 17, 2021, the Company issued in a private placement to accredited investors an aggregate of approximately 8.1 million shares of Common Stock, together with warrants to purchase an aggregate of approximately 2.4 million shares of Common Stock at an exercise price of \$1.00 per share. The securities were issued at a combined purchase price of \$1.00 per fixed combination of one share of common stock and three-tenths of one warrant to purchase one share of Common Stock, for aggregate gross proceeds to the Company of approximately \$8.1 million. The warrants have a five-year term and are immediately exercisable. A copy of the form of warrant was filed as Exhibit 4.1 to the Company’s Current Report on Form 8-K filed with the SEC on September 7, 2021. A copy of the form of subscription agreement is filed as Exhibit 10.1 to this Form 8-K and is incorporated herein by reference. The foregoing summary of the terms of the forms of warrant and subscription agreement is subject to, and qualified in its entirety by, such documents.

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

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

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

Item 9.01 Financial Statements and Exhibits.

(d) Exhibits.

<u>Exhibit No.</u>	<u>Description</u>
10.1	Form of Subscription Agreement
104	Cover Page Interactive Data File (formatted as inline XBRL)

SIGNATURE

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

Date: November 23, 2021

CYTODYN INC.

By /s/ Antonio Migliarese
Antonio Migliarese
Chief Financial Officer

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, \$0.001 par value, of the Company (the “Common Stock”) set forth on the signature page hereof at a purchase price of \$1.00 (the “Subscribed Shares”), with a minimum investment of \$100,000 (“Minimum Investment Amount”), or such lesser amount accepted by the Company in its sole discretion. In addition, each Purchaser shall also receive a warrant, substantially in the form attached hereto as Exhibit A (the “Warrants” and together with the Subscribed Shares and the shares of Common Stock issuable upon exercise of the Warrants (the “Warrant Shares”), collectively, the “Securities”), to purchase a number of shares of Common Stock equal to 30% of the number of Subscribed Shares. The Warrants will be exercisable for Warrant Shares for a 5-year period commencing at the Closing (as defined below) at an exercise price of \$1.00 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 closing of the Offering to which this Subscription Agreement relates (the “Closing”) may be scheduled by the Company at any time after the execution of this Subscription Agreement. Additional Securities may have been and may continue to be offered and sold from time to time in the Offering, 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 escrow account for this Offering, 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 (or, subject to the Company’s approval in its sole discretion in lieu of a wire transfer, a check) for the full purchase price, the Purchaser is delivering a completed and executed omnibus Signature Page to this Subscription Agreement, a completed and executed Purchaser Questionnaire and Certification, and such other documents as required by the Placement Agent (as defined below).
4. **Acceptance of Subscription.** The Purchaser understands and agrees that the Company, in its sole discretion, reserves 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, including the issuance of the Subscribed Shares and the Warrants, 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 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. Restrictions on Transfer.

(a) The Purchaser understands and agrees that the Securities are subject to the transfer restrictions specified herein and in the Warrants, and that the Securities have not been registered under the Securities Act or the securities laws of any state or other jurisdiction; accordingly, the Securities (including the Warrant Shares) 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 in compliance with the provisions of this Subscription Agreement and the Warrants, as the case may be, and without registration under United States securities laws and the applicable securities laws of any state or other jurisdiction. **The Purchaser understands that the Securities are being sold without any Registration Rights.**

(b) 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 Common Stock, each in a manner generally consistent with the foregoing.

(c) The Purchaser is aware of the provisions of 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.

(d) The Purchaser further understands that at the time the Purchaser wishes to sell Securities (including any Warrant Shares issued or issuable upon exercise of the Warrants) 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.

(e) 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 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.**

(f) 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 SEC 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.

6. Representations and Warranties.

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

(a) None of the Securities 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 (including the issuance of Warrant Shares upon 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.

(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 the Purchaser and the Purchaser's Advisers, if any.

(e) The Purchaser and the Purchaser's 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 such 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 the Purchaser’s 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 is aware that Paulson Investment Company, LLC (the “Placement Agent”), for the services it is providing in this Offering will receive, with respect to subscriptions made in this Offering through the Placement Agent, (1) a cash compensation equal to 12% of the gross proceeds received by the Company from such subscribers; (2) a warrant to purchase a number of shares equal to 12% of the aggregate number of Subscribed Shares issued to such subscribers, which is exercisable for a period of ten (10) years from the date of issuance at an exercise price equal to 100% of the purchase price for such Subscribed Shares and related Warrants and (3) a non-accountable expense fee of \$50,000 to be paid upon the first closing of the Offering.

(j) The Purchaser is aware that the Placement Agent has acted as a placement agent and for the Company in numerous prior offerings of the Company’s debt and equity securities and as an advisor in relation to an acquisition, and has received equity compensation for its services. As of October 18, 2021, the Placement Agent and its principals own an aggregate of 3,278,475 shares of the Company’s Common Stock, and 1,882,627 warrants to purchase shares of the Company’s Common Stock. Additionally, many of the Placement Agent’s registered representatives own shares of the Company’s Common Stock and warrants to purchase the Company’s Common Stock. The Purchaser further acknowledges that because of the ownership set forth herein Placement Agent and its officers and employees may have an incentive to sell the Securities to Purchaser beyond the fees for this Offering.

(k) Other than the commission payable to the Placement Agent as described herein, 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.

(l) The Purchaser is not relying on the Placement Agent, the Company or either of their 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.

(m) The Purchaser is acquiring the Securities (including, upon 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.

(n) The Purchaser understands and agrees that the Purchaser must bear the substantial economic risks of the investment in the Securities (including, upon 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.

(o) 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.

(p) 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 Form 10-K filed with the SEC on July 30, 2021 and subsequent reports (including the documents incorporated by reference therein) (the "SEC Filings"), and, in particular, acknowledges that the Company has significant operating losses since inception, immaterial revenues to date and limited assets, is engaged in a highly competitive business and will need additional capital which will result in dilution to the Purchaser if the Purchaser is not able to participate in future offerings. The Purchaser further acknowledges that the Purchaser is aware that the Company and certain executives have received subpoenas in connection with an investigation by the United States Department of Justice ("DOJ") and that any actions taken by the DOJ against the Company or any of its executives could have a negative impact on the value of the Securities.

(q) 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.

(r) 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 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.

(s) The Purchaser and the Purchaser's 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, and business of the Company deemed relevant by the Purchaser or the Purchaser's 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.

(t) 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.

(u) 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.

(v) The Purchaser is satisfied that the Purchaser has received adequate information with respect to all matters which the Purchaser or the Purchaser's Advisers, if any, consider material to a decision to make this investment. The Purchaser is relying on the Purchaser's own examination, together with the Purchaser's Advisers, if any, of the Company and the terms of the Offering and sale of the Securities, including the merits and risks involved in making an investment decision.

(w) 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.

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

(y) 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 regulations to which the Company is subject.

(z) 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.

(aa) 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.

(bb) The Purchaser acknowledges and agrees that the Securities have not been registered under the Securities Act of 1933, as amended, and that the Company has no present intention or obligation to so register the Securities, or any portion thereof, in the future.

(cc) **(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 (1) is responsible for the decision to invest in the Company; (2) is independent of the Company or any of its affiliates; (3) is qualified to make such investment decision; and (4) 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.

(dd) **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 individuals¹ or entities in certain countries regardless of whether such individuals or entities appear on the OFAC lists.

(ee) 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.

(ff) 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

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

as agent or nominee in connection with this investment is a senior foreign political figure,² or any immediate family³ member or close associate⁴ of a senior foreign political figure, as such terms are defined in the footnotes below.

(gg) 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.

(hh) The Purchaser understands and agrees that in addition to the Company, the Placement Agent will rely on the representations and warranties made by the Purchaser in this Subscription Agreement, in order to fulfill among other things, certain obligations under Financial Industry Regulatory Authority (“FINRA”) rules and SEC regulations.

7. **Indemnification.** The Purchaser agrees to indemnify and hold harmless the Company and the Placement Agent and each of their 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.

8. **Irrevocability; Binding Effect.** The Purchaser hereby acknowledges and agrees that the subscription hereunder is irrevocable by the Purchaser, except as required by applicable law, and that this Subscription Agreement shall survive the death or disability of the Purchaser and shall be binding upon and inure to the benefit of the parties and their 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.

² 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.

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

⁴ 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.

9. **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.

10. **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.

11. **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, as the case may be, shall be made only in accordance with the respective requirements of this Subscription Agreement, the Warrants and all applicable laws. Any purported transfer or assignment in violation of this Section 12 shall be null and void.

12. **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.

13. **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 New York, New York. 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 Subscription Agreement. The parties agree that the determination of the arbitrators shall be binding and conclusive upon them.

14. **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.

15. **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.

16. **Confidentiality.**

(a) 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 Subscription 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.

(b) The Purchaser acknowledges and agrees that certain information provided by the Company in connection with the Offering may constitute material non-public information under United States or other applicable securities laws, and that the receipt of such information, if deemed to be material non-public information, may restrict the Purchaser's ability to trade in securities of the Company, including but not limited to the Subscribed Shares, the Warrant Shares or any other shares of Common Stock of the Company, until such time as the information is made public. The Company undertakes no obligation to make public disclosure of such information at any time, other than as may be required under applicable United States securities laws. The provisions of this Section 16 are in addition to, and do not supersede or replace, the Purchaser's obligations under any non-disclosure or confidentiality agreement previously entered into by the Purchaser with the Company.

17. **Miscellaneous.**

(a) Except as otherwise expressly provided herein, 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 the Warrants.

(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.

(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) Section 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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**PRIVATE PLACEMENT OFFERING OF
CYTODYN INC.**

SUBSCRIPTION INSTRUCTIONS

To subscribe for Securities in the private offering of CytoDyn Inc.:

1. **Date and Fill in** the number of Securities being purchased and **Complete and Sign** one (1) copy of the Subscription Agreement.
2. **Complete and Sign** the Paulson Investment Company, LLC Purchaser Questionnaire
4. **E-mail** all forms to Samantha Kling at skling@paulsoninvestment.com and then send all signed original documents to:

**Paulson Investment Company, LLC
1720 West Division St. 3rd Fl.
Chicago, IL 60622
Attention: Samantha Kling
(312) 940-8321**

5. **Please wire funds directly to the Company pursuant to the escrow instruction page.**

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 \$ _____⁵ and

(2) Warrants exercisable for _____⁶ shares of Common Stock.

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

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

Print Name(s)

Social Security Number(s)

Signature(s) of Subscriber(s)

Signature

Date

Address

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

Name of Partnership,
Corporation, Limited
Liability Company or Trust

Federal Taxpayer
Identification Number

By: _____

Name:
Title:

State of Organization

Date

Address

Accepted and agreed:

CYTODYN INC.

By: _____

Authorized Officer

Date

⁵ To be equal to the product of (i) the number of Subscribed Shares and (ii) \$1.00

⁶ To be equal to 30% of the number of Subscribed Shares in Item 1.

EXHIBIT A

FORM OF WARRANT