Table of Contents

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, DC 20549

FORM 10-Q

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

For the quarterly period ended November 30, 2022

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

For the transition period from _____ to _____

Commission File Number: 000-49908

CYTODYN INC.

(Exact name of registrant as specified in its charter)

Delaware	**83-1887078**
(State or other jurisdiction of incorporation or organization)	(I.R.S. Employer or Identification No.)
1111 Main Street, Suite 660 **Vancouver, Washington**	**98660**
(Address of principal executive offices)	(Zip Code)

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

Not applicable
(Former name, former address and former fiscal year, if changed since last report)

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

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

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

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

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

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

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

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

On December 31, 2022, there were 832,970,710 shares outstanding of the registrant's $0.001 par value common stock.

TABLE OF CONTENTS

PART I. Financial Information

Item 1. Consolidated Financial Statements

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

	November 30, 2022	May 31, 2022
Assets		
Current assets:		
Cash	$ 2,403	$ 4,231
Restricted cash	200	—
Prepaid expenses	2,854	5,198
Prepaid service fees	1,094	1,086
Total current assets	6,551	10,515
Inventories, net	—	17,929
Other non-current assets	523	741
Total assets	$ 7,074	$ 29,185
Liabilities and Stockholders' Deficit		
Current liabilities:		
Accounts payable	$ 67,187	$ 67,974
Accrued liabilities and compensation	5,722	8,995
Accrued interest on convertible notes	8,279	5,974
Accrued dividends on convertible preferred stock	4,571	3,977
Convertible notes payable, net	36,931	36,241
Total current liabilities	122,690	123,161
Operating leases	353	422
Total liabilities	123,043	123,583
Commitments and Contingencies (Note 9)		
Stockholders' deficit:		
Preferred stock, $0.001 par value; 5,000 shares authorized:		
Series B convertible preferred stock, $0.001 par value; 400 authorized; 19 issued and outstanding at November 30, 2022 and May 31, 2022, respectively	—	—
Series C convertible preferred stock, $0.001 par value; 8 authorized; 6 and 7 issued and outstanding at November 30, 2022 and May 31, 2022, respectively	—	—
Series D convertible preferred stock, $0.001 par value; 12 authorized; 9 issued and outstanding at November 30, 2022 and May 31, 2022, respectively	—	—
Common stock, $0.001 par value; 1,350,000 shares authorized; 825,279 and 720,028 issued, and 824,836 and 719,585 outstanding at November 30, 2022 and May 31, 2022, respectively	825	720
Treasury stock, $0.001 par value; 443 at November 30, 2022 and May 31, 2022	—	—
Additional paid-in capital	692,558	671,013
Accumulated deficit	(809,352)	(766,131)
Total stockholders' deficit	(115,969)	(94,398)
Total liabilities and stockholders' deficit	$ 7,074	$ 29,185

See accompanying notes to consolidated financial statements.

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

	Three months ended November 30,		Six months ended November 30,	
	2022	2021 (Restated) [1]	2022	2021 (Restated) [1]
Revenue	$ —	$ 225	$ —	$ 266
Cost of goods sold	—	52	—	53
Gross profit	—	173	—	213
Operating expenses:				
General and administrative	5,043	16,203	11,376	23,820
Research and development	137	7,447	713	19,467
Amortization and depreciation	54	252	153	528
Inventory charge	17,929	1,593	20,633	3,357
Total operating expenses	23,163	25,495	32,875	47,172
Operating loss	(23,163)	(25,322)	(32,875)	(46,959)
Interest and other expenses:				
Interest on convertible notes	(1,159)	(1,426)	(2,305)	(3,112)
Amortization of discount on convertible notes	(580)	(793)	(1,156)	(1,745)
Amortization of debt issuance costs	(18)	(23)	(34)	(51)
Loss on induced conversion	(638)	(6,785)	(638)	(25,315)
Finance charges	(937)	(1,024)	(1,877)	(1,059)
Inducement interest expense	—	(4,704)	—	(5,232)
Legal settlement	—	—	—	(1,941)
Loss on derivatives	—	—	(8,601)	—
Total interest and other expenses	(3,332)	(14,755)	(14,611)	(38,455)
Loss before income taxes	(26,495)	(40,077)	(47,486)	(85,414)
Income tax benefit	—	—	—	—
Net loss	$ (26,495)	$ (40,077)	$ (47,486)	$ (85,414)
Basic and diluted:				
Weighted average common shares outstanding	813,373	662,600	$ 800,545	647,517
Loss per share	$ (0.03)	$ (0.06)	(0.07)	$ (0.13)

(1) See Note 2, *Summary of Significant Accounting Policies—Revision and Restatement of Financial Statements*.

See accompanying notes to consolidated financial statements.

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

	Preferred stock		Common stock		Treasury stock		Additional	Accumulated	Total stockholders'
	Shares	Amount	Shares	Amount	Shares	Amount	paid-in capital	deficit	deficit
Balance at May 31, 2022	35	$ —	720,028	$ 720	443	$ —	$ 671,013	$ (766,131)	$ (94,398)
Stock issued for compensation	—	—	879	1	—	—	344	—	345
Stock issued for private offerings	—	—	85,378	85	—	—	17,459	—	17,544
Issuance costs related to stock issued for private offerings	—	—	—	—	—	—	(6,289)	—	(6,289)
Conversion of Series C convertible preferred stock to common stock	(1)	—	1,136	1	—	—	(1)	—	—
Warrant exercises	—	—	657	1	—	—	263	—	264
Deemed dividend paid in common stock due to down round provision, recorded in additional paid-in capital	—	—	4,620	5	—	—	(5)	—	—
Dividends accrued on Series C and D convertible preferred stock	—	—	—	—	—	—	(384)	—	(384)
Reclassification of warrants from liability to equity classified	—	—	—	—	—	—	8,601	—	8,601
Stock-based compensation	—	—	—	—	—	—	996	—	996
Reclassification of prior period preferred stock dividends	—	—	—	—	—	—	(4,265)	4,265	—
Net loss	—	—	—	—	—	—	—	(20,991)	(20,991)
Balance at August 31, 2022	34	—	812,698	813	443	—	687,732	(782,857)	(94,312)
Issuance of stock for convertible note repayment	—	—	1,822	2	—	—	498	—	500
Loss on induced conversion	—	—	—	—	—	—	638	—	638
Stock issued for compensation	—	—	765	—	—	—	310	—	310
Exercise of warrants, net of offering costs	—	—	9,652	10	—	—	2,123	—	2,133
Make-whole shares related to private warrant exchange	—	—	23	—	—	—	—	—	—
Dividend paid in common stock upon conversion of Series C convertible preferred stock ($0.50 per share)	—	—	319	—	—	—	159	—	159
Dividends accrued on Series C and D convertible preferred stock	—	—	—	—	—	—	(369)	—	(369)
Stock-based compensation	—	—	—	—	—	—	1,467	—	1,467
Net loss	—	—	—	—	—	—	—	(26,495)	(26,495)
Balance at November 30, 2022	34	$ —	825,279	$ 825	443	$ —	$ 692,558	$ (809,352)	$ (115,969)

See accompanying notes to consolidated financial statements.

	Preferred stock		Common stock		Treasury stock		Additional paid-in capital	Accumulated deficit	Total stockholders' deficit
	Shares	Amount	Shares	Amount	Shares	Amount	(Restated) [1]	(Restated) [1]	(Restated) [1]
Balance at May 31, 2021	96	$ —	626,123	$ 626	443	$ —	$ 532,031	$ (553,675)	$ (21,018)
Issuance of stock for convertible note repayment	—	—	11,816	12	—	—	13,832	—	13,844
Loss on induced conversion	—	—	—	—	—	—	18,530	—	18,530
Issuance of legal settlement warrants	—	—	—	—	—	—	1,744	—	1,744
Stock option exercises	—	—	300	—	—	—	189	—	189
Stock issued for compensation and tendered for income tax	—	—	1,014	1	—	—	(1)	—	—
Stock issued for private offerings	—	—	2,872	3	—	—	2,869	—	2,872
Private warrant exchanges	—	—	1,327	1	—	—	774	—	775
Warrant exercises	—	—	668	1	—	—	502	—	503
Inducement interest expense related to private warrant exchanges	—	—	—	—	—	—	528	—	528
Accrued preferred stock dividends	—	—	—	—	—	—	—	(420)	(420)
Stock-based compensation	—	—	—	—	—	—	2,597	—	2,597
Net loss	—	—	—	—	—	—	—	(45,337)	(45,337)
Balance at August 31, 2021	96	—	644,120	644	443	—	573,595	(599,432)	(25,193)
Issuance of stock for convertible note repayment	—	—	8,162	8	—	—	8,193	—	8,201
Loss on induced conversion	—	—	—	—	—	—	6,785	—	6,785
Stock option exercises	—	—	210	—	—	—	200	—	200
Stock issued for private offerings	—	—	25,178	25	—	—	27,282	—	27,307
Conversion of Series B preferred stock to common stock	(60)	—	600	1	—	—	—	—	1
Private warrant exchanges	—	—	6,593	7	—	—	4,608	—	4,615
Offering costs related to stock issuance	—	—	—	—	—	—	(1,418)	—	(1,418)
Warrant exercises	—	—	963	1	—	—	532	—	533
Inducement interest expense related to private warrant exchanges	—	—	—	—	—	—	4,704	—	4,704
Preferred stock dividends accrued and paid in common stock	—	—	35	—	—	—	17	(431)	(414)
Stock-based compensation	—	—	—	—	—	—	2,060	—	2,060
Net loss	—	—	—	—	—	—	—	(40,077)	(40,077)
Balance at November 30, 2021	36	$ —	685,861	$ 686	443	$ —	$ 626,558	$ (639,940)	$ (12,696)

(1) See Note 2, *Summary of Significant Accounting Policies—Revision and Restatement of Financial Statements*.

See accompanying notes to consolidated financial statements.

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

	Six months ended November 30,	
	2022	**2021**
		(Restated) [1]
Cash flows from operating activities:		
Net loss	$ (47,486)	$ (85,414)
Adjustments to reconcile net loss to net cash used in operating activities:		
Amortization and depreciation	153	528
Amortization of debt issuance costs	34	51
Amortization of discount on convertible notes	1,156	1,745
Warrants issued for legal settlement	—	1,744
Loss on derivatives	8,601	—
Loss on induced conversion	638	25,315
Inducement interest expense and non-cash finance charges	—	5,232
Inventory charge	20,633	3,357
Stock-based compensation	3,118	4,657
Changes in operating assets and liabilities:		
Increase in prepaid expenses and other assets	(303)	(654)
Decrease in accounts payable and accrued expenses	(2,024)	(17,193)
Net cash used in operating activities	(15,480)	(60,632)
Cash flows from investing activities:		
Furniture and equipment purchases	—	(13)
Net cash used in investing activities	—	(13)
Cash flows from financing activities:		
Proceeds from warrant transactions, net of offering costs	2,133	5,390
Proceeds from sale of common stock and warrants, net of issuance costs	11,255	28,761
Proceeds from warrant exercises	264	1,036
Proceeds held in trust	200	—
Proceeds from stock option exercises	—	390
Net cash provided by financing activities	13,852	35,577
Net change in cash and restricted cash	(1,628)	(25,068)
Cash beginning of period	4,231	33,943
Cash end of period	$ 2,603	$ 8,875
Cash and restricted cash consisted of the following:		
Cash	$ 2,403	$ 8,875
Restricted cash	200	—
Total cash and restricted cash	$ 2,603	$ 8,875
Supplemental disclosure:		
Cash paid for interest	$ —	$ 57
Non-cash investing and financing transactions:		
Derivative liability associated with warrants	$ 8,601	$ —
Issuance of common stock for principal and interest of convertible notes	$ 500	$ 22,045
Accrued dividends on Series C and D convertible preferred stock	$ 753	$ 834
Dividend paid in common stock on Series B and C convertible preferred stock conversions	$ 159	$ 17
Deemed dividend due to equity modifications, recorded in additional paid-in capital	$ 5,294	$ —

(1) See Note 2, *Summary of Significant Accounting Policies—Revision and Restatement of Financial Statements*.

See accompanying notes to consolidated financial statements.

CYTODYN INC.
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS
AS OF NOVEMBER 30, 2022
(Unaudited)

Note 1. Organization

CytoDyn Inc. (together with its wholly owned subsidiaries, the "Company") was originally incorporated under the laws of Colorado on May 2, 2002, under the name RexRay Corporation and, effective August 27, 2015, reincorporated under the laws of Delaware. The Company is a clinical-stage biotechnology company focused on the clinical development of innovative treatments for multiple therapeutic indications based on its product candidate, leronlimab (PRO 140), a novel humanized monoclonal antibody targeting the CCR5 receptor. The Company has been engaged in studying leronlimab for use in the treatment of human immunodeficiency virus ("HIV"), non-alcoholic steatohepatitis ("NASH"), and solid tumors in oncology.

The Company has been investigating leronlimab as a viral entry inhibitor for HIV, believed to competitively bind to the N-terminus and second extracellular loop of the CCR5 receptor. For immunology, the CCR5 receptor is believed to be implicated in immune-mediated illnesses such as NASH. The CCR5 receptor may also be present on cells that undergo malignant transformation and may also be present in the tumor microenvironment. Leronlimab is being studied in NASH, NASH-HIV, solid tumors in oncology, and other HIV indications where CCR5 is believed to play an integral role.

The Company is pursuing the regulatory approval of leronlimab in hopes that commercial sales will be obtained for one or more indications. The Company previously submitted a Biologic License Application ("BLA") for leronlimab as a combination therapy with highly active antiretroviral therapy ("HAART") for highly treatment-experienced HIV patients. In July 2020, the Company received a Refusal to File letter from the FDA regarding its BLA submission. The FDA informed the Company that the BLA did not contain certain information and data needed to complete a substantive review and therefore, the FDA would not file the BLA. In November 2021, the Company resubmitted the non-clinical and chemistry, manufacturing, and controls ("CMC") sections of the BLA.

As previously reported and as described in Note 9, *Commitments and Contingencies - Legal Proceedings*, the Company encountered difficulties in obtaining the clinical data from its trials in the detail and format requested by the FDA in discussions with the Company in connection with its efforts to resubmit the BLA. The Company is engaged in litigation with its former contract research organization ("CRO"), which was responsible for gathering the required data. In the context of the litigation, the Company obtained an order requiring the CRO to release the Company's clinical data related to the BLA and other clinical trials, which the CRO had been withholding. Further, the order granted the Company the right to perform an audit of the CRO's services, which has been completed.

Additionally, in March 2022, the FDA placed the Company's HIV trials on a partial clinical hold. In October 2022, the Company voluntarily withdrew its BLA submission after concluding that a significant risk existed that the BLA would not receive FDA approval due to the CRO's inadequate process and performance around the monitoring and oversight of the clinical data.

The Company's efforts are currently directed toward obtaining removal of the clinical hold.

Note 2. Summary of Significant Accounting Policies

Basis of Presentation

The unaudited interim consolidated financial statements include the accounts of CytoDyn Inc. and its wholly owned subsidiaries, CytoDyn Operations Inc. and Advanced Genetic Technologies, Inc. ("AGTI"); AGTI is a dormant entity. All intercompany transactions and balances are eliminated in consolidation. The consolidated financial statements reflect all normal recurring adjustments which are, in the opinion of management, necessary for a fair statement of the results of operations for the interim financial statements. The interim financial information and notes thereto should be read in

conjunction with the Company's latest Annual Report on Form 10-K for the fiscal year ended May 31, 2022 (the "2022 Form 10-K"). The results of operations for the periods presented are not necessarily indicative of results to be expected for the entire fiscal year or for any other future annual or interim period.

Reclassifications

Certain prior year and prior quarter amounts shown in the accompanying consolidated financial statements have been reclassified to conform to the current period presentation. Such reclassifications did not have material effect on the Company's previously reported financial position, results of operations, stockholders' deficit, or net cash provided by operating activities.

During the quarter ended August 31, 2022, the Company reclassified amounts recorded as accumulated dividends for Series C and D preferred stockholders from accumulated deficit to additional paid-in capital. These reclassifications were made to reflect the proper presentation for accrued dividends when an entity has accumulated deficit.

Revision and Restatement of Financial Statements

During the preparation of the quarterly financial statements as of and for the period ended November 30, 2021, the Company identified an error in how non-cash inducement interest expense was calculated in previous reporting periods dating back to fiscal year 2018. The error resulted in an understatement of non-cash inducement interest expense and additional paid-in capital. For details, refer to Note 2, Summary of Significant Accounting Policies - Revision of Financial Statements in the 2022 Form 10-K. Also, during the preparation and audit of the annual financial statements as of and for the fiscal year ended May 31, 2022, the Company concluded that a material error was identified in how the Company was accounting for common stock issued to settle certain convertible note obligations dating back to fiscal year 2021. For details, refer to Note 14, Restatement in the 2022 Form 10-K. Neither of the errors had impact on operating loss, cash, net cash used in or provided by operating, financing, and investing activities, assets, liabilities, commitments and contingencies, total stockholders' deficit, number of shares issued and outstanding, basic and diluted weighted average common shares outstanding, and number of shares available for future issuance for any period presented, and are reflected in the accompanying statement of operations, changes in stockholders' deficit, and statement of cash flows.

Going Concern

The accompanying consolidated financial statements have been prepared on a going concern basis, which contemplates the realization of assets and satisfaction of liabilities in the normal course of business. As presented in the accompanying consolidated financial statements, the Company had losses for all periods presented. The Company incurred a net loss of approximately $47.5 million for the six months ended November 30, 2022 and has an accumulated deficit of approximately $809.4 million as of November 30, 2022. These factors, among several others, including the various legal matters discussed in Note 9, *Commitments and Contingencies – Legal Proceedings*, raise substantial doubt about the Company's ability to continue as a going concern. The consolidated financial statements do not include any adjustments relating to the recoverability of assets and classification of liabilities that might be necessary should the Company be unable to continue as a going concern.

The Company's continuance as a going concern is dependent upon its ability to obtain additional operating capital, complete the development of its product candidate, leronlimab, obtain approval to commercialize leronlimab from regulatory agencies, continue to outsource manufacturing of leronlimab, and ultimately achieve revenues and attain profitability. The Company plans to continue to engage in research and development activities related to leronlimab for multiple indications and expects to incur significant research and development expenses in the future, primarily related to its regulatory compliance, including seeking the lifting of the FDA's clinical hold with regard to the Company's HIV program, performing additional clinical trials, and seeking regulatory approval for its product candidate for commercialization. These research and development activities are subject to significant risks and uncertainties. The Company intends to finance its future development activities and its working capital needs primarily from the sale of equity and debt securities, combined with additional funding from other sources. However, there can be no assurance that the Company will be successful in these endeavors.

Use of Estimates

The preparation of the consolidated financial statements in accordance with accounting principles generally accepted in the United States (U.S. GAAP) requires management to make estimates and judgments that affect the reported amounts of assets, liabilities, and the disclosure of contingent assets and liabilities at the date of consolidated financial statements, and the reported amounts of revenue and expenses during the reporting period. Estimates are assessed each period and updated to reflect current information, such as the status of our analysis of the results of our clinical trials and/or discussions with the FDA which could have an impact on the Company's significant accounting estimates and assumptions. The Company's estimates are based on historical experience and on various market and other relevant, appropriate assumptions. Significant estimates include, but are not limited to, those relating to capitalization of pre-launch inventories, charges for excess and obsolete inventories, research and development expenses, commitments and contingencies, stock-based compensation, and the assumptions used to value warrants and warrant modifications. Actual results could differ from these estimates.

Pre-launch Inventories

Pre-launch inventories were comprised of raw materials required to commercially produce leronlimab and substantially completed commercially produced leronlimab in anticipation of commercial sales of the product upon potential regulatory approval as a combination therapy for HIV patients in the United States. The Company's pre-launch inventories consisted of (1) raw materials purchased for commercial production, (2) work-in-progress materials which consisted of bulk drug substance, which was the manufactured drug stored in bulk storage, and (3) drug product, which was the manufactured drug in unlabeled vials. The consumption of raw materials during production was classified as work-in-progress until saleable. Once it is determined to be in saleable condition, following regulatory approval, inventory is classified as finished goods.

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

The Company determines whether raw materials purchased for commercial production are usable for production based on the manufacturer's assigned expiration date. In evaluating whether raw materials included in the pre-launch inventories will be usable for production, the Company takes into account the shelf-life of raw materials at the time they are expected to be used in manufacturing. Any raw materials past expiration date at the time of the next manufacturing run are removed from inventory.

As one stage of the manufacturing process, the Company produces work-in-progress materials which consist of bulk drug substance, which is the manufactured drug stored in bulk storage. The initial shelf-life of bulk drug substance is established based on prior experience and periodically performed stability studies and is set at four years from the date of manufacturing. Bulk drug substance is subject to deep freeze storage, and stability studies are performed on a periodic basis in accordance with the established stability protocols. If drug substance meets suitability criteria beyond the initial shelf-life, its shelf-life may be extended based on prior experience and stability trend analysis, and during the extension period periodic stability testing is performed on the drug substance. Regardless of the number of stability studies performed, if drug substance continues to meet prespecified suitability parameters it may be used in manufacturing; if

drug substance fails to meet suitability criteria beyond its assigned shelf-life at that time, it may no longer be used and is considered to be expired.

The Company utilizes resins, a reusable raw material, in its bulk drug manufacturing process. Shelf-life of a resin used in commercial manufacturing of biologics is determined by the number of cycles for which it has been validated to be used in a manufacturing process before it is considered unusable. Unpacked and unused resins have a manufacturer's expiration date by which resins are expected to start being used in the manufacturing process without loss of their properties. Prior to a new manufacturing campaign, and between manufacturing campaigns, the resins are removed from storage, and are treated and tested for suitability. Once resins are used in the manufacturing process, their shelf-life is measured by a validated predetermined number of manufacturing cycles they are usable for, conditional on appropriate storage solution under controlled environment between production campaigns, as well as by performing pre-production usability testing. Before a manufacturing campaign, each resin is tested for suitability. Regardless of the number of cycles, if a resin fails to meet prespecified suitability parameters it may not be used in manufacturing; likewise, even if the resin meets suitability criteria beyond the lifetime cycles, it may no longer be used. The cost of the resins used in a manufacturing campaign is allocated to the cost of the drug product in vials.

The Company values its inventory at the lower of cost or net realizable value using the average cost method. Inventory is evaluated for recoverability by considering the likelihood that revenue will be obtained from the future sale of the related inventory considering the status of the product within the regulatory approval process. The Company evaluates its inventory levels on a quarterly basis and writes down inventory that became obsolete, has a cost in excess of its expected net realizable value, or is in quantities in excess of expected requirements. In assessing the lower of cost or net realizable value for pre-launch inventory, the Company relies on independent analyses provided by third parties knowledgeable about the range of likely commercial prices comparable to current comparable commercial product. Quarterly, the Company also evaluates whether certain raw materials held in its inventory are expected to reach the end of their estimated shelf-lives based on passage of time, the number of manufacturing cycles they are used in and results of pre-production testing prior to the expected production date, or when resins used in the manufacturing process fail suitability tests. If any of such events occur, the Company may make a determination to record a charge if it is expected that such inventories will become obsolete prior to the expected production date.

Anticipated future sales, shelf lives, and expected approval date are considered when evaluating realizability of capitalized inventory. The shelf-life of a product is determined as part of the regulatory approval process; however, in assessing whether to capitalize pre-launch inventories, the Company considers the product stability data for all of the pre-approval inventory procured or produced to date to determine whether there is adequate shelf-life. When the remaining shelf-life of drug product inventory is less than 12 months, it is likely that it will not be accepted by potential customers. However, as inventories approach their shelf-life expiration, the Company may perform additional stability testing to determine if the inventory is still viable, which can result in an extension of its shelf-life and revaluation of the need for and the amount of the previously recorded reserves. Further, in addition to performing additional stability testing, certain raw materials inventory may be sold in its then current condition prior to reaching expiration. If the Company determines that it is not likely that shelf-life may be extended or the inventory cannot be sold prior to expiration, the Company may record a charge to bring inventory to its net realizable value.

In October 2022, the Company voluntarily withdrew its BLA submission after concluding that a significant risk existed that the BLA would not receive FDA approval due to the inadequate process and performance by its former CRO around the monitoring and oversight of the clinical data from its trials. Following this decision, none of the Company's inventories now qualify for capitalization as pre-launch inventories. See Note 3, *Inventories, net*.

For additional information about the Company's significant accounting policies, refer to Note 2, *Summary of Significant Accounting Policies,* in the 2022 Form 10-K.

Recently Adopted Accounting Pronouncements

In August 2020, the FASB issued ASU No. 2020-06, *Debt with Conversion and Other Options (Subtopic 470-20)* and *Derivatives and Hedging - Contracts in Entity's Own Equity (Subtopic 815-40)*, which simplifies the accounting for convertible instruments. The guidance removes certain accounting models that separate the embedded conversion features from the host contract for convertible instruments. Either a modified retrospective method of transition or a fully

retrospective method of transition is permissible for the adoption of this standard. Update No. 2020-06 is effective for fiscal years beginning after December 15, 2021, including interim periods within those fiscal years. The Company adopted ASU No. 2020-06 as of June 1, 2022, using the modified retrospective method. The adoption of ASU No. 2020-06 had no impact on the Company's balance sheets, statements of operations, cash flows or financials statement disclosures.

In May 2021, the FASB issued ASU No. 2021-04, *Earnings Per Share (Topic 260), Debt—Modifications and Extinguishments (Subtopic 470-50), Compensation - Stock Compensation (Topic 718), and Derivatives and Hedging—Contracts in Entity's Own Equity (Subtopic 815-40): Issuer's Accounting for Certain Modifications or Exchanges of Freestanding Equity-Classified Written Call Options*. ASU 2021-04 addresses the accounting for certain modifications or exchanges of freestanding equity-classified written call options (e.g., warrants). Entities should treat a modification of the terms or conditions, or an exchange of a freestanding equity-classified written call option that remains equity-classified after modification or exchange, as an exchange of the original instrument for a new instrument. Guidance should be applied prospectively after the date of initial application. ASU 2021-04 is effective for fiscal years beginning after December 15, 2021, and interim periods within those fiscal years, with early adoption permitted.

The Company adopted the new guidance prospectively as of June 1, 2022 and used the framework to record a modification to equity classified warrants during the six months ended November 30, 2022. The modification to equity instruments, consisting of a trigger of a down round provision was recorded as a deemed dividend in accordance with this guidance, resulting in an approximate $4.2 million charge to additional paid-in capital, induced warrant exercises recorded as $2.1 million issuance cost and $0.5 million deemed dividend, and the extension of warrant expiration dates recorded as a $0.5 million deemed dividend. The deemed dividends were included in the loss per share calculation; refer to Note 7, *Loss per Common Share*. Refer to Note 6, *Equity Awards and Warrants* for further information.

Note 3. Inventories, net

Inventories were as follows (in thousands):

	November 30, 2022	May 31, 2022
Raw materials	$ —	$ 16,264
Work-in-progress	—	1,665
Total inventories, net	$ —	$ 17,929

The table below summarizes pre-launch inventories that had been capitalized and charged-off for GAAP accounting purposes due to no longer qualifying for inventory capitalization as pre-launch inventories due to the withdrawal of the BLA submission and estimated expiration based on remaining shelf life. Work-in-progress and finished drug product inventories continue to be physically maintained, can be used for clinical trials, and can be commercially sold upon regulatory approval if the shelf-lives can be extended as a result of the performance of on-going stability tests. Raw material continues to be maintained so that they can be used in the future if needed.

		Raw Materials				Work-in-progress		
(in thousands, Expiration period ending November 30,)	Remaining shelf-life (mos)	Specialized	Resins	Other	Total Raw Materials	Bulk drug product	Finished drug product	Total inventories
2023	0 to 12	$ 4,764	$ 16,264	$ -	$ 21,028	$ -	$ -	$ 21,028
2024	13 to 24	2,511	-	1,590	4,101	1,661	29,142	34,904
2025	25 to 36	189	-	-	189	-	32,343	32,532
2026	37 to 48	2,115	-	-	2,115	-	-	2,115
Thereafter	49 or more	-	-	-	-	-	-	-
Inventories, gross		9,579	16,264	1,590	27,433	1,661	61,485	90,579
Inventory charge		(9,579)	(16,264)	(1,590)	(27,433)	(1,661)	(61,485)	(90,579)
Inventories, net		$ -	$ -	$ -	$ -	$ -	$ -	$ -

During the first quarter of fiscal year 2023, the Company reviewed purchase commitments made by its manufacturing partner, Samsung BioLogics Co., Ltd. ("Samsung"), under the master agreement between the Company and Samsung, and its vendors for specialized raw materials for which the Company made a prepayment in the amount of

$2.7 million in the third quarter of fiscal year 2022, which were recorded as prepaid expenses in the consolidated financial statements as of May 31, 2022. As discussed in Note 9, *Commitments and Contingencies – Commitments with Samsung BioLogics Co., Ltd. ("Samsung")*, the Company and its manufacturing partner remain in ongoing discussions about, among other things, deferring the unfulfilled commitments. These additional specialized raw materials are estimated to have shelf-lives ranging from 2023 to 2026. The entire amount was charged-off as of August 31, 2022.

In October 2022, the Company voluntarily withdrew its rolling BLA submission after concluding that a significant risk existed that the BLA would not receive FDA approval due to the inadequate process and performance by its former CRO around the monitoring and oversight of the clinical data from its trials. Following this decision, none of the Company's inventories now qualify for capitalization as pre-launch inventories. For the three months ended November 30, 2022, the Company charged-off the remaining raw material resin and work-in-progress bulk product inventories of approximately $16.3 million and $1.7 million, respectively.

For additional information, refer to Note 2, *Summary of Significant Accounting Policies – Pre-launch Inventories* in this Form 10-Q, and to Note 3, *Inventories, net*, in the 2022 Form 10-K.

Note 4. Accounts Payable and Accrued Liabilities

As of November 30, 2022 and May 31, 2022, the accounts payable balance was approximately $67.2 million and $68.0 million, respectively, with two vendors accounting for 70% and 73% of the total balance of accounts payable at the respective dates.

The components of accrued liabilities are as follows (in thousands):

	November 30, 2022	May 31, 2022
Compensation and related expense	$ 496	$ 1,522
Legal fees and settlement	166	2,006
Clinical expense	1,176	3,727
Accrued inventory charges and expenses	3,155	1,392
License fees	393	150
Lease payable	136	134
Other liabilities	200	64
Total accrued liabilities	$ 5,722	$ 8,995

Note 5. Convertible Instruments and Accrued Interest

Convertible Preferred Stock

The following table presents the number of potentially issuable shares of common stock should shares of preferred stock and amounts of undeclared and accrued preferred dividends be converted to common stock.

	November 30, 2022			May 31, 2022		
(in thousands)	Series B	Series C	Series D	Series B	Series C	Series D
Shares of preferred stock	19	6	9	19	7	9
Total shares of common stock if converted	190	12,670	10,565	190	13,806	10,565
Undeclared dividends	$ 12	$ -	$ -	$ 10	$ -	$ -
Accrued dividends	$ -	$ 2,184	$ 2,387	$ -	$ 2,014	$ 1,963
Total shares of common stock if dividends converted	25	4,368	4,774	20	4,028	3,926

Under the Company's Amended and Restated Certificate of Incorporation, as amended (the "Certificate of Incorporation"), dividends on its outstanding shares of Series B Convertible Preferred Stock (the "Series B preferred stock") may be paid in cash or shares of the Company's common stock at the option of the Company. Dividends on outstanding shares of Series C Convertible Preferred Stock (the "Series C preferred stock") and Series D Convertible Preferred Stock (the "Series D preferred stock") are payable in cash or shares of common stock at the election of the

holder. The preferred stockholders have the right to dividends only when and if declared by the Company's Board of Directors. Under Section 170 of the Delaware General Corporation Law, the Company is permitted to pay dividends only out of capital surplus or, if none, out of net profits for the fiscal year in which the dividend is declared or net profits from the preceding fiscal year.

Series B Convertible Preferred Stock

Each share of the Series B preferred stock is convertible into ten shares of the Company's common stock. Dividends are cumulative and payable to the Series B preferred stockholders when and as declared by the Company's Board of Directors (the "Board"). Dividends on the Series B preferred stock accumulate at the rate of $0.25 per share per annum, and may be paid, at the option of the Company at the time of conversion, either in cash or shares of the Company's common stock valued at $0.50 per share. The Series B preferred stock has liquidation preferences over the common shares at $5.00 per share, plus any accrued and unpaid dividends. Except as provided by law, the Series B preferred stockholders have no voting rights. The Company does not accrue dividends on Series B preferred stock until such dividends are declared.

Series C and Series D Convertible Preferred Stock

The Series C and Series D Certificates of Designation provide, among other things, that holders of Series C and Series D preferred stock shall be entitled to receive, when and as declared by the Board and out of any assets at the time legally available therefor, cumulative dividends at the rate of ten percent (10%) per share per annum of the stated value of the Series C and Series D preferred stock, which is $1,000 per share (the "Stated Value"). Dividends on the Series C and Series D preferred stock are cumulative, and will accrue and be compounded annually, whether or not declared and whether or not there are any profits, surplus or other funds or assets of the Company legally available therefor. Dividends on the Series C and Series D preferred stock may be paid in cash or shares of the Company's common stock at the option of the holder. Series C and Series D preferred stock does not have redemption rights. Each share of Series C and Series D preferred stock is convertible at the holder's option into shares of common stock, with Series C stockholders having conversion price of $0.50 per share, and Series D stockholders having conversion price of $0.80 per share, together with accrued and unpaid dividends payable, at the option of the holder, in cash or shares of common stock based on the conversion price. Given the obligation to settle all dividends, including those in arrears, in cash at the election of the preferred stockholder upon conversion, whether or not declared by the Company, the Company accrues dividends on Series C and D preferred stock as a liability in its consolidated financial statements.

In the event of liquidation, dissolution or winding up of the Company, the holders of Series D preferred stock will be entitled to receive, on a pari passu basis with the holders of the Series C preferred stock and in preference to any payment or distribution to holders of the Series B preferred stock and common stock, an amount per share equal to the Stated Value plus the amount of any accrued and unpaid dividends. If, at any time while the Series C and Series D preferred stock is outstanding, the Company effects any reorganization, merger or consolidation of the Company, sale of substantially all of its assets, or other specified transaction (each, as defined in the Series C and the Series D Certificates of Designation, a "Fundamental Transaction"), a holder of Series C and Series D preferred stock will have the right to receive any shares of the acquiring corporation or other consideration it would have been entitled to receive if it had been a holder of the number of shares of common stock then issuable upon conversion in full of the Series C and Series D preferred stock immediately prior to the Fundamental Transaction. Except as otherwise provided in the Series C and Series D Certificates of Designation or as otherwise required by law, the Series C and Series D preferred stock have no voting rights.

Convertible Notes and Accrued Interest

(in thousands)	November 30, 2022			May 31, 2022		
	April 2, 2021 Note	April 23, 2021 Note	Total	April 2, 2021 Note	April 23, 2021 Note	Total
Convertible notes payable outstanding principal	$ 9,319	$ 28,500	$ 37,819	$ 9,819	$ 28,500	$ 38,319
Less: Unamortized debt discount and issuance costs	(198)	(690)	(888)	(512)	(1,566)	(2,078)
Convertible notes payable, net	9,121	27,810	36,931	9,307	26,934	36,241
Accrued interest on convertible notes	3,242	5,037	8,279	2,599	3,375	5,974
Outstanding convertible notes payable, net and accrued interest	$ 12,363	$ 32,847	$ 45,210	$ 11,906	$ 30,309	$ 42,215

Reconciliation of changes to the outstanding balance of convertible notes, including accrued interest, were as follows:

(in thousands)	April 2, 2021 Note	April 23, 2021 Note	Total
Outstanding balance at May 31, 2022	$ 11,906	$ 30,309	$ 42,215
Amortization of issuance discount and costs	314	876	1,190
Interest expense	643	1,662	2,305
Fair market value of shares exchanged for repayment	(638)	-	(638)
Difference between market value of common shares and reduction of principal	138	-	138
Outstanding balance at November 30, 2022	$ 12,363	$ 32,847	$ 45,210

Long-term Convertible Note – April 2, 2021 Note

On April 2, 2021, the Company entered into a securities purchase agreement pursuant to which the Company issued a secured convertible promissory note with a two-year term in the initial principal amount of $28.5 million (the "April 2, 2021 Note"). The Company received consideration of $25.0 million, reflecting an original issue discount of $3.4 million and issuance costs of $0.1 million. Interest accrues at an annual rate of 10% on the outstanding balance, with the rate increasing to the lesser of 22% per annum or the maximum rate permitted by applicable law upon occurrence of an event of default. In addition, upon any event of default, the investor may accelerate the outstanding balance payable under the April 2, 2021 Note; upon such acceleration, the outstanding balance will increase automatically by 15%, 10% or 5%, depending on the nature of the event of default. The events of default are listed in Section 4 of the April 2, 2021 Note filed as Exhibit 4.1 to the Company's Current Report on Form 8-K filed on April 8, 2021. The April 2, 2021 Note is secured by all the assets of the Company, excluding the Company's intellectual property.

Pursuant to the terms of the April 2, 2021 Note, the Company must obtain the investor's consent before assuming additional debt with aggregate net proceeds to the Company of less than $50.0 million. In the event of any such approval, the outstanding principal balance of the April 2, 2021 Note will increase automatically by 5% upon the issuance of such additional debt. The investor may convert all or any part the outstanding balance of the April 2, 2021 note into shares of common stock at an initial conversion price of $10.00 per share upon five trading days' notice, subject to certain adjustments and volume and ownership limitations. In addition to standard anti-dilution adjustments, the conversion price of the April 2, 2021 Note is subject to full-ratchet anti-dilution protection, pursuant to which the conversion price will be automatically reduced to equal the effective price per share in any new offering by the Company of equity securities that have registration rights, are registered or become registered under the Securities Act of 1933, as amended (the "Securities Act"). The April 2, 2021 Note provides for liquidated damages upon failure to deliver common stock within specified timeframes and requires the Company to maintain a share reservation of 6.0 million shares of common stock. The investor may redeem any portion of the note, at any time beginning six months after the issue date upon three trading days' notice, subject to a maximum monthly redemption amount of $3.5 million. The April 2, 2021 Note requires the Company to satisfy its redemption obligations in cash within three trading days of the Company's receipt of such notice. The Company may prepay the outstanding balance of the note, in part or in full, plus a 15% premium, at any time upon 15 trading days' notice.

Pursuant to the terms of the April 2, 2021 Note, the Company is obligated, at the discretion of the noteholder, to reduce the outstanding balance by $7.5 million per month for five months. During fiscal year 2022, in partial satisfaction of debt reduction amounts, the Company and the April 2, 2021 Note holder entered into exchange agreements, pursuant to which the April 2, 2021 Note was partitioned into new notes (the "Partitioned Notes") with an aggregate principal amount of $18.7 million, which were exchanged concurrently with the issuance of approximately 25.3 million shares of common stock. The outstanding balance of the April 2, 2021 Note was reduced by the Partitioned Notes to a principal amount of $9.8 million. The Company accounted for the restructured partitioned notes and exchange settlements as induced conversion, and, accordingly, recorded an aggregate loss on convertible debt induced conversion of $18.8 million through May 31, 2022.

During the three months ended November 30, 2022, in satisfaction of a redemption, the Company and the April 2, 2021 Note holder entered into an exchange agreement, pursuant to which the April 2, 2021 Note was partitioned into a new note (the "November Partitioned Note") with a principal amount of $0.5 million, which was exchanged concurrently with the issuance of approximately 1.8 million shares of common stock. The outstanding balance of the April 2, 2021 Note was reduced by the November Partitioned Note to a principal amount of $9.3 million. The Company accounted for the November Partitioned Note and exchange settlement as an induced conversion, and, accordingly, recorded a non-cash loss on convertible debt induced conversion of $0.6 million for the three months ended November 30, 2022. For the six months ended November 30, 2022 and 2021, the Company recorded $0.6 million and $6.8 million, respectively, in loss on convertible debt induced conversion.

Long-term Convertible Note – April 23, 2021 Note

On April 23, 2021, the Company entered into a securities purchase agreement pursuant to which the Company issued a secured convertible promissory note with a two-year term to an institutional accredited investor affiliated with the holder of the April 2, 2021 Note in the initial principal amount of $28.5 million (the "April 23, 2021 Note"). The Company received consideration of $25.0 million, reflecting an original issue discount of $3.4 million and issuance costs of $0.1 million. Interest accrues at an annual rate of 10% on the outstanding balance of the April 23, 2021 Note, with the rate increasing to the lesser of 22% per annum or the maximum rate permitted by applicable law upon the occurrence of an event of default. In addition, upon any event of default, the investor may accelerate the outstanding balance payable under the April 23, 2021 Note; upon such acceleration, the outstanding balance will increase automatically by 15%, 10% or 5%, depending on the nature of the event of default. The events of default are listed in Section 4 of the April 23, 2021 Note filed as Exhibit 4.1 to the Company's Current Report on Form 8-K filed on April 29, 2021. The April 23, 2021 Note is secured by all the assets of the Company, excluding the Company's intellectual property.

Pursuant to the terms of the April 23, 2021 Note, the Company must obtain the investor's consent before assuming additional debt with aggregate net proceeds to the Company of less than $75.0 million. In the event of any such approval, the outstanding principal balance of the April 23, 2021 Note will increase automatically by 5% upon the issuance of such additional debt. The investor may convert all or any part of the outstanding balance into shares of common stock at an initial conversion price of $10.00 per share upon five trading days' notice, subject to certain adjustments and volume and ownership limitations specified in the April 23, 2021 Note. In addition to standard anti-dilution adjustments, the conversion price of the April 23, 2021 Note is subject to full-ratchet anti-dilution protection, pursuant to which the conversion price will be automatically reduced to equal the effective price per share in any new offering by the Company of equity securities that have registration rights, are registered or become registered under the Securities Act. The April 23, 2021 Note provides for liquidated damages upon failure to deliver common stock within specified timeframes and requires the Company to maintain a share reservation of 6.0 million shares of common stock. The investor may redeem any portion of the April 23, 2021 Note, at any time beginning six months after the issue date, upon three trading days' notice, subject to a maximum monthly redemption amount of $7.0 million. The April 23, 2021 Note requires the Company to satisfy its redemption obligations in cash within three trading days of the Company's receipt of such notice. The Company may prepay the outstanding balance of the April 23, 2021 Note, in part or in full, plus a 15% premium, at any time upon 15 trading days' notice.

The holders of the April 2 and April 23 Notes waived provisions in the notes that could have triggered the imposition of a default interest rate, a downward adjustment of the conversion price, or specified other provisions relating to default, breach or imposition of a penalty. The related events included the grant of registration rights to

investors in specified private offerings, the issuance of warrants to purchase up to 45 million shares of common stock with registration rights to certain parties and potential incurrence of debt pursuant to a Surety Bond Backstop Agreement, and the grant of a security interest in the Company's intellectual property to certain parties to the Surety Bond Backstop Agreement. Refer to Note 6, *Equity Awards and Warrants*.

Note 6. Equity Awards and Warrants

Approval of Increase in Authorized Common Stock

On August 31, 2022, at a special stockholders' meeting, the Company's stockholders approved a proposal to increase the total number of authorized shares of common stock from 1.0 billion shares to 1.35 billion shares.

Liability Classified Warrants

From June 24, 2022 through August 31, 2022, the Company had insufficient authorized common stock to reserve for the shares underlying the Surety Backstop warrants and warrants issued to a placement agent in connection with the June 2022 offering (Refer to *Private Placement of Warrants under Surety Bond Backstop Agreement* and *Private Placement of Common Stock and Warrants through Placement Agent* sections below.) After approval by the Company's stockholders of an increase to the Company's authorized common stock, on August 31, 2022, sufficient shares were authorized to cover the shares underlying the warrants. Given that the Company did not have a sufficient number of authorized shares for the instruments at the time they were issued, the Company accounted for such warrants issued from June 24, 2022 through August 2022 as liability classified warrants consistent with ASC 815, *Derivatives and Hedging.*

In accordance with the prescribed accounting guidance, the Company measured fair value of liability classified warrants using fair value hierarchy which include:

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

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

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

As of August 31, 2022, in accordance with ASC 815, *Derivatives and Hedging,* the Company reclassified the warrants to equity upon the increase in the Company's authorized common stock. The Company recorded a loss on derivatives of approximately $8.6 million in the quarter ended August 31, 2022 due to change in fair market value of the liability classified warrants between June 24 and August 31, 2022. The table below presents a reconciliation of the beginning and ending balances for liabilities measured at fair value as of May 31, 2022, and during the three months ended August 31, 2022:

(in thousands)	Liability Classified Warrants
Balance at May 31, 2022	$ —
Classified as liability due to lack of shares availability at issuance	14,522
Classified as equity upon increase in availability	(23,123)
Loss on derivative due to change in fair market value	8,601
Balance at August 31, 2022	$ —

The Company used a Black Scholes valuation model to estimate the value of the liability classified warrants using assumptions presented in the table below. The Black Scholes valuation model was used because management believes it reflects all the assumptions that market participants would likely consider in negotiating the transfer of the warrant. The Company's derivative liability is classified within Level 3.

	Initial Fair Market Value At Issuance			Fair Market Value at August 31, 2022		
	Backstop Warrant #1	Backstop Warrant #2	Placement Agent Warrants	Backstop Warrant #1	Backstop Warrant #2	Placement Agent Warrants
Fair value of underlying stock	$ 0.44	$ 0.42	$ 0.44	$ 0.52	$ 0.52	$ 0.52
Risk free rate	3.17%	3.06%	3.13%	3.34%	3.31%	3.16%
Expected term (in years)	4.65	5.00	10.00	4.46	4.88	9.82
Stock price volatility	110.20%	109.49%	95.99%	117.29%	113.59%	95.87%
Expected dividend yield	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%

The Company had no liability classified warrants as of or during the quarter ended November 30, 2022.

Equity Incentive Plan ("EIP")

As of November 30, 2022, the Company had one active stock-based equity plan, the *CytoDyn Inc. Amended and Restated 2012 Equity Incentive Plan* (the "EIP"), and one stock-based equity plan that is no longer active, but under which certain prior awards remain outstanding. As of May 31, 2022, the EIP covered a total of 34.3 million shares of common stock. As of May 31, 2022, the Board had released from reservation under the EIP a total of 22.0 million shares of common stock to permit their use for general purposes, leaving approximately 3.9 million shares available for future stock-based awards under the EIP. The Board also made a determination on May 31, 2022, to waive the "evergreen provision" that would have automatically increased the number of shares of common stock subject to the EIP by an amount equal to 1% of the total outstanding shares on that date. Following approval by the stockholders of the 350.0 million increase in authorized shares of common stock on August 31, 2022, the 22.0 million shares were restored for issuance under the EIP. The EIP provides for awards of stock options to purchase shares of common stock, restricted and unrestricted shares of common stock, restricted stock units ("RSUs"), and performance share units ("PSUs").

The Company recognizes the compensation cost of employee and director services received in exchange for awards of equity instruments based on the grant date estimated fair value of the awards. The Company estimates the fair value of RSUs and PSUs using the value of the Company's stock on the date of grant. Share-based compensation cost is recognized over the period during which the employee or director is required to provide service in exchange for the award and, as forfeitures occur, the associated compensation cost recognized to date is reversed. For awards with performance-based payout conditions, the Company recognizes compensation cost based on the probability of achieving the performance conditions, with changes in expectations recognized as an adjustment to earnings in the period of change. Any recognized compensation cost is reversed if the conditions are ultimately not met.

Stock-based compensation for the three months ended November 30, 2022 and 2021 was $1.8 million and $2.1 million, respectively, and for the six months ended November 30, 2022 and 2021 was $3.1 million and $4.7 million, respectively. Stock-based compensation is recorded as part of general and administrative costs.

Stock Options and Warrants

Stock option and warrant activity is presented in the table below:

(in thousands, except per share data)	Number of shares	Weighted average exercise price	Weighted average remaining contractual life in years	Aggregate intrinsic value
Options and warrants outstanding at May 31, 2022	90,705	$ 0.77	4.06	$ 352
Granted	116,439	$ 0.29		
Exercised	(2,097)	$ 0.79		
Forfeited, expired, and cancelled	(2,147)	$ 1.49		
Options and warrants outstanding at November 30, 2022	202,900	$ 0.48	4.80	$ 9,616
Options and warrants outstanding and exercisable at November 30, 2022	189,085	$ 0.47	4.48	$ 9,540

During the six months ended November 30, 2022 and 2021, stock options for 12.4 million shares and 11.0 million shares, respectively, were granted. Of the current year options, 10.9 million options vest over four years, 1.1 million vest over one year, and 0.4 million vested immediately. Prior year options granted vest over three years. The Company records compensation expense based on the Black-Scholes fair value per share of the awards on the grant date. The weighted average fair value per share was $0.34 and $1.11 for the six months ended November 30, 2022 and 2021, respectively.

Restricted Stock Units ("RSUs") and Performance Stock Units ("PSUs")

The Company's stock incentive plan provides for equity instruments, such as RSUs and PSUs, which grant the right to receive a specified number of shares over a specified period of time. RSUs and PSUs are service-based awards that vest according to the terms of the grant. PSUs have performance-based payout conditions.

The following table summarizes the Company's RSU and PSU activity:

(in thousands, except per share data)	Number of RSUs and PSUs (1)	Weighted-average grant date fair value
Unvested RSUs and PSUs at May 31, 2022	300	$ 3.12
RSUs and PSUs granted	1,293	0.58
Unvested RSUs and PSUSs forfeited	(67)	3.12
RSUs and PSUs vested	(150)	3.12
Unvested RSUs and PSUs at November 30, 2022	1,376	$ 0.73

(*1*) The number of PSUs disclosed in this table are at the target level of 100%.

The unvested balance of RSUs and PSUs as of November 30, 2022 includes approximately 0.6 million PSUs. The vesting of these awards is subject to the achievement of specified performance-based conditions, and the actual number of common shares that will ultimately be issued will be determined by multiplying this number of PSUs by a payout percentage ranging from 0% to 100%.

Based on the estimated level of achievement of the performance targets associated with the PSUs as of November 30, 2022, unrecognized compensation expense related to the unvested portion of the Company's RSUs and PSUs was $0.6 million, which is expected to be recognized over a weighted-average period of 2.6 years.

Issuance of Shares to Former and Current Executives

During the fiscal year ended May 31, 2022, the employment of our CEO and General Counsel was terminated. Under the terms of their respective employment agreements, the Company was obligated to pay severance equal to 18 months of salary to our former CEO and 12 months of salary to our former General Counsel. As permitted by the

employment agreements, in March 2022, the Board authorized the severance payments to our former CEO and the remaining severance payments to our former General Counsel to be made through the issuance of shares of common stock.

During the six months ended November 30, 2022, the Company issued to our former General Counsel a total of 79,391 shares of common stock to satisfy in full its obligation under the terms of the employment agreement. During the same period, consistent with the terms of our former CEO's employment agreement, the Company also issued 380,704 shares of common stock as severance. The numbers of shares issued were based on the closing price of the common stock on the applicable date.

In order to preserve cash resources, in April 2022, the Board approved the issuance to then executive officers of shares of common stock with a value equal to 25 percent of salary in lieu of cash, net of payroll deductions and withholding taxes. During the six months ended November 30, 2022, a total of 522,382 shares of common stock were issued pursuant to this cash preservation program. The number of shares issued was based on the closing price of the common stock on each payroll date.

Private Placement of Warrants under Surety Bond Backstop Agreement

On February 14, 2022, the Company entered into a Surety Bond Backstop Agreement (as amended, the "Backstop Agreement") with an accredited investor, Dr. David Welch, in his individual capacity and as trustee of a revocable trust, as well as certain other related parties (collectively, the "Indemnitors"). Pursuant to the original terms of the Backstop Agreement, the Indemnitors agreed to assist the Company in obtaining a surety bond (the "Surety Bond") for posting in connection with the Company's ongoing litigation with Amarex Clinical Research, LLC ("Amarex") by, among other things, agreeing to indemnify the issuer of the Surety Bond (the "Surety") with respect to the Company's obligations under the Surety Bond through August 13, 2022. As consideration for the Indemnitors' agreement to indemnify the Surety, the Company agreed (i) to issue to 4-Good Ventures LLC, an affiliate of the Indemnitors ("4-Good"), a warrant for the purchase of 15,000,000 shares of common stock as a backstop fee (the "Initial Warrant"), (ii) to issue to 4-Good a warrant for the purchase of an additional 15,000,000 shares, to be exercisable only if the Indemnitors were required to make any payment to the Surety (the "Make-Whole Warrant" and, together with the Initial Warrant, the "4-Good Warrants"), and (iii) if the Indemnitors are required to make a payment to the Surety, (A) within 90 days of such payment, to reimburse the Indemnitors for any amount paid to the Surety and (B) to pay to the Indemnitors an indemnification fee in an amount equal to 1.5 times the amount paid by the Indemnitors to the Surety. The payment obligations of the Company to the Indemnitors will bear interest at 10% per annum and are secured by substantially all of the patents held by the Company. The Company recognized a finance charge of approximately $6.6 million related to the warrant issuance for the fiscal year ended May 31, 2022.

Pursuant to amendments to the Backstop Agreement executed in July and December of 2022 (the "Backstop Amendment"), among other matters: (i) each of the 4-Good Warrants has a five-year term from the date of issuance and a reduced exercise price of $0.10 per share; (ii) the Make-Whole Warrant became fully exercisable in July 2022; (iii) the Indemnitors were issued, in December 2022, a fully exercisable warrant to purchase 7,500,000 shares of common stock at an exercise price of $0.10 per share; (iv) the Indemnitors were issued a second warrant in December 2022 covering up to 7,500,000 shares of common stock with an exercise price of $0.10 per share, with the ultimate number of shares to be covered by the second warrant to be calculated on or before February 14, 2023, based on a formula relating to how quickly the Company relieves the balance of cash collateral pledged by the Indemnitors; and (v) the obligation of the Indemnitors to indemnify the Surety was extended to January 31, 2023; provided that the Company will relieve the Indemnitors of a minimum of $1,500,000 of cash collateral currently pledged by the Indemnitors in support of the Surety Bond by January 5, 2023, with the balance of the cash collateral ($5,000,000) to be relieved by January 31, 2023; and provided further that, if the balance of the cash collateral on January 31, 2023, has been reduced to $1,000,000 or less, the Company, in its sole discretion, may elect to require the Indemnitors to accept shares of common stock or warrants to purchase shares of common stock in exchange for the remaining balance. In January 2023, the Indemnitors agreed to extend the relief of the $1,500,000 of cash collateral to January 13, 2023. See *Liability Classified Warrants* above for the accounting treatment of the July 2022 amendment to the Backstop Agreement.

Except as described above, the terms of the additional warrants issued in December 2022 are similar to the warrants issued under the original Backstop Agreement, filed as Exhibit 4.1 to the Company's Current Report on Form 8-K filed on February 17, 2022. The shares covered by the additional warrants are entitled to registration rights.

Following the issuance of the additional warrants, Dr. Welch is deemed to beneficially own in excess of five percent of the Company's outstanding shares of common stock.

Private Placement of Common Stock and Warrants through Placement Agent

In April 2022, the Company initiated a private placement of common stock and warrants, completed in June 2022, to accredited investors through a placement agent. Between April and June 2022, the Company sold a total of approximately 85.4 million shares of common stock for a total of approximately $18.9 million of proceeds, net of issuance costs. Of these, approximately $7.7 million of proceeds, net of issuance costs, relating to approximately 34.6 million shares were remitted to the Company by May 31, 2022. Each unit sold included a fixed combination of one share of common stock and three-quarters of one warrant to purchase one share of common stock for a purchase price of $0.255 per unit. The Company issued approximately 64.0 million warrants to investors with each such warrant having a five-year term and an exercise price of 120% of the final unit price, or $0.306 per share, and are immediately exercisable. The Company paid the placement agent a total cash fee of approximately $2.8 million, equal to 13% of the gross proceeds of the offering, as well as a one-time fee for expenses of $50,000, and issued a total of approximately 19.4 million warrants with an exercise price of $0.255 per share and a ten-year term, representing 13% of the total number of shares, including shares subject to warrants sold in the offering, to the placement agent and its designees. The issuance of the warrants to the placement agent was subject to the approval by the Company's stockholders of an increase in authorized shares of common stock, which was approved on August 31, 2022.

Down Round Provision Issuance and Modification to Previous Private Offerings

During the three months ended August 31, 2022, common stock and warrants previously issued between February and April 2022 to accredited investors directly by the Company in a private placement became subject to a down round provision under the original purchase agreements requiring the Company to reduce the purchase price of common stock from the original price of $0.40 to $0.255 per share, to increase the percentage of the warrant coverage from 50% to 75% based on the revised amount of total shares issued, and to reduce the exercise price of the warrants from the original price of $0.40 to $0.306, the terms in the financing conducted by the Company through the placement agent as described above. As a result, an approximate additional 4.6 million shares of common stock and 5.5 million warrants were issued. The incremental fair value of the warrants were measured using the Black-Scholes pricing model, resulting in an approximately $4.2 million charge to additional paid-in capital which was accounted for as a deemed dividend.

Warrant Expiration Extension

During the three months ended November 30, 2022, the Company extended the expiration dates of approximately 3.8 million warrants to January 31, 2023. The previous expiration dates for the warrants ranged from September 2022 to December 2022. The modification to these equity instruments resulted in an approximate $0.5 million deemed dividend recorded in equity as of November 30, 2022, and was included in the loss per share calculations for the three- and six-month periods ended November 30, 2022-refer to Note 7, *Loss per Common Share*.

Warrant Exercises

During the six months ended November 30, 2022, the Company issued approximately 0.5 million shares of common stock in connection with the exercise of an equal number of warrants. The stated exercise prices ranged from $0.45 to $0.75 per share, which resulted in aggregate gross proceeds of approximately $0.3 million. Additionally, during the six months ended November 30, 2022, the Company issued approximately 0.2 million shares of common stock in connection with the cashless exercise of approximately 0.3 million warrants with stated exercise prices ranging from $0.26 to $0.50 per share.

Private Warrant Exchanges

During the three months ended November 30, 2022, the Company entered into various separate privately negotiated warrant exchange agreements with certain accredited investors, pursuant to which the investors exercised warrants with an original exercise price of $1.00 per share in exchange for the issuance of approximately 9.7 million shares of common

stock upon exercise of the warrants, including approximately 8.4 million shares issued as an inducement for the exercises. Gross and net aggregate proceeds from the private warrant exchange were approximately $2.1 million. In connection with these transactions, the Company recognized approximately $2.1 million as issuance costs and $0.5 million as a deemed dividend.

Note 7. Loss per Common Share

Basic loss per share is computed by dividing the net loss adjusted for preferred stock dividends by the weighted average number of common shares outstanding during the period. Diluted loss per share includes the weighted average common shares outstanding and potentially dilutive common stock equivalents. Because of the net losses for all periods presented, the basic and diluted weighted average shares outstanding are the same since including the additional shares would have an anti-dilutive effect on loss per share. The reconciliation of the numerators and denominators of the basic and diluted net loss per share computations are as follows:

(in thousands, except per share amounts)	Three months ended November 30,		Six months ended November 30,	
	2022	2021 (Restated) [1]	2022	2021 (Restated) [1]
Net loss	$ (26,495)	$ (40,077)	$ (47,486)	$ (85,414)
Less: Deemed dividends	(1,140)	—	(5,294)	—
Less: Accrued preferred stock dividends	(370)	(417)	(756)	(842)
Net loss applicable to common stockholders	$ (28,005)	$ (40,494)	$ (53,536)	$ (86,256)
Basic and diluted:				
Weighted average common shares outstanding	813,373	662,600	800,545	647,517
Loss per share	$ (0.03)	$ (0.06)	$ (0.07)	$ (0.13)

(1) See Note 2, *Summary of Significant Accounting Policies*.

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

(in thousands)	Three and six months ended November 30,	
	2022	2021
Stock options, warrants, and unvested restricted stock units	204,273	73,223
Convertible notes	12,000	12,000
Convertible preferred stock	32,591	34,089

Note 8. Income Taxes

The Company calculates its quarterly taxes under the effective tax rate method based on applying an anticipated annual effective rate to its year-to-date income, except for discrete items. Income taxes for discrete items are computed and recorded in the period that the specific transaction occurs. The Company's net tax expense for the three and six months ended November 30, 2022 and 2021 was zero. The Company does not consider it more likely than not that the benefits from the net deferred taxes will be realized; therefore the Company maintains a full valuation allowance as of November 30, 2022 and May 31, 2022, thus creating a difference between the effective tax rate of 0% and the statutory rate of 21%.

Note 9. Commitments and Contingencies

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

In April 2019, the Company entered into an agreement with Samsung, pursuant to which Samsung will perform technology transfer, process validation, manufacturing, pre-approval inspection and supply services for the commercial

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

On January 6, 2022, Samsung provided written notice to the Company alleging that the Company had materially breached the parties' Master Services and Project Specific Agreements for failure to pay $13.5 million due on December 31, 2021. An additional $22.8 million became due under the agreements on January 31, 2022. Under the agreements, Samsung may be entitled to terminate its services if the parties cannot agree on the past-due balance. Management continues to be in ongoing discussions with Samsung regarding potential approaches to resolve these issues, including proposals by both parties of a revised schedule of payments over an extended period, proposals by the Company of satisfaction of a portion of the Company's payment obligations in equity securities, through future financing, and/or potential licensing opportunities of the Company, proposals to postpone the manufacturing of unfulfilled commitments until a future regulatory approval, and proposals offsetting the unfulfilled commitments with other future potential R&D drug development needs related to the longer-acting therapeutic the Company is currently studying. Samsung has paused manufacturing all unfulfilled commitments not needed by the Company starting in January of 2022. Accordingly, the Company has not recorded any accruals associated with the unfulfilled commitments as of November 30, 2022. In the event negotiations are unsuccessful, the Company may have to accrue a liability related to the unfulfilled commitments. As of November 30, 2022, the Company had past due balances of approximately $35.0 million due to Samsung, which were included in accounts payable. As of November 30, 2022, the future commitments pursuant to these agreements were estimated as follows (in thousands):

Fiscal Year	Amount
2023 (6 months remaining)	$ 34,638
2024	121,750
2025	76,400
2026 and thereafter	—
Total	$ 232,788

Operating Lease Commitments

We lease our principal office location in Vancouver, Washington (the "Vancouver Lease"). The Vancouver Lease expires on April 30, 2026. Consistent with the guidance in ASC 842, *Leases*, we have recorded this lease in our consolidated balance sheet as an operating lease. For the purpose of determining the right of use asset and associated lease liability, we determined that the renewal of the Vancouver lease was not reasonably probable. The lease does not include any restrictions or covenants requiring special treatment under ASC 842, *Leases*. Operating lease costs for the three months ended November 30, 2022 and 2021 was $46.4 thousand and $48.9 thousand, respectively, and for the six months ended November 30, 2022 and 2021 was approximately $0.1 million and $0.1 million, respectively. Operating lease right-of-use assets are included in other non-current assets and the current portion of operating lease liabilities are included in accrued liabilities and compensation on the consolidated balance sheets. The long-term operating lease liabilities are presented separately as operating lease on the consolidated balance sheets. The following table summarizes the operating lease balances.

(in thousands)	November 30, 2022	May 31, 2022
Assets		
Right-of-use asset	$ 468	$ 536
Liabilities		
Current operating lease liability	$ 136	$ 134
Non-current operating lease liability	353	422
Total operating lease liability	$ 489	$ 556

The minimum (base rental) lease payments are expected to be as follows as of November 30, 2022 (in thousands):

Fiscal Year	Amount
2023 (6 months remaining)	$ 89
2024	182
2025	185
2026	169
Total operating lease payments	625
Less: imputed interest	(136)
Present value of operating lease liabilities	$ 489

Supplemental information related to operating leases was as follows:

	November 30, 2022
Weighted average remaining lease term	3.4 years
Weighted average discount rate	10.0 %

Distribution and Licensing Commitments

Refer to Note 10, *Commitments and Contingencies*, in the 2022 Form 10-K for information.

Legal Proceedings

As of November 30, 2022, the Company did not record any legal accruals related to the outcomes of the matters described below. It may not be possible to determine the outcome of these proceedings, including the defense and other litigation-related costs and expenses that may be incurred by the Company, as the outcomes of legal proceedings are inherently uncertain. Therefore, it is possible that the ultimate outcome of any proceeding, if in excess of a recognized accrual, if any, could be material to the Company's consolidated financial statements.

Securities Class Action Lawsuit

On March 17, 2021, a stockholder filed a putative class-action lawsuit (the "March 17, 2021 lawsuit") in the U.S. District Court for the Western District of Washington against the Company and certain former officers. The complaint generally alleges the defendants made false and misleading statements regarding the viability of leronlimab as a potential treatment for COVID-19. On April 9, 2021, a second stockholder filed a similar putative class action lawsuit in the same court, which the plaintiff voluntarily dismissed without prejudice on July 23, 2021. On August 9, 2021, the court appointed lead plaintiffs for the March 17, 2021 lawsuit. On December 21, 2021, lead plaintiffs filed an amended complaint, which is brought on behalf of an alleged class of those who purchased the Company's common stock between March 27, 2020 and May 17, 2021. The amended complaint generally alleges that the defendants violated Sections 10(b) and/or 20(a) of the Securities Exchange Act of 1934 and Rule 10b-5 promulgated thereunder by making purportedly false or misleading statements concerning, among other things, the safety and efficacy of leronlimab as a potential treatment for COVID-19, the Company's CD10 and CD12 clinical trials, and its HIV BLA. The amended complaint also alleges that the individual defendants violated Section 20A of the Exchange Act by selling shares of the Company's common stock purportedly while in possession of material nonpublic information. The amended complaint seeks, among other relief, a ruling that the case may proceed as a class action and unspecified damages and attorneys' fees and costs. On February 25, 2022, the defendants filed a motion to dismiss the amended complaint. On June 24, 2022, lead plaintiffs filed a second amended complaint. The second amended complaint is brought on behalf of an alleged class of those who purchased the Company's common stock between March 27, 2020 and March 30, 2022, makes similar allegations, names the same defendants, and asserts the same claims as the prior complaint, adds a claim for alleged violation of Section 10(b) of the Exchange Act and Rule 10b-5(a) and (c) promulgated thereunder, and seeks the same relief as the prior complaint. The Company and the individual defendants deny all allegations of wrongdoing in the complaint and intend to vigorously defend the matter. Since this case is in an early stage where the number of plaintiffs is not known, and the claims do not specify an amount of damages, the Company is unable to predict the ultimate outcome of the lawsuit and cannot reasonably estimate the potential loss or range of loss the Company may incur.

2021 Shareholder Derivative Lawsuits

On June 4, 2021, a stockholder filed a purported derivative lawsuit against certain of the Company's former officers and directors, and the Company as a nominal defendant, in the U.S. District Court for the Western District of Washington. Two additional shareholder derivative lawsuits were filed against the same defendants in the same court on June 25, 2021 and August 18, 2021, respectively. The court has consolidated these three lawsuits for all purposes ("Consolidated Derivative Suit"). On January 20, 2022, the plaintiffs filed a consolidated complaint. The consolidated complaint generally alleges that the director defendants breached their fiduciary duties by allowing the Company to make false and misleading statements regarding, among other things, the safety and efficacy of leronlimab as a potential treatment for COVID-19, the Company's CD10 and CD12 clinical trials, and its HIV BLA, and by failing to maintain an adequate system of oversight and controls. The consolidated complaint also asserts claims against one or more individual defendants for waste of corporate assets, unjust enrichment, contribution for alleged violations of the federal securities laws, and for breach of fiduciary duty arising from alleged insider trading. The consolidated complaint seeks declaratory and equitable relief, an unspecified amount of damages, and attorneys' fees and costs. The Company and the individual defendants deny all allegations of wrongdoing in the complaints and intend to vigorously defend the litigation. In light of the fact that the Consolidated Derivative Suit is in an early stage and the claims do not specify an amount of damages, the Company cannot predict the ultimate outcome of the Consolidated Derivative Suit and cannot reasonably estimate the potential loss or range of loss the Company may incur.

Securities and Exchange Commission and Department of Justice Investigations

The Company has received subpoenas from the United States Securities and Exchange Commission ("SEC") and the United States Department of Justice ("DOJ") requesting documents and information concerning, among other matters, leronlimab, the Company's public statements regarding the use of leronlimab as a potential treatment for COVID-19, HIV, and triple-negative breast cancer, related communications with the FDA, investors, and others, litigation involving former employees, the Company's retention of investor relations consultants, and trading in the Company's securities. Certain former Company executives and directors have received subpoenas concerning similar issues and have been interviewed by the DOJ and SEC, including the Company's former CEO, Nader Z. Pourhassan.

On January 24, 2022, Mr. Pourhassan was terminated and removed from the Board of Directors and has had no role at the Company since. On December 20, 2022, the DOJ announced the unsealing of a criminal indictment charging both Mr. Pourhassan, and Kazem Kazempour, CEO of Amarex Clinical Research LLC, a subsidiary of NSF International, Inc., and which had formerly served as the Company's CRO. Mr. Pourhassan was charged with one count of conspiracy, four counts of securities fraud, three counts of wire fraud, and three counts of insider trading. Mr. Kazempour was charged with one count of conspiracy, three counts of securities fraud, two counts of wire fraud, and one count of making a false statement. That same day, the SEC announced charges against both Mr. Pourhassan and Mr. Kazempour for alleged violations of federal securities laws.

The Company is committed to cooperating fully with the DOJ and SEC investigations, which are ongoing, and which the Company's counsel frequently engages with them on. Further, the Company has made voluminous productions of information and made witnesses available for voluntary interviews. The Company will continue to comply with the requests of the SEC and DOJ. The Company cannot predict the ultimate outcome of the DOJ and SEC investigations or the case against Mr. Pourhassan, nor can it predict whether any other governmental authorities will initiate separate investigations or litigation. The investigations and any related legal and administrative proceedings could include a wide variety of outcomes, including the institution of administrative, civil injunctive or criminal proceedings involving the Company and/or former executives and/or former directors in addition to Mr. Pourhassan, the imposition of fines and other penalties, remedies and/or sanctions, modifications to business practices and compliance programs and/or referral to other governmental agencies for other appropriate actions. It is not possible to accurately predict at this time when matters relating to the investigations will be completed, the final outcome of the investigations, what additional actions, if any, may be taken by the DOJ or SEC or by other governmental agencies, or the effect that such actions may have on our business, prospects, operating results and financial condition, which could be material.

The DOJ and SEC investigations, including any matters identified in the investigations and indictments, could also result in (1) third-party claims against the Company, which may include the assertion of claims for monetary damages,

including but not limited to interest, fees, and expenses, (2) damage to the Company's business or reputation, (3) loss of, or adverse effect on, cash flow, assets, results of operations, business, prospects, profits or business value, including the possibility of certain of the Company's existing contracts being cancelled, (4) adverse consequences on the Company's ability to obtain or continue financing for current or future projects and/or (5) claims by directors, officers, employees, affiliates, advisors, attorneys, agents, debt holders or other interest holders or constituents of the Company or its subsidiaries, any of which could have a material adverse effect on the Company's business, prospects, operating results and financial condition. Further, to the extent that these investigations and any resulting third-party claims yield adverse results over time, such results could jeopardize the Company's operations and exhaust its cash reserves, and could cause stockholders to lose their entire investment.

Amarex Dispute

On October 4, 2021, the Company filed a complaint for declaratory and injunctive relief and a motion for a preliminary injunction against NSF International, Inc. and its subsidiary Amarex Clinical Research LLC (“Amarex”), the Company’s former CRO. Over the past eight years, Amarex provided clinical trial management services to the Company and managed numerous clinical studies of the Company’s drug product candidate, leronlimab. On December 16, 2021, the U.S. District Court for the District of Maryland issued a preliminary injunction requiring Amarex to provide the Company with access to all of its materials in the possession of Amarex. The court also granted CytoDyn the right to conduct an audit of Amarex’s work for CytoDyn. That case has been administratively closed. The Company simultaneously filed a demand for arbitration with the American Arbitration Association. The arbitration demand alleges that Amarex failed to perform services to an acceptable professional standard and failed to perform certain services required by the parties’ agreements. Further, the demand alleges that Amarex billed the Company for services it did not perform. The Company contends that, due to Amarex’s failures, it has suffered avoidable delays in obtaining regulatory approval of leronlimab and has paid for services not performed. Amarex has counterclaimed alleging that CytoDyn has failed to pay invoices due under the contract between the parties. In light of the fact that this dispute is in an early stage, the Company cannot predict the ultimate outcome of the lawsuit and cannot reasonably estimate the potential loss or range of loss that the Company may incur.

Note 10. Subsequent Events

During December 2022, in satisfaction of redemptions, the Company and the April 2, 2021 Note holder entered into exchange agreements, pursuant to which portions of the April 2, 2021 Note were partitioned into new notes (the “December Partitioned Notes”) with an aggregate principal amount of $1.0 million, which were exchanged concurrently with the issuance of approximately 4.7 million shares of common stock. The outstanding balance of the April 2, 2021 Note was reduced by the December Partitioned Notes to a principal amount of $8.3 million.

During December 2022, the Company entered into various separate privately negotiated warrant exchange agreements with certain accredited investors, pursuant to which the investors exercised warrants with an original exercise price of $0.50 - $0.75 per share in exchange for the issuance of approximately 3.4 million shares of common stock upon exercise of the warrants, including approximately 0.6 million shares issued as an inducement for the exercises. Gross and net aggregate proceeds from the private warrant exchange were approximately $0.7 million. As of November 30, 2022 the Company held $0.2 million in restricted cash related to these transactions.

In January 2023, the Company commenced an offering of units seeking to raise up to $15.0 million in gross proceeds, with each unit consisting of one share of common stock and one warrant to purchase one share of common stock. The offering is being conducted in a private placement through a placement agent in reliance on the exemption from registration provided by Section 4(a)(2) of the Securities Act and Rule 506 of Regulation D promulgated by the SEC thereunder. The securities being offered will not be registered for resale under the Securities Act and may not be offered or sold in the United States absent registration or an applicable exemption from registration requirements. The intended use of proceeds is to fund operations and for general corporate purposes, including the reduction of indebtedness.

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

Certain information included in this quarterly report on Form 10-Q contains, or incorporates by reference, forward-looking statements within the meaning of Section 21E of the Exchange Act. Words and expressions reflecting optimism, satisfaction or disappointment with current prospects, as well as words such as "believes," "hopes," "intends," "estimates," "expects," "projects," "plans," "anticipates" and variations thereof, or the use of future tense, identify forward-looking statements, but their absence does not mean that a statement is not forward-looking.

Our forward-looking statements are not guarantees of performance, and actual results could vary materially from those contained in or expressed by such statements. In evaluating all such statements, we urge you to specifically consider various risks identified in this quarterly report, and those set forth in Item 1A. *Risk Factors* in our 2022 Form 10-K, any of which could cause actual results to differ materially from those indicated by our forward-looking statements. Our forward-looking statements reflect our current views with respect to future events and are based on currently available financial, economic, scientific, and competitive data and information about current business plans. Forward-looking statements include, among others, statements about leronlimab, its ability to have positive health outcomes, the Company's ability to resolve the clinical hold imposed by the U.S. Food and Drug Administration (the "FDA") and information regarding future operations, future capital expenditures and future net cash flows. You should not place undue reliance on our forward-looking statements, which are subject to risks and uncertainties relating to, among other things: the regulatory determinations of leronlimab's safety and effectiveness by the FDA and various drug regulatory agencies in other countries; the Company's ability to raise additional capital to fund its operations; the Company's ability to meet its debt and other payment obligations; the Company's ability to enter into or maintain partnership or licensing arrangements with third-parties; the Company's ability to recruit and retain key employees; the timely and sufficient development, through internal resources or third-party consultants, of analyses of the data generated from the Company's clinical trials required by the FDA or other regulatory agencies in connection with the Company's regulatory submissions or applications for approval of the Company's drug product; the Company's ability to achieve approval of a marketable product; the design, implementation and conduct of clinical trials; the results of any such clinical trials, including the possibility of unfavorable clinical trial results; the market for, and marketability of, any product that is approved; the existence or development of vaccines, drugs, or other treatments that are viewed by medical professionals or patients as superior to the Company's products; regulatory initiatives, compliance with governmental regulations and the regulatory approval process; legal proceedings, investigations or inquiries affecting the Company or its products; general economic and business conditions; changes in foreign, political, and social conditions; stockholder actions or proposals with regard to the Company, its management, or its Board of Directors; and various other matters, many of which are beyond the Company's control. Should one or more of these risks or uncertainties develop, or should underlying assumptions prove to be incorrect, actual results may vary materially and adversely from those anticipated, believed, estimated, or otherwise indicated by our forward-looking statements. Except as required by law, we do not undertake any responsibility to update these forward-looking statements to take into account events or circumstances that occur after the date of this quarterly report. Additionally, we do not undertake any responsibility to update you on the occurrence of any unanticipated events that may cause actual results to differ from those expressed or implied by these forward-looking statements.

The following discussion and analysis of our financial condition and results of operations should be read in conjunction with our Annual Report on Form 10-K (the "2022 Form 10-K"), and the other sections of this Form 10-Q, including our consolidated financial statements and related notes set forth in Part I, Item 1. This discussion and analysis contain forward-looking statements, including information about possible or assumed results of our financial condition, operations, plans, objectives and performance that involve risks, uncertainties and assumptions. The actual results may differ materially from those anticipated and set forth in such forward-looking statements.

Overview

The Company is a clinical stage biotechnology company focused on the clinical development and potential commercialization of its product candidate, leronlimab, which is being studied for NASH, NASH-HIV, solid tumors in oncology, and other HIV indications. Our current business strategy is to seek the removal of the partial clinical hold imposed by the US FDA in March 2022. In October 2022, the Company voluntarily withdrew its Biologic License Application ("BLA") submission, for leronlimab as a combination therapy for highly treatment experienced HIV

patients, due to management's conclusion that a significant risk existed that the BLA would not receive FDA approval due to the inadequate process and performance around the monitoring and oversight of the clinical data from its clinical trials by its former contract research organization ("CRO").

As further discussed in Part I, Item 1, Note 2, *Summary of Significant Accounting Policies - Inventories,* and Note 3, *Inventories, net,* the Company previously capitalized procured or produced pre-launch inventories in preparation for product launches. The Company has reserved for or written off $96.4 million in previously capitalized pre-launch inventories. Although these inventories have been written off from an accounting perspective, they may still have clinical use.

Second Quarter Overview

HIV BLA

In October 2022, the Company voluntarily withdrew its BLA submission after concluding that a significant risk existed that the BLA would not receive FDA approval due to its former CRO's inadequate process and performance around the monitoring and oversight of the clinical data. The Company is engaged in litigation with its former CRO; the Company obtained an order requiring the CRO to release the Company's clinical data related to the BLA and other clinical trials, which the CRO had been withholding, thereby preventing the Company from completing necessary clinical data submissions to the FDA. The order granted the Company access to the data and the right to perform an audit of the CRO's services, which has been completed.

Partial Clinical Hold on HIV Program

In March 2022, the FDA notified the Company that it had placed a partial clinical hold on the Company's HIV program; the Company was not enrolling any new patients in the trials placed on hold. The partial clinical hold on the HIV program impacted patients enrolled in HIV extension trials who were transitioned to other available therapeutics. No clinical studies can be initiated or resumed until the partial clinical hold is resolved. The Company's efforts are focused on activities that will allow us to resolve the partial clinical hold.

HIV Pre-Clinical Development

In December 2022, researchers from Oregon Health and Sciences University, an academic research collaboration partner of the Company, presented at the HIV DART Conference and the HIV Persistence During Therapy Conference results from two pre-clinical studies performed on macaque monkeys for two different potential longer-acting therapeutics targeting the CCR5 receptor. The first longer-acting potential therapeutic is a modified monoclonal antibody designed to have a longer half-life, which could lead to the development of an HIV prophylactic for humans at high risk of contracting HIV. The second longer-acting potential therapeutic is a gene therapy that could lead to the development of a functional cure for humans living with HIV. While both longer-acting therapeutics are still in the early stages of development, early data from the macaque monkey studies suggest that increased dosing intervals from once weekly to over three months are possible. Data from both potential therapeutics were also presented during the Company's R&D Investor Update on December 7, 2022, which is available on the Company's website. By making this and other references to the Company's website, we do not intend to incorporate by reference into this report any information posted on our website. The website should not be considered part of this report.

NASH Clinical Developments

In November 2022, the Company presented two posters at the American Association for the Study of Liver Diseases (AASLD) meeting in Washington, DC. The data presented expanded on the efficacy data from the CDI-NASH-01 trial (NCT04521114), which was previously presented at the EASLD meeting in June 2022, and is discussed in more detail below. This data presented included the functional biomarker and supportive mechanism of action data for leronlimab in NASH.

During November and December 2022, the Company presented the same data presented at the EASLD and AASLD meetings, at the NASH and Obesity Drug Development Summit held in Boston and further raised the clinical development needs for addressing NASH in people living with HIV. Similar data was also presented during the Company's R&D Investor Update on December 7, 2022, which is available on the Company's website.

NASH is a chronic liver disease characterized by the presence of hepatic inflammation and fibrosis. Patients with advanced fibrosis due to NASH are at significantly higher risk of liver-related mortality. There is currently no approved drug for NASH. Liver disease is one of the leading causes of non-AIDS-related death in HIV patients. The Company is identifying the next steps in clinical development to continue the investigation of leronlimab in the NASH indication and HIV patients with NASH.

In NASH, liver homeostasis is impaired due to an accumulation of toxic lipids which can activate both Kupffer cells (KCs) and tissue-resident macrophages resulting in the production of fibrogenic cytokines and chemoattractant chemokines such as transforming growth factor-beta (TGF-β) and monocyte chemoattractant protein-1 (MCP-1). Not only do these cytokines/chemokines promote transdifferentiation of hepatic stellate cells (HSCs) into myofibroblasts (the primary source for fibrillary collagens), but they also amplify the immune response by recruiting additional cells into the damaged area. Recruitment of extra-hepatic inflammatory cells to the site of hepatic injury is typically mediated by interactions between cytokines/chemokines and their receptors. It has also been shown that patients with NASH also have high levels of C-C chemokine receptor 5 (CCR5) and the associated ligand, CCL5, thus demonstrating a potential role of CCR5 and its ligands in liver fibrosis.

The potential for leronlimab in the treatment of NASH was demonstrated in a pre-clinical model of fatty liver disease. Immunodeficient, NOD-SCID Gamma (NSG) mice were fed a high fat, NASH-inducing diet, transplanted with human stem cells to repopulate the deficient immune system, and treated with leronlimab. Sixteen (16) male NOD.Cg-*Prkdcscid Il2rgtm1Wjl/SzJ*, commonly known as the NOD *scid* IL-2 receptor gamma knockout mice (NSG), were first humanized by intravenous inoculation with normal human umbilical cord blood cells (105). After 5 weeks on normal mouse chow, mice were successfully humanized, demonstrating >25% human CD45 cells in peripheral blood. Mice were switched to high fat (52%) high cholesterol (1.25%) diet (FPC diet: fructose, palmitate, cholesterol, trans-fat; Envigo-Teklad TD.160785). Leronlimab and control antibody (normal human IgG, Sigma) were administered i.p. at a dose of 2mg i.p. twice weekly, n=8 mice/group. The results showed that leronlimab inhibited fatty liver development, a key characteristic of early-stage NASH, such that treatment of humanized NSG mice with leronlimab caused a three-fold reduction in hepatic steatosis compared to control in an animal model of high fructose, high palmitate, high cholesterol diet.

The Company has reported clinical data from patients with NASH from the CDI-NASH-01 trial which was designed as a multi-center Phase 2a study and was subsequently converted into an exploratory study to evaluate the dose, efficacy, and safety of leronlimab at 350 mg and 700 mg, versus placebo. The study also included an expansive biomarker program designed to inform future clinical trials and to more fully understand leronlimab's mechanism of action within the NASH setting. CDI-NASH-01 was run in two parts. Part 1 of the study was to assess the efficacy of leronlimab 700 mg (n=22) in improving NAFLD/NASH measures in adult patients diagnosed with NASH compared to placebo (n=28). Part 2 was subsequently added to assess leronlimab 350 mg in improving NAFLD/NASH measures in adult patients diagnosed with NASH (n=22). In Part 1 of the study, eligible subjects were randomized 1:1 to one of the two study arms to receive either leronlimab 700mg (Group A), or placebo (Group B), given once per week (±1day) at the study site for up to 13 weeks during the treatment period (with up to 60 participants). In Part 2 of the study, eligible subjects enrolled to receive leronlimab 350 mg open-label given once per week (±1day) at the study site for up to 13 weeks during the treatment period (with up to 28 participants). The primary efficacy objective was percent change from baseline in hepatic fat fraction, as assessed by magnetic resonance imaging-derived proton density fat fraction (MRI-PDFF) at week 14. The secondary efficacy objective was absolute change from baseline in fibro-inflammatory activity in the liver as assessed by MRI-corrected T1 imaging (MRI-cT1) at week 14. MRI-cT1 is obtained by multiparametric magnetic resonance imaging of the liver and is a quantitative metric for assessing a composite of liver inflammation and fibrosis, expressed in milliseconds (msec). MRI-PDFF is being studied as an imaging surrogate endpoint for the fat density in the liver. MRI-cT1 is being studied as an imaging surrogate endpoint for hepatic fibro-inflammation. This is a critical unmet need in the NASH space, as many agents have been unable to show reductions in fibro-inflammation despite reductions in hepatic steatosis.

All analyses performed are being treated as exploratory. Treatment with leronlimab was well tolerated in both Part 1 and Part 2 compared to placebo. In Part 1 of the study, leronlimab 700 mg did not reduce mean change in PDFF and cT1 from baseline to week 14 vs. placebo. In Part 2, leronlimab 350 mg reduced mean change in PDFF and cT1 from baseline to week 14 vs. the placebo group from Part 1, despite increased degree of baseline fibro-inflammation. In the combined group of patients with moderate (≥ 875 msec) and severe (≥ 950 msec) cT1 values at baseline, leronlimab 350 mg reduced cT1 from baseline to week 14 vs. placebo. Based on post hoc CCR5 haplotype analysis of a small subgroup (n=5), we are considering further investigation of the 700mg dose of leronlimab for specific haplotypes.

Cancer Clinical Developments

The Company continues to identify the next steps in clinical development and is exploring potential business opportunities to continue the investigation of leronlimab for solid tumors in oncology based on data generated to date by the Company.

Summary of TNBC Data

To assess the impact of leronlimab treatment on mTNBC patients, we pooled the data from 3 studies: CD07_TNBC Phase 1b/2, CD07_TNBC_Compassionate Use, and CD-09 Basket. The study population for pooled efficacy analysis was a total of 28 subjects (10 subjects from the Phase 1b/2 study, 16 subjects from the Compassionate Use Study, and 2 subjects from the Basket Study).

To explore the impact of leronlimab in the mTNBC patients' disease progression, investigator assessed Progression Free Survival (PFS) was analyzed in the 28 subjects. There was a total of 19 subjects dosed between 525 mg and 700 mg (4 subjects increased dose from 350 mg to 525 mg and were included in the higher dose cohort). The median PFS (mPFS) for the 525 mg – 700 mg cohort was 6.2 months (95% CI 2.6 months - 7.5 months). There were 9 subjects dosed at 350 mg, mPFS was 2.2 months (95% CI 0.7 months - 12+ months). There was a meaningful PFS advantage at the higher doses when compared with the lower, 350 mg dose cohort.

Furthermore, the preliminary results of the leronlimab studies also showed similarity in the PFS outcomes of mTNBC patients treated with leronlimab + carboplatin compared to overall leronlimab treated population. Of the 28 subjects enrolled, 13 subjects received leronlimab + carboplatin treatment. The mPFS for leronlimab + carboplatin population was 3.9 months (95% CI 2.3 months - 6.0 months).

The subgroup analysis of PFS based on the individual subjects in each study was also reviewed. The mPFS for Phase 1b/2 study was 3.9 months (95% CI 2.3 months – 6.2 months), mPFS for the Compassionate Use study was 3.3 months (95% CI 1.3 months – 7.5 months), and mPFS for the Basket Study was 2.8 months (95% CI N/A).

Combined, the overall mPFS for all 28 patients treated with leronlimab in the population of mTNBC patients regardless of dosage, conjunction therapy type, brain or bone metastases that have failed more than one line of previous therapy was 4.1 months (95% CI 2.5 months – 7.0 months). The mean PFS was 3.7 ± 2.93 standard deviation (SD).

To explore the impact of leronlimab in the mTNBC patients' disease progression, Overall Survival (OS) was analyzed in the same 28 subjects. The median OS (mOS) for leronlimab + carboplatin population was 12+ months (95% CI 5.4 months - 12+ months).

The mOS for the 350 mg cohort was 4.6 months (95% CI 1.1 months -12+ months). The mOS for the 525-700 mg cohort was 12+ months (95% CI 5.5 months – 12+ months).

The overall median OS for leronlimab treated population of mTNBC patients regardless of brain or bone metastases that have failed more than one line of previous therapy was 6.5 months (95% CI 5.0 months – 12+ months). The mean value for OS was 5.5 ±4.31 standard deviation (SD).

Corporate Developments

On October 13, 2022, Scott A. Kelly, M.D. resigned as a director of the Company. Dr. Kelly resigned as the Company's Chief Medical Officer and Head of Business Development on December 19, 2022.

On October 13, 2022, Stephen M. Simes was appointed to the Company's Board of Directors to fill the vacancy created by the resignation of Dr. Kelly. Mr. Simes brings extensive experience to our Board through his service as CEO or a director of a number of pharmaceutical companies, both public and private. His career in the pharmaceutical industry started over 40 years ago with G.D. Searle & Co. (now a part of Pfizer Inc.). He currently is Entrepreneur in Residence at Helix 51 and the Innovation and Research Park of Rosalind Franklin University of Medicine and Science in North Chicago, Illinois. Mr. Simes also serves as a director of BioLife4D Corporation, a private company developing a patient-specific, fully functioning human heart using 3D bioprinting and the patient's own cells and currently preparing for an IPO. Mr. Simes is also chairman of the board of Bio-XL Limited, an Israeli company developing products in oncology. He serves as an advisor for SmartHealth Catalyzer and advises several emerging companies in varied therapeutic areas, including oncology and cardiology. Mr. Simes was the CEO of RestorGenex Corporation from 2014 to 2016, when it was acquired by Diffusion Pharmaceuticals (NASDAQ: DFFN). From 1998 to 2013, Mr. Simes was the President and CEO of BioSante Pharmaceuticals, which was acquired by ANI Pharmaceuticals Inc. (NASDAQ: ANIP) in June 2013. He previously served on the boards of directors of Therapix Biosciences (2016-2020), RestorGenex Corporation (2014-2016), Ceregene, Inc. (2009-2013), BioSante Pharmaceuticals (1998-2013), Unimed Pharmaceuticals, Inc. (1994-1997), Bio-Technology General (1993-1995), and Gynex Pharmaceuticals, Inc. (1989-1993). Stephen has a BSc in Chemistry from Brooklyn College of the City University of New York and an MBA from New York University.

Nitya G. Ray, Ph.D., the Company's Chief Technology Officer, resigned from his role at the Company, effective November 21, 2022.

During the quarter ended November 30, 2022, as well as in December 2022, the Company concluded private warrant exchanges resulting in aggregate net proceeds of approximately $2.8 million.

In January 2023, the Company commenced an offering of up to $15.0 million, with each unit consisting of one share of common stock and one warrant to purchase one share of common stock.

Results of Operations

Fluctuations in Operating Results

The Company's operating results may fluctuate significantly depending on the outcomes, number and timing of pre-clinical and clinical studies, patient enrollment and/or completion rates in the studies, and their related effect on research and development expenses, regulatory and compliance activities, activities related to seeking removal of the partial clinical hold and FDA approval of our drug product, general and administrative expenses, professional fees, and legal proceedings and related consequences. We require a significant amount of capital to continue to operate; therefore, we regularly conduct financing offerings to raise capital, which may result in various forms of non-cash interest expense or other expenses. Additionally, we periodically seek to negotiate settlement of debt payment obligations in exchange for equity securities of the Company and enter into warrant exchanges or modifications that may result in non-cash charges. Our ability to continue to fund operations will depend on our ability to raise additional funds. Refer to *Risk Factors*, *Liquidity and Capital Resources*, and *Going Concern* sections included in this quarterly report.

The results of operations were as follows for the periods presented:

(in thousands, except for per share data)	Three months ended November 30,		Change		Six months ended November 30,		Change	
	2022	2021 (Restated) [1]	$	%	2022	2021 (Restated) [1]	$	%
Revenue	$ —	$ 225	$ (225)	(100)%	$ —	$ 266	$ (266)	(100)%
Cost of goods sold	—	52	(52)	(100)	—	53	(53)	(100)
Gross profit	—	173	(173)	(100)	—	213	(213)	(100)
Operating expenses:								
General and administrative	5,043	16,203	(11,160)	(69)	11,376	23,820	(12,444)	(52)
Research and development	137	7,447	(7,310)	(98)	713	19,467	(18,754)	(96)
Amortization and depreciation	54	252	(198)	(79)	153	528	(375)	(71)
Inventory charge	17,929	1,593	16,336	1,025	20,633	3,357	17,276	515
Total operating expenses	23,163	25,495	(2,332)	(9)	32,875	47,172	(14,297)	(30)
Operating loss	(23,163)	(25,322)	2,159	9	(32,875)	(46,959)	14,084	30
Interest and other expenses:								
Interest on convertible notes	(1,159)	(1,426)	267	19	(2,305)	(3,112)	807	26
Amortization of discount on convertible notes	(580)	(793)	213	27	(1,156)	(1,745)	589	34
Amortization of debt issuance costs	(18)	(23)	5	22	(34)	(51)	17	33
Loss on induced conversion	(638)	(6,785)	6,147	91	(638)	(25,315)	24,677	97
Finance charges	(937)	(1,024)	87	8	(1,877)	(1,059)	(818)	(77)
Inducement interest expense	—	(4,704)	4,704	100	—	(5,232)	5,232	100
Legal settlement	—	—	—	—	—	(1,941)	1,941	100
Loss on derivatives	—	—	—	—	(8,601)	—	(8,601)	(100)
Total interest and other expenses	(3,332)	(14,755)	11,423	77	(14,611)	(38,455)	23,844	62
Loss before income taxes	(26,495)	(40,077)	13,582	34	(47,486)	(85,414)	37,928	44
Income tax benefit	—	—	—	—	—	—	—	—
Net loss	$ (26,495)	$ (40,077)	$ 13,582	34 %	$ (47,486)	$ (85,414)	$ 37,928	44 %
Basic and diluted:								
Weighted average common shares outstanding	813,373	662,600	150,773	23	800,545	647,517	153,028	24
Loss per share	$ (0.03)	$ (0.06)	$ 0.03	50	$ (0.07)	$ (0.13)	$ 0.06	46

(1) See Note 2, *Summary of Significant Accounting Policies—Revision and Restatement of Financial Statements*.

Product revenue, Cost of goods sold ("COGS") and Gross margin

We had no revenue in the three- and six-months ended November 30, 2022 as compared to approximately $225.0 and $266.0 thousand in the three and six months ended November 30, 2021. Revenue was related to the fulfillment of orders under a Compassionate Special Permit ("CSP") in the Philippines for the treatment of COVID-19 patients. Sales were made under the April 2021 exclusive supply and distribution agreement granting Chiral the right to distribute and sell up to 200,000 vials of leronlimab through April 15, 2022. At the time of the sales, FDA approval had not yet been received for leronlimab and the product sold was previously expensed as research and development expense due to its being manufactured prior to the commencement of the manufacturing of commercial grade pre-launch inventories. Therefore, COGS consists only of the costs of packaging and shipping of the vials, including related customs and duties.

General and administrative ("G&A") expenses

G&A expenses consisted of the following:

	Three months ended November 30,		Change		Six months ended November 30,		Change	
(in thousands)	2022	2021	$	%	2022	2021	$	%
Salaries, benefits, and other compensation	$ 979	$ 1,850	$ (871)	(47)%	$ 2,257	$ 2,235	$ 22	1 %
Stock-based compensation	1,777	2,060	(283)	(14)	3,118	4,657	(1,539)	(33)
Legal fees	1,044	9,206	(8,162)	(89)	2,497	11,557	(9,060)	(78)
Other	1,243	3,087	(1,844)	(60)	3,504	5,371	(1,867)	(35)
Total general and administrative	$ 5,043	$ 16,203	$ (11,160)	(69)%	$ 11,376	$ 23,820	$ (12,444)	(53)%

The decreases in G&A expenses for the three- and six-month periods ended November 30, 2022, compared to the same periods in the prior year, were primarily due to a reduction in legal fees, other, and salaries, benefits, and other compensation. The decreases in legal fees were due to lowered legal fees related to the SEC and DOJ investigations, Pestell employment dispute, Amarex dispute, and the absence of legal fees related to the prior year proxy contest and related lawsuits, as well as, in the six-month period, the payment of certain legal fees by the Company's insurance carriers. The decreases in other were the result of a reduction in expenses related to the prior year proxy contest, insurance premiums, and recruiting and contract services. The decreases in salaries, benefits, and other compensation were the result of decreased headcount and cash compensation, as well as a decrease in stock-based compensation expense due to fewer equity grants being outstanding during the six months ended November 30, 2022.

Research and development ("R&D") expenses

R&D expenses consisted of the following:

	Three months ended November 30,		Change		Six months ended November 30,		Change	
(in thousands)	2022	2021	$	%	2022	2021	$	%
Clinical	$ (865)	$ 5,783	$ (6,648)	(115)%	$ (845)	$ 14,846	$ (15,691)	(106)%
Non-clinical	26	326	(300)	(92)	26	490	(464)	(95)
CMC	811	1,103	(292)	(26)	1,134	3,662	(2,528)	(69)
License and patent fees	165	235	(70)	(30)	398	469	(71)	(15)
Total research and development	$ 137	$ 7,447	$ (7,310)	(98)%	$ 713	$ 19,467	$ (18,754)	(96)%

The decreases in R&D expenses in the three- and six-month periods ended November 30, 2022, compared to the same periods in the prior year, were primarily the result of clinical trials related to COVID-19, oncology, NASH, and HIV extension studies being completed, paused, or closed that had been active in the same periods of the prior year and decreased activity related to the BLA resubmission, offset by increased costs related to activities focused on the potential lifting of the clinical hold. The credit balance in clinical expenses is related to credits received related to the Brazilian COVID-19 trials. The decreases in chemistry, manufacturing, and controls ("CMC") related expenses from the same period last year were the result of decreased activity related to CMC manufacturing.

The future trend of our R&D expenses is dependent on the timing of FDA clearance of the clinical hold, our decision-making on which indications on which to focus our future efforts toward the clinical development and study of leronlimab, which may include the treatment of NASH, NASH-HIV, oncology, and additional HIV indications and the timing and outcomes of such efforts.

Amortization and depreciation expenses

The decreases in amortization and depreciation expenses for the three- and six-month periods ended November 30, 2022, compared to the same periods last year were attributable to the intangible write-off of a proprietary algorithm intangible asset during the fiscal year ended May 31, 2021 and the ProstaGene noncompete intangible asset becoming fully amortized as of November 30, 2021.

Inventory charge

The increase in the inventory charge for the three- and six-month periods ended November 30, 2022, compared to the same periods in the prior year was primary attributable to pre-launch inventories no longer qualifying for inventory capitalization due to the withdrawal of the BLA submission, in addition to expected expiration based on estimated shelf lives for the six-month period. See Note 3., *Inventories, net*, for additional information.

Interest and other expense

Interest and other expense consisted of the following:

	Three months ended November 30,		Change		Six months ended November 30,		Change	
	2022	2021	$	%	2022	2021	$	%
(in thousands)		(Restated) [1]				(Restated) [1]		
Interest on convertible notes payable	$ 1,159	$ 1,426	$ (267)	(19) %	$ 2,305	$ 3,112	$ (807)	(26)%
Amortization of discount on convertible notes	580	793	(213)	(27)	1,156	1,745	(589)	(34)
Amortization of debt issuance costs	18	23	(5)	(22)	34	51	(17)	(33)
Loss on induced conversion	638	6,785	(6,147)	(91)	638	25,315	(24,677)	(97)
Finance charges	937	1,024	(87)	(8)	1,877	1,059	818	77
Inducement interest expense	—	4,704	(4,704)	(100)	—	5,232	(5,232)	(100)
Legal settlement	—	—	—	—	—	1,941	(1,941)	(100)
Loss on derivatives	—	—	—	—	8,601	—	8,601	100
Total interest and other expenses	$ 3,332	$ 14,755	$ (11,423)	(77)%	$ 14,611	$ 38,455	$ (23,844)	(62)%

(1) See Note 2, *Summary of Significant Accounting Policies—Revision and Restatement of Financial Statements*.

The decreases in interest and other expenses for the three-month period ended November 30, 2022, compared to the same period in the prior year was primarily due to a decrease in non-cash loss on induced conversion and inducement interest expense. The decreased non-cash loss on induced conversions resulted from the Company settling less outstanding convertible debt with common stock during the current period as compared to the same period last year (refer to Part II, Item 8, Note 14, *Restatement* in the 2022 Form 10-K). The decrease in inducement interest expense is the result of this now being recorded in stockholders' equity as a result of the adoption of ASU No. 2021-04 (refer to Note 2, *Summary of Significant Accounting Policies – Recently Adopted Accounting Pronouncements*).

For the six-month period ended November 30, 2022, the decrease was primarily due to decreases in loss on induced conversion and inducement interest expense as discussed above, as well as a decrease in legal settlement expenses, offset by an increase in loss on derivatives. The decrease in legal settlement expense resulted from there being no legal settlements during the six months ended November 30, 2022. The increase in loss on derivatives was attributable to the change in the fair value of liability classified warrants related to the Surety Bond Backstop Agreement and placement agent warrants issued in connection with a recent offering for which the related warrants subsequently became equity classified upon the stockholders' approval of an increase in authorized shares on August 31, 2022.

Liquidity and Capital Resources

As of November 30, 2022, we had a total of approximately $2.6 million in cash and restricted cash and approximately $122.7 million in short-term liabilities. We expect to continue to incur operating losses and require a significant amount of capital in the future as we continue to develop and seek approval to commercialize leronlimab. Despite the Company's negative working capital position, vendor relations remain relatively accommodative, and we do not currently anticipate significant delays in our business initiatives schedule due to liquidity constraints. We cannot be certain, however, that future funding will be available to us when needed on terms that are acceptable to us, or at all. We sell securities and incur debt when the terms of such arrangements are deemed acceptable to both parties under then current circumstances and as necessary to fund our current and projected cash needs.

Since inception, the Company has financed its activities principally from the public and private sale of equity securities as well as with proceeds from issuance of convertible notes and related party notes payable. The Company intends to finance its future operating activities and its working capital needs largely from the sale of equity and debt securities. The sale of equity and convertible debt securities to raise additional capital is likely to result in dilution to stockholders and those securities may have rights senior to those of common shares. If the Company raises funds through the issuance of additional preferred stock, convertible debt securities or other debt or equity financing, the related transaction documents could contain covenants restricting its operations.

During the fiscal year 2021, the Company entered into long-term convertible notes that are secured by all of our assets (excluding our intellectual property), and include certain restrictive provisions, including limitations on incurring additional indebtedness and future dilutive issuances of securities, any of which could impair our ability to raise additional capital on acceptable terms. In exchange for warrants, the Company entered into a Backstop Agreement with an accredited investor whereby the Company pledged its patents and the investor agreed to indemnify the issuer of the surety bond in the Amarex dispute with respect to the Company's obligations under the surety bond. Future third-party funding arrangements may also require the Company to relinquish valuable rights. Additional capital, if available, may not be available on reasonable or non-dilutive terms.

Cash

The Company's cash and restricted cash position of approximately $2.6 million as of November 30, 2022, decreased by approximately $1.6 million, when compared to the balance of $4.2 million as of May 31, 2022. This decrease was primarily the result of approximately $15.5 million in cash used in our operating activities offset by approximately $13.9 million in cash provided by financing activities during the six months ended November 30, 2022. Refer to Item 1, Note 2, *Summary of Significant Accounting Policies – Going Concern*, and the *Going Concern* discussion below for information regarding concerns about the Company's ability to continue to fund its operations and satisfy its payment obligations and commitments. A summary of cash flows and changes between the periods presented is as follows:

	Six months ended November 30,		Change
(in thousands)	2022	2021	$
Net cash (used in) provided by:			
Net cash used in operating activities	$ (15,480)	$ (60,632)	$ 45,152
Net cash used in investing activities	$ —	$ (13)	$ 13
Net cash provided by financing activities	$ 13,852	$ 35,577	$ (21,725)

Cash used in operating activities

Net cash used in operating activities totaled approximately $15.5 million during the six months ended November 30, 2022, representing an improvement of approximately $45.2 million compared to the six months ended November 30, 2021. The decrease in the net amount of cash used was due primarily to a decrease in our net loss, attributable to decreased G&A, R&D, and non-cash interest and other expense, and working capital fluctuations, all of which are highly variable. Refer to *General and Administrative, Research and Development*, and *Interest and Other Expense* sections for further discussion.

Cash used in investing activities

Net cash used in investing activities for the six months ended November 30, 2022 did not change significantly from the prior year period.

Cash provided by financing activities

Net cash provided by financing activities totaled approximately $13.9 million, a decrease of approximately $21.7 million compared to the six months ended November 30, 2021. The decrease in net amount of cash provided was primarily the result of a decrease of approximately $17.5 million of cash through the private placement of common stock and warrants, with the balance due to decreased cash received for warrant and option exercises.

Pre-launch inventories

The Company previously capitalized pre-launch inventories and subsequently in October of 2022 charged-off for GAAP accounting purposes due to no longer qualifying for inventory capitalization as pre-launch inventories due to the withdrawal of the BLA submission. Work-in-progress and finished drug product inventories continue to be physically maintained, can be used for clinical trials, and can be commercially sold upon regulatory approval if the shelf-lives can be extended as a result of the performance of on-going stability tests. Raw material continued to be maintained so that they can be used in the future if needed.

During the first quarter of fiscal year 2023, the Company reviewed purchase commitments made by its manufacturing partner, Samsung BioLogics Co., Ltd. ("Samsung"), under the master agreement between the Company and Samsung, and its vendors for specialized raw materials for which the Company made a prepayment in the amount of $2.7 million in the third quarter of fiscal year 2022, which were recorded as prepaid expenses in the consolidated financial statements as of May 31, 2022. As discussed in Note 9, *Commitments and Contingencies – Commitments with Samsung BioLogics Co., Ltd. ("Samsung")*, the Company and Samsung remain in ongoing discussions about, among other things, deferring the unfulfilled commitments. These additional specialized raw materials are estimated to have shelf-lives ranging from 2023 to 2026. The entire amount was charged-off as of August 31, 2022.

In October 2022, the Company voluntarily withdrew its rolling BLA submission after concluding that a significant risk existed that the BLA would not receive FDA approval due to the inadequate process and performance by its former CRO around the monitoring and oversight of the clinical data from its trials. Following this decision, none of the Company's inventories now qualify for capitalization as pre-launch inventories. For the three months ended November 30, 2022, the Company charged-off the remaining raw material resin and work-in-progress bulk product inventories of approximately $16.3 million and $1.7 million, respectively.

For additional information, refer to Note 2, *Summary of Significant Accounting Policies – Pre-launch Inventories* in this Form 10-Q, and to Note 3, *Inventories, net*, in the 2022 Form 10-K.

Convertible debt

April 2, 2021 Convertible Note

On April 2, 2021, we issued a convertible note with a principal amount of $28.5 million resulting in net cash proceeds of $25.0 million, after $3.4 million of debt discount and $0.1 million of offering costs. The note accrues interest daily at a rate of 10% per annum, contains a stated conversion price of $10.00 per share, and matures in April 2023. The April 2, 2021 Note required monthly debt reduction payments of $7.5 million for the six months beginning in May 2021, which could also be satisfied by payments on other notes held by the noteholder or its affiliates. Beginning six months after the issuance date, the noteholder may request monthly redemptions of up to $3.5 million. As of November 30, 2022, the outstanding balance of the April 2, 2021 Note, including accrued interest, was approximately $12.4 million.

April 23, 2021 Convertible Note

On April 23, 2021, we issued a convertible note with a principal amount of $28.5 million resulting in net cash proceeds of $25.0 million, after $3.4 million of debt discount and $0.1 million of offering costs. The note accrues interest daily at a rate of 10% per annum, contains a stated conversion price of $10.00 per share, and matures in April 2023. Beginning six months after the issuance date, the noteholder may request monthly redemptions of up to $7.0 million. As of November 30, 2022, the outstanding balance of the April 23, 2021 Note, including accrued interest, was approximately $32.8 million.

Common stock

We have 1,350.0 million authorized shares of common stock. The table below summarizes intended uses of common stock.

(in millions)	As of November 30, 2022
Issuable upon:	
Warrants exercise	175.0
Convertible preferred stock and undeclared dividends conversion	32.6
Outstanding stock options exercise or vesting of outstanding RSUs	29.2
Reserved for issuance pursuant to future stock-based awards under equity incentive plan	14.2
Reserved and issuable upon conversion of outstanding convertible notes	12.0
Total shares reserved for future uses	263.0
Common stock outstanding	824.8

As of November 30, 2022, we had approximately 262.2 million unreserved authorized shares of common stock available for issuance. Our ability to continue to fund our operations depends on our ability to raise capital. The funding necessary for our operations may not be available on acceptable terms, or at all. If we deplete our cash reserves, we may have to discontinue our operations and liquidate our assets, in extreme cases, we could be forced to file for bankruptcy protection, discontinue operations or liquidate assets.

Off-Balance Sheet Arrangements

As of November 30, 2022, we did not have any off-balance sheet arrangements that have, or are reasonably likely to have, a material effect on our current or future financial condition, results of operations, liquidity, capital expenditures or capital resources.

Contractual Obligations

Refer to Note 4, *Accounts Payable and Accrued Liabilities*, Note 5, *Convertible Instruments and Accrued Interest*, and Note 9*, Commitments and Contingencies* included in Part I, Item 1 of this Form 10-Q, and Notes 6 and 10 in Part II, Item 8 in the 2022 Form 10-K.

Legal Proceedings

The Company is a party to various legal proceedings described in Part I, Item 1, Note 9, *Commitments and Contingencies – Legal Proceedings* of this Form 10-Q. We are unable to predict the outcome of these proceedings, including the defense and other litigation-related costs and expenses that may be incurred by the Company, as the outcomes of legal proceedings are inherently uncertain. Therefore, it is possible that the ultimate outcome of any proceeding, if in excess of a recognized accrual, if any, could be material to the Company's consolidated financial statements. As of November 30, 2022, the Company did not record any legal accruals related to the outcomes of the matters discussed in this Form 10-Q.

Regulatory Matters

Voluntary Withdrawal of HIV BLA Submission

In July 2020, the Company received a Refusal to File letter from the FDA regarding its BLA submission for leronlimab as a combination therapy with HAART for highly treatment-experienced HIV patients. In November 2021, the Company resubmitted the non-clinical and CMC sections of the BLA. In October 2022, the Company voluntarily withdrew its BLA submission due to management's conclusion that a severe risk of the BLA not receiving approval by the FDA existed due to the Company's former CRO's inadequate process and performance around the monitoring and

oversight of the clinical data. For additional information see Note 9, *Commitments and Contingencies – Legal Proceedings*.

FDA Warning Letter re COVID-19 Misbranding of Investigational Drug

In January 2022, the Company received a Warning Letter from the FDA alleging that its former CEO had made references in a video interview to COVID-19 and leronlimab in a promotional context to the effect that leronlimab, an investigational new drug, is safe and effective for the purpose for which it is being investigated or otherwise promoted the drug. The FDA warned the Company that leronlimab has not been approved or authorized by the FDA, its safety and effectiveness have not yet been established, and that the related clinical trial data was mischaracterized in the video. The FDA further alleged the video misbranded leronlimab under section 502(f)(1) of said Act and in violation of section 301(a) of the Food Drug and Cosmetic Act, as the claims in the video made representations in a promotional context regarding the safety and efficacy of an investigational new drug that has not been approved or authorized by the FDA. CytoDyn has completed all the corrective steps requested by the FDA. On September 26, 2022, CytoDyn sent a letter to the FDA informing the FDA that it had completed all corrective steps and requested that FDA issue a close-out letter.

FDA HIV Partial Clinical Hold and COVID-19 Full Clinical Hold Letters

In March 2022, the United States FDA placed a partial clinical hold on the Company's HIV program and a full clinical hold on its COVID-19 program in the United States. The Company was not enrolling any new patients in the trials placed on hold in the United States. Under the full clinical hold on the COVID-19 program, no new clinical studies may be initiated until the clinical hold is resolved. The Company has made a business decision not to pursue the use of leronlimab in COVID-19 patients, has no plans for further trials under the COVID-19 indication and has withdrawn the IND for COVID-19. Should the opportunity arise, the Company may explore potential non-dilutive clinical development options. CytoDyn is working diligently with the FDA to resolve the partial clinical hold for HIV as soon as possible.

As of the date of this filing, the Company has submitted the updated Investigator Brochure, the Development Safety Update Report (DSUR), and the Safety Management and Pharmacovigilance Plan to the FDA in connection with resolving the clinical hold. The Company is in the process of completing additionally requested materials and will submit them as soon as possible.

Going Concern

The accompanying consolidated financial statements have been prepared on a going concern basis, which contemplates the realization of assets and the satisfaction of liabilities in the normal course of business. As presented in the accompanying consolidated financial statements, the Company had losses for all periods presented. The Company incurred a net loss of approximately $47.5 million in the six months ended November 30, 2022 and has an accumulated deficit of approximately $809.4 million as of November 30, 2022. These factors, among several others, including the various legal matters discussed in Note 9, *Commitments and Contingencies – Legal Proceedings*, raise substantial doubt about our ability to continue as a going concern. The consolidated financial statements do not include any adjustments relating to the recoverability and classification of assets and liabilities that might be necessary should the Company be unable to continue as a going concern.

The Company's continuance as a going concern is dependent upon its ability to obtain additional operating capital, complete the development of its product candidate, leronlimab, obtain approval to commercialize leronlimab from regulatory agencies, continue to outsource manufacturing of leronlimab, and ultimately achieve revenues and attain profitability. The Company plans to continue to engage in research and development activities related to leronlimab for multiple indications and expects to incur significant research and development expenses in the future, primarily related to its regulatory compliance, including seeking the lifting of the FDA's partial clinical hold with regard to the Company's HIV program, performing additional clinical trials, and seeking regulatory approval of its product candidate for commercialization. These research and development activities are subject to significant risks and uncertainties. The Company intends to finance its future development activities and its working capital needs primarily from the sale of equity and debt securities, combined with additional funding from other sources. However, there can be no assurance that the Company will be successful in these endeavors.

New Accounting Pronouncements

Refer to Part I, Note 2, *Summary of Significant Accounting Policies – Recent Accounting Pronouncements* of this Form 10-Q.

Critical Accounting Policies and Estimates

Pre-launch inventories

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

We value inventory at the lower of cost or net realizable value using the average cost method. Inventories currently consist of raw materials, bulk drug substance, and drug product in unlabeled vials to be used for commercialization of the Company's biologic, leronlimab, which is in the regulatory approval process. Inventory purchased in preparation for product launches is evaluated for recoverability by considering the likelihood that revenue will be obtained from the future sale of the related inventory, in light of the status of the product within the regulatory approval process. The Company evaluates its inventory levels on a quarterly basis and writes down inventory that has become obsolete or has a cost in excess of its expected net realizable value, and inventory quantities in excess of expected requirements. In assessing the lower of cost or net realizable value to pre-launch inventory, the Company relies on independent analysis provided by third parties knowledgeable of the range of likely commercial prices comparable to current comparable commercial product.

For inventories capitalized prior to FDA marketing approval in preparation of product launch, anticipated future sales, shelf-lives, and expected approval date are considered when evaluating realizability of pre-launch inventories. The shelf-life of a product is determined as part of the regulatory approval process; however, in assessing whether to capitalize pre-launch inventory the Company considers the stability data of all inventories. As inventories approach their shelf-life expiration, the Company may perform additional stability testing to determine if the inventory is still viable, which can result in an extension of its shelf-life. Further, in addition to performing additional stability testing, certain raw materials inventory may be sold in its then current condition prior to reaching expiration. We also consider potential delays associated with regulatory approval in determining whether preapproval inventory remains salable. In determining whether pre-approval inventory remains salable, the Company considers a number of factors ranging from potential delays associated with regulatory approval, whether the introduction of a competing product could negatively impact the demand for our product and affect the realizability of our inventories, whether physicians would be willing to prescribe leronlimab to their patients, or if the target patient population would be willing to try leronlimab as a new therapy.

Although the Company may conclude that certain inventories no longer qualify for capitalization as pre-launch inventories due to expiration of shelf-life prior to expected commercial sales and the ability to obtain additional commercial product stability data until after shelf-life expiration, and are therefore written-off for accounting purposes, we may continue to physically maintain them and may use them for clinical trials, or may sell them if the shelf-lives can be extended as a result of the performance of on-going continued stability testing of drug product. In the event the shelf-lives of these written-off inventories are extended, and the inventories are sold commercially, the Company will not recognize any costs of goods sold on the previously expensed inventories.

In October 2022, the Company voluntarily withdrew its BLA submission after concluding that a significant risk existed that the BLA would not receive FDA approval due to the inadequate process and performance by its former CRO around the monitoring and oversight of the clinical data from its trials. Following this decision, none of the Company's inventories now qualify for capitalization as pre-launch inventories. See Note 3., *Inventories, net.*

Stock-based compensation

We use the Black-Scholes option pricing model to estimate the fair value of stock options on the date of grant utilizing certain assumptions that require judgments and estimates. These assumptions include estimates for stock price volatility, expected term and risk-free interest rates in determining the fair value of the stock options. The risk-free interest rate assumption is based on observed interest rates appropriate for the expected term of the equity award. The expected volatility is based on the historical volatility of the Company's common stock at monthly intervals. The computation of the expected option term is based on the "simplified method," as the options issued by the Company are considered "plain vanilla" options. In accordance with ASC 718, *Compensation - Stock Compensation*, the Company has elected to recognize the effect of forfeitures as they are incurred, and as such does not estimate future unvested forfeitures for all periods presented. Quarterly expense is reduced during the period when grants are forfeited, such that the full expense is recorded at the time of grant and only reduced when the grant is forfeited.

We at times issue restricted common stock and/or restricted stock units to executives or third parties as compensation for services rendered. Such awards are valued at fair market value on the effective date of the Company's obligation. From time to time, we also issue stock options and warrants to consultants as compensation for services. Costs for these transactions are measured at the fair value of the consideration received or the fair value of the equity instruments issued, whichever is more readily measurable.

Contingent liabilities

We have significant license and contingent milestone and royalty liabilities. We estimate the likelihood of paying these contingent liabilities periodically based on the progress of our clinical trials, BLA approval status, and status of commercialization. We are also party to various legal proceedings. We recognize accruals for such proceedings to the extent a loss is determined to be both probable and reasonably estimable. The best estimate of a loss within a possible range is accrued; however, if no estimate in the range is more probable than another, then the minimum amount in the range is accrued. If it is determined that a material loss is not probable but reasonably possible it is disclosed and if the loss or range of loss can be estimated, the possible loss is also disclosed. It is not possible to determine the ultimate outcome of these proceedings, including the defense and other litigation-related costs and expenses that may be incurred by the Company, as the outcomes of legal proceedings are inherently uncertain, and the outcomes could differ significantly from recognized accruals. Therefore, it is possible that the ultimate outcome of any proceeding, if in excess of a recognized accrual, if any, could be material to the Company's consolidated financial statements. We periodically reassess these matters when additional information becomes available and adjust our estimates and assumptions when facts and circumstances indicate the need for any changes. Refer to Part I, Item 1, Note 9, *Commitments and Contingencies* of this Form 10-Q for additional information.

Item 3. Quantitative and Qualitative Disclosures about Market Risk

There have been no material changes from the information previously reported under Part II, Item 7A of the 2022 Form 10-K.

Item 4. Controls and Procedures

During the quarter ended November 30, 2022, there have been no changes in our internal control over financial reporting, as such term is defined in Rules 13a-15(f) and 15(d)-15(f) promulgated under the Exchange Act, that have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting. Our President and Chief Financial Officer concluded that our disclosure controls and procedures were not effective at the reasonable assurance level as of November 30, 2022 due to the unremediated material weakness in internal control over financial reporting described below.

We maintain controls and procedures that are designed to provide reasonable assurance that information required to be disclosed in our reports filed under the Securities Exchange Act of 1934, as amended ("the Exchange Act"), is accurately recorded, processed, summarized and reported within the time periods specified in the Securities and Exchange Commission's rules and that such information is accumulated and communicated to our management, including our President and Chief Financial Officer, to allow for timely decisions regarding required disclosure. In designing and evaluating the disclosure controls and procedures, management recognizes that any controls and procedures, no matter how well designed and operated, can provide only reasonable assurance of achieving the desired control objectives, and management is required to apply its judgment in evaluating the cost-benefit relationship of possible controls and procedures.

As previously disclosed in Item 9A of the 2022 Form 10-K, during the fiscal year ended May 31, 2022, the Company identified an error that resulted in revisions to additional paid-in capital and non-cash inducement interest expense beginning in fiscal year 2018 through the three months ended August 31, 2021. Additionally, the Company also identified a material error in how the Company accounted for common stock issued to settle certain convertible note obligations dating back to fiscal year 2021. The error resulted in an understatement of the previously reported non-cash loss on induced conversion and additional paid-in capital. Therefore, management reached the following conclusions as of May 31, 2022.

- Management concluded that the failure to identify errors related to evaluation of complex accounting issues for which alternative accounting treatments exist constitutes a material weakness in the Company's internal control over financial reporting. This material weakness is deemed to be caused by lack of review of equity transactions to allow for consideration of alternative accounting treatments, and an insufficient number of finance reporting and accounting personnel with the knowledge, experience, or training appropriate in light of the Company's financial reporting requirements.

- The Company failed to perform an adequate risk assessment, did not adequately design, and did not fully document information technology (IT) general controls in the areas of user access, program change management, operations over certain IT systems that support the Company's financial reporting processes, including controls to respond to the Complementary User Entity Controls assumed in the design and implementation of third-party service organizations controls. We concluded that in the aggregate, these failures constitute a material weakness in the Company's internal control over financial reporting.

A "material weakness" is a deficiency, or combination of deficiencies, in internal control over financial reporting, such that there is a reasonable possibility that a material misstatement of the Company's annual or interim financial statement will not be prevented or detected on a timely basis. Our independent registered public accounting firm, Macias Gini & O'Connell LLP, who audited the consolidated financial statements included in the 2022 Form 10-K, issued an adverse opinion on the effectiveness of the Company's internal control over financial reporting.

In connection with the identification of the material weaknesses in our internal control over financial reporting, we continue to evaluate, design and implement controls and procedures to address these weaknesses. We have entered into consulting arrangements for external resources and have hired additional personnel with accounting skills to strengthen internal control over financial reporting, specifically in the areas of technical accounting and financial reporting. We also plan to perform a risk assessment of our internal controls related to information technology systems, and plan to design and place in operation controls tailored to address risks that we deem to be relevant to our company. Further, we plan to document all of our control activities in this area, including controls to respond to the Complementary User Entity Controls assumed in the design and implementation of third-party service organizations. A material weakness in internal control over financial reporting is a matter that may require some period of time to correct.

PART II – Other Information

Item 1. Legal Proceedings

There have been no material changes from the information previously reported in the 2022 Form 10-K.

Item 1A. Risk Factors

We are subject to various risks, including risk factors identified in our 2022 Form 10-K. You should carefully consider these risk factors in addition to the risk factor below and other information in this Form 10-Q.

Our cash reserves are extremely low, requiring that we raise substantial additional financing to satisfy our current payment obligations and to fund our operations, which continues to be difficult in light of the low trading price of our common stock.

As of November 30, 2022, we had a cash and reserved cash balance of approximately $2.6 million. We must continue to raise substantial additional funds in the near term to meet our payment obligations and fund our operations. Additional funding may not be available on acceptable terms or at all. In addition, as of December 31, 2022, despite the approval by our stockholders of an additional 350.0 million authorized shares of common stock on August 31, 2022, we had only approximately 249.1 million shares of common stock unreserved for other purposes and available for issuance in new financing transactions. We will need to use some of the additional authorized shares (or funds raised through the sale of such shares) to satisfy our outstanding accounts payable and accrued liabilities. If we are not able to raise additional funds on a timely basis, we may be forced to delay, reduce the scope of, or eliminate one or more of our planned operating activities, including continuing to seek removal of the clinical hold placed on us by the FDA, analyzing clinical trial data for purposes of responding to FDA requirements and preparing additional regulatory submissions, developing additional clinical trials for indications we plan to pursue, regulatory and compliance activities, and legal defense activities. Any delay or inability to pursue our planned activities likely will adversely affect our business, financial condition, and stock price. The continued low trading price of our common stock (with a closing price of $0.23 per share on January 5, 2023) presents a significant challenge to our ability to raise additional funds. If we deplete our cash reserves, we may have to discontinue our operations and liquidate our assets.

We face risks and uncertainties related to litigation, regulatory actions and government investigations and inquiries.

We are subject to, and may become a party to, a variety of litigation, other claims, suits, regulatory actions and government investigations and inquiries. For example, the Company has received subpoenas from the United States Securities and Exchange Commission ("SEC") and the United States Department of Justice ("DOJ") requesting documents and information concerning, among other matters, leronlimab, the Company's public statements regarding the use of leronlimab as a potential treatment for COVID-19, HIV, and triple-negative breast cancer, related communications with the FDA, investors, and others, litigation involving former employees, the Company's retention of investor relations consultants, and trading in the Company's securities. Certain former Company executives and directors have received subpoenas concerning similar issues and have been interviewed by the DOJ and SEC, including the Company's former CEO, Nader Z. Pourhassan. On December 20, 2022, the DOJ announced the unsealing of a criminal indictment charging both Mr. Pourhassan and Kazem Kazempour, CEO of Amarex Clinical Research LLC, a subsidiary of NSF International, Inc., and which had formerly served as the Company's CRO. Mr. Pourhassan was charged with one count of conspiracy, four counts of securities fraud, three counts of wire fraud, and three counts of insider trading. Mr. Kazempour was charged with one count of conspiracy, three counts of securities fraud, two counts of wire fraud, and one count of making a false statement. That same day, the SEC filed a complaint against Mr. Pourhassan and Mr. Kazempour, alleging violations of federal securities laws.

We have cooperated, and will continue to cooperate, with these and any other regulatory or governmental proceedings. We have incurred and may continue to incur significant expenses as a result of the regulatory and legal matters. The total cost associated with these matters will depend on many factors, including their duration and any related findings.

Additionally, two putative class action lawsuits were filed against us and certain of our former officers and directors, asserting violations of federal securities laws under Section 10(b) and Section 20(a) of the Exchange Act, and alleging that the Company and certain former officers and directors made purportedly false or misleading statements concerning, among other things, the safety and efficacy of leronlimab as a potential treatment for COVID-19, the Company's CD10 and CD12 clinical trials, and its HIV BLA. The amended complaint also alleges that the individual defendants violated Section 20A of the Exchange Act by selling shares of the Company's common stock purportedly while in possession of material nonpublic information. Separately, three purported CytoDyn stockholder derivative actions were filed against certain former officers and former directors, and the Company was named as a nominal defendant. The complaint generally alleges that the director defendants breached their fiduciary duties by allowing the Company to make false and misleading statements regarding, among other things, the safety and efficacy of leronlimab as a potential treatment for COVID-19, the Company's CD10 and CD12 clinical trials, and its HIV BLA, and by failing to maintain an adequate system of oversight and controls. The consolidated complaint also asserts claims against one or more individual defendants for waste of corporate assets, unjust enrichment, contribution for alleged violations of the federal securities laws, and for breach of fiduciary duty arising from alleged insider trading.

In addition, from time to time, we may also be involved in legal proceedings and investigations arising in the ordinary course of business, including those relating to employment matters, relationships with partners, intellectual property disputes, and other business matters. Any such claims or investigations may be time-consuming, costly, divert management resources, or otherwise have a material adverse effect on our business or result of operations.

The results of litigation and other legal proceedings, including the other claims described under Note 9, *Commitments and Contingencies*, to the consolidated financial statements included elsewhere in this Quarterly Report on Form 10-Q and in Note 10 in our Annual Report on Form 10-K for the year ended May 31, 2022, are inherently uncertain and adverse judgments or settlements in some or all of these legal disputes may result in materially adverse monetary damages or injunctive relief against us. Any claims or litigation, even if fully indemnified or insured, could damage our reputation and make it more difficult to compete effectively or obtain adequate insurance in the future. The litigation and other legal proceedings described under Note 9, *Commitments and Contingencies*, to the consolidated financial statements included elsewhere in this Quarterly Report on Form 10-Q and to Note 10 in our Annual Report on Form 10-K for the year ended May 31, 2022 are subject to future developments and management's view of these matters may change in the future.

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

During October and November 2022, the Company issued a total of approximately 0.2 million shares of common stock in satisfaction of a total of approximately $80.4 thousand in severance payments due in October and November 2022 to our former CEO. The numbers of shares issued were based on the closing price of the common stock on the applicable dates. The Company relied on the exemption from registration afforded by Section 4(a)(2) of the Securities Act in connection with the issuance of the shares.

During November and December 2022, in satisfaction of a redemption, the Company and the April 2, 2021 Note holder entered into exchange agreements, pursuant to which the April 2, 2021 Note was partitioned into new notes with an aggregate principal amount of $1.5 million, which were exchanged concurrently with the issuance of approximately 6.5 million shares of common stock. The Company relied on the exemption afforded by Section 3(a)(9) of the Securities Act for the exchange transactions described above.

During October and December 2022, the Company entered into various separate privately negotiated warrant exchange agreements with certain accredited investors, pursuant to which the investors exercised warrants with an original exercise price between $0.50 and $0.75 per share in exchange for the issuance of approximately 3.6 million shares of common stock upon exercise of the warrants, including approximately 0.6 million shares issued as an

inducement for the exercises. Gross and net aggregate proceeds from the private warrant exchange were both approximately $0.8 million. The Company relied on the exemption provided by Rule 506 of Regulation D and Section 4(a)(2) of the Securities Act of 1933, as amended (the "Securities Act"), for the sales of securities in the private warrant exchange.

In August 2022, the Company issued a total of approximately 1.1 million shares of common stock upon the conversion of 568 shares of Series C convertible preferred stock. In September 2022, the Company issued approximately 0.3 million shares of common stock in satisfaction of accrued dividends on the converted shares of preferred stock. The Company relied on the exemption afforded by Section 3(a)(9) of the Securities Act for the issuances.

During September 2022, the Company issued a total of approximately 22.7 thousand shares of common stock and approximately 0.1 million warrants as part of a make-whole transaction with previous investors. The Company relied on the exemption from registration provided by Section 4(a)(2) of the Securities Act and Rule 506 promulgated by the SEC thereunder.

Item 6. Exhibits

(a) Exhibits:

Exhibit No	Description	Filed Herewith	Incorporated by Reference		
			Form	Exhibit No.	Filing Date
10.1	Second Amendment to the Surety Backstop Agreement		8-K	10.1	12/7/2022
10.2	Form Stock Option Award Agreement (For Non-Employee Directors)	X			
10.3	Form Stock Option Award Agreement (For Executives)	X			
10.4	Amended and Restated 2012 Equity Incentive Plan	X			
31.1	Rule 13a-14(a) Certification by PEO of Registrant.	X			
31.2	Rule 13a-14(a) Certification by CFO of the Registrant.	X			
32	Certification of Chief Executive Officer and Chief Financial Officer pursuant to 18 U.S.C. Section 1350.*	X			
101.INS	Inline XBRL Instance Document.	X			
101.SCH	Inline XBRL Taxonomy Extension Schema Document.	X			
101.CAL	Inline XBRL Taxonomy Extension Calculation Linkbase Document.	X			
101.DEF	Inline XBRL Taxonomy Extension Definition Linkbase Document.	X			
101.LAB	Inline XBRL Taxonomy Extension Label Linkbase Document.	X			
101.PRE	Inline XBRL Taxonomy Extension Presentation Linkbase Document.	X			
104	Cover Page Interactive Data File (formatted as Inline XBRL and contained in Exhibit 101).	X			

*Furnished, not filed.

SIGNATURES

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

CYTODYN INC.
(Registrant)

Dated: January 9, 2023

/s/ Cyrus Arman
Cyrus Arman
President
(Principal Executive Officer)

Dated: January 9, 2023

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

Exhibit 10.2

CYTODYN INC.

2012 EQUITY INCENTIVE PLAN

STOCK OPTION AWARD AGREEMENT
(FOR NON-EMPLOYEE DIRECTORS)

This STOCK OPTION AWARD AGREEMENT (this "Option Agreement") is made effective as of **[DATE]**, by and between CytoDyn Inc., a Delaware corporation (the "Corporation"), and **[NAME]** (the "Participant").

1. Grant of Option.

The Corporation hereby grants to the Participant an option (the "Option") to purchase **[NO. OF SHARES]** shares of Common Stock (the "Shares") as of **[DATE]** (the "Date of Grant") at the exercise price per Share of $**[PRICE]** (the "Exercise Price") subject to the terms and conditions of this Option Agreement.

2. Application of Plan Terms.

Unless otherwise defined herein, the capitalized terms in this Option Agreement will have the same defined meanings as set forth in the Corporation's 2012 Equity Incentive Plan, as it may be amended (the "Plan").

3. Term.

The Option will automatically terminate on **[DATE]** (the "Expiration Date"), to the extent not exercised, unless terminated earlier in accordance with this Option Agreement. After the Expiration Date or such earlier date, the Option shall be of no further force or effect and may not be exercised.

4. Exercise of Option.

(a) Right to Exercise. The Option will become Vested and exercisable cumulatively according to the following Vesting Schedule:

[INSERT VESTING SCHEDULE]

(b) Acceleration of Exercisability. Notwithstanding the schedule provided in subsection (a), the Option will become fully Vested (unless the Participant chooses to decline accelerated Vesting of all or any portion of the Option) upon the occurrence of a Change in Control Date.

(c) Method of Exercise. The Option shall be exercisable by delivery of an exercise notice (a form of which is attached as Exhibit A), stating the election to exercise the Option, the number of whole Shares in respect of which the Option is being exercised, the form of payment, and such other provisions as may be required by the Committee. The exercise notice shall be delivered to the Corporation in accordance with Section 15 below accompanied by full payment of the Exercise Price, which must be made by one or a combination of the following:

(1) Payment in cash;

(2) Delivery of previously owned Shares having a Fair Market Value equal to the exercise price; or

(3) Delivery of an irrevocable direction to a securities broker acceptable to the Committee (subject to the provisions of the Sarbanes-Oxley Act of 2002 and any other applicable statute or rule) to sell Shares subject to the Option and to pay a sufficient portion of the net proceeds of the sale to the Corporation in satisfaction of the Exercise Price.

The Option shall be deemed to be exercised upon receipt by the Corporation of such notice accompanied by the Exercise Price and Tax Payment (defined below), if required.

(d) Taxes. No portion of the Option may be exercised and no Shares will be delivered to the Participant or other person pursuant to the exercise of the Option until the Participant or other person has made arrangements acceptable to the Committee for the satisfaction of applicable income tax and tax withholding obligations, if any, including, without limitation, such other tax obligations of the Participant incident to the receipt of Shares (the "Tax Payment"). Upon exercise of the Option, the Corporation may offset or withhold (from any amount owed by the Corporation to the Participant) or collect from the Participant or other person an amount sufficient to satisfy such Tax Payment obligation, if any.

The Participant understands that the Participant may suffer adverse tax consequences as a result of the Participant's purchase or disposition of the Shares. The Participant represents that the Participant has consulted with any tax consultants the Participant deems advisable in connection with the purchase or disposition of the Shares and that the Participant is not relying on the Corporation for any tax advice.

5. Restrictions on Exercise.

The Option may not be exercised if the issuance of the Shares subject to the Option upon such exercise would constitute a violation of any applicable federal or state securities law. If the exercise of the Option within the time periods set forth in Sections 6, 7, or 8 of this Option Agreement is prevented by the provisions of this Section 5, the Option shall remain exercisable

until one month after the date the Participant is notified by the Corporation that the Option is exercisable, but in any event no later than the Expiration Date.

6. Termination or Change of Continuous Service.

In the event the Participant's Continuous Service terminates, other than "for cause" (as defined in the Plan), the Participant may, but only during the Post-Termination Exercise Period, exercise the portion of the Option that was Vested at the date of such termination (the "Termination Date"). The "Post-Termination Exercise Period" is the period commencing on the Termination Date and continuing for three months thereafter. In the event of termination of the Participant's Continuous Service for cause, the Participant's right to exercise the Option shall, except as otherwise determined by the Committee, terminate concurrently with the termination of the Participant's Continuous Service (also the "Termination Date"). In no event, however, shall the Option be exercised later than the Expiration Date.

In the event of the Participant's change in status from Non-Employee Director, employee or Consultant to any other status of Non-Employee Director, employee or Consultant, the Option shall remain in effect. In the event of the Participant's change in status from Non-Employee Director to employee or Consultant, Vesting of the Option shall continue only to the extent determined by the Committee as of such change in status. Except as provided in Sections 7 and 8 below, to the extent that the Option was unvested on the Termination Date, or if the Participant does not exercise the Vested portion of the Option within the Post-Termination Exercise Period, the Option shall terminate.

7. Death of Participant.

In the event of the Participant's death, the person who acquires the right to exercise the Option pursuant to will or the laws of descent and distribution may exercise the portion of the Option that was Vested on the date of death within 12 months commencing on the date of death (but in no event later than the Expiration Date). To the extent that the Option was unvested on the date of death, or if the Vested portion of the Option is not exercised within the time specified herein, the Option shall terminate.

8. Disability of Participant.

If the Participant's Continuous Service terminates as a result of the Participant's Disability, the Participant may exercise the portion of the Option that was Vested on the date of such termination of Continuous Service within three months commencing on the date of termination of Continuous Service (but in no event later than the Expiration Date). To the extent that the Option was unvested on the date of termination of Continuous Service, or if the Vested portion of the Option is not exercised within the time specified herein, the Option shall terminate.

9. Transferability of Option.

Subject to restrictions on transferability set forth in the Plan, this Option Agreement will be binding upon and benefit the parties, their successors and assigns.

10. Engaging in Competition With the Corporation.

If the Participant terminates Continuous Service with the Corporation or an Affiliate for any reason whatsoever, and within 12 months after the date thereof accepts employment with any competitor of (or otherwise engages in competition with) the Corporation, the Committee, in its sole discretion, may require such Participant to return to the Corporation the economic value of any Award that is realized or obtained (measured at the date of exercise, Vesting, or payment) by such Participant at any time during the period beginning on the date that is one year prior to the date of such Participant's termination of Continuous Service with the Corporation.

11. Governing Law.

This Option Agreement will be administered, interpreted and enforced in accordance with the laws of the State of Delaware, without regard to principles of conflicts of laws.

12. Rights as Shareholder.

Until the stock certificate representing the Shares is issued, no right to vote or receive dividends or any other rights as a shareholder shall exist with respect to the Shares, notwithstanding the exercise of the Option. The Corporation shall issue (or cause to be issued) such stock certificate promptly after the Option is exercised. No adjustment will be made for a dividend or other right for which the record date is prior to the date the stock certificate is issued, except as provided in Article 10 of the Plan.

13. Adjustments upon Changes in Capitalization.

The Option shall be subject to the provisions of Article 11 of the Plan relating to adjustments upon changes in capitalization and similar corporate events.

14. Mandatory Arbitration.

The Corporation, the Participant, and the Participant's assignees pursuant to Section 9 (the "parties") agree that ANY CONTROVERSY OR CLAIM ARISING OUT OF OR RELATING TO THIS AGREEMENT SHALL BE SETTLED BY ARBITRATION ADMINISTERED BY THE AMERICAN ARBITRATION ASSOCIATION AND JUDGMENT UPON THE AWARD RENDERED BY THE ARBITRATOR(S) MAY BE ENTERED IN ANY COURT HAVING JURISDICTION THEREOF.

15. Attorney Fees.

In the event of any suit or action or arbitration proceeding to enforce or interpret any provision of this Agreement (or which is based on this Agreement), the prevailing party will be entitled to recover, in addition to other costs, reasonable attorney fees in connection with such suit, action, or arbitration, and in any appeal. The determination of who is the prevailing party and the amount of reasonable attorney fees to be paid to the prevailing party will be decided by the arbitrator or arbitrators (with respect to attorney fees incurred prior to and during the arbitration proceedings) and by the court or courts, including any appellate courts, in which the matter is tried, heard, or decided, including the court which hears any exceptions made to an arbitration award

submitted to it for confirmation as a judgment (with respect to attorney fees incurred in such confirmation proceedings).

16. Notices.

Any notice required or permitted hereunder shall be given in writing and shall be deemed effectively given (a) upon personal delivery, (b) one business day after deposit for overnight delivery by a nationally recognized air courier service, (c) five business days after deposit in the United States mail by certified mail (if the parties are within the United States), with postage and fees prepaid, (d) on the date of facsimile transmission, with confirmed transmission, or (e) by email transmission, addressed to the party to be notified as follows, or such other address as such party may designate by 10 days' advance written notice to the other party:

If to the Corporation:
CytoDyn Inc.
Attn: Corporate Secretary
1111 Main Street, Suite 660
Vancouver, Washington 98660
Facsimile: (360) 779-8549

If to the Participant:
Name: _____
Address: _____
_____
E-mail: _____

[*SIGNATURE PAGE FOLLOWS*]

CYTODYN INC.

By: _____
Name: Antonio Migliarese
Title: Chief Financial Officer

PARTICIPANT

_____
Name: **[Director Name]**

o-_____

EXHIBIT A

CYTODYN INC.
2012 EQUITY INCENTIVE PLAN

EXERCISE NOTICE

CytoDyn Inc.
Attn: Corporate Secretary
1111 Main Street, Suite 660
Vancouver, Washington 98660
Telephone: (360) 980-8524
Facsimile: (360) 779-8549

Participant: _____
Print Name

Mailing Address: _____

_____

_____

Telephone Number: _____

Option: The option evidenced by a Stock Option Award Agreement dated **[DATE]**.

OPTION EXERCISE

I hereby elect to exercise the Option to purchase shares ("Shares") of common stock of CytoDyn Inc. covered by the Option as follows:

Number of Shares Purchased (a) _____

Per-Share Option Price (b) $_____

Aggregate Purchase Price (a times b) $_____

Closing Date of Purchase _____

Form of Payment [Check One]:

□ My check in the full amount of the Aggregate Purchase Price (as well as a check for any withholding taxes, if this box □ is checked). See "Instructions" below.

□ Delivery of previously owned shares of CytoDyn common stock with a fair market value equal to the Aggregate Purchase Price. See "Instructions"

below. Note that restricted shares acquired from CytoDyn under one of its stock plans may be used for this purpose only if such shares have become vested.

□ My irrevocable direction to my securities broker (see below) to sell Shares subject to the Option and deliver a portion of the sales proceeds to CytoDyn Inc., in full payment of the Aggregate Purchase Price (as well as any withholding taxes, if this box □ is checked). See "Instructions" below. I hereby confirm that any sale of Shares will be in compliance with CytoDyn's policies on insider trading and Rule 144, if applicable. I HEREBY IRREVOCABLY AUTHORIZE _____ to
(*name of broker*)
transfer funds to CytoDyn Inc., from my account in payment of the Aggregate Purchase Price (and withholding taxes, if applicable) and CytoDyn Inc., is hereby directed to issue the Shares for my account with such broker and to transmit the Shares to the broker indicated above.

Instructions:

(1) If payment is to be by check, a certified or cashier's check for the amount of the Aggregate Purchase Price payable to CytoDyn Inc., should be submitted with this Notice. If you wish to pay by wire transfer, please contact CytoDyn Inc. for instructions.

(2) If payment is to be by surrender of previously owned shares or by attestation of ownership (see Attestation Form below), either a certificate for the shares accompanied by a stock power endorsed in blank or the completed Attestation Form should be submitted with this Notice. If applicable, a certificate for any shares in excess of those needed to satisfy the Aggregate Purchase Price will be returned to you with the certificate for your option shares. Any change in registration between the payment shares and the new shares will require a properly executed stock power that is guaranteed by an institution participating in a recognized medallion signature guarantee program.

(3) Withholding tax is due immediately upon exercise of a nonqualified stock option by an employee or former employee. Non-employee directors are not currently subject to withholding. If withholding tax is due at the time of exercise, you will be notified of the amount and satisfactory arrangements must be made for payment before a stock certificate for your option shares will be delivered to you (or your broker, if applicable).

ISSUANCE INSTRUCTIONS FOR STOCK CERTIFICATES

Please register the stock certificate(s) in the following name(s):

_____
_____
_____

If applicable, please check one: □ JT TEN □ TEN COM □ Other

Please deliver the stock certificate(s) to (check one):

□ My brokerage account

_____
_____
_____
Attn: _____
Account No.:_____; or

□ My mailing address set forth above.

_____ _____
Date Signature of Participant

ATTESTATION FORM

As indicated above, I have elected to use shares of CytoDyn common stock that I already own to pay the Aggregate Purchase Price of the Option.

I attest to the ownership of the shares represented by the certificate(s) listed below or to the beneficial ownership of the shares held in the name of my broker, as indicated in the attached copy of my brokerage statement. I will be deemed to have delivered such shares to CytoDyn in connection with the exercise of my Option.

I understand that, because I (and any joint owner) will retain ownership of the shares (the "Payment Shares") deemed delivered to pay the Aggregate Purchase Price, the number of shares to be issued to me upon exercise of my Option will be reduced by the number of Payment Shares. I represent that I have full power to deliver and convey certificates representing the Payment Shares to CytoDyn and by such delivery and conveyance could have caused CytoDyn to become sole owner of the Payment Shares. The joint owner of the Payment Shares, if any, by signing this Form, consents to these representations and to the exercise of the Option by this attestation.

I certify that any Payment Shares originally issued to me as restricted shares are now fully vested.

List certificate(s) and number of shares covered, or attach a copy of your brokerage statement:

Common Stock Certificate Number	Number of Shares Covered

Date: _____

Print Name of Option holder: _____

Signature of Option holder: _____

Print Name of Joint Owner: _____

Signature of Joint Owner: _____

If you are attaching a copy of your brokerage statement, you must have your securities broker complete the following:

The undersigned hereby certifies that the foregoing attestation is correct.

_____
Name of Brokerage Firm

By: _____

_____
Print Name of Signing Broker

Date: _____

Telephone No.: _____

Exhibit 10.3

CYTODYN INC.

2012 EQUITY INCENTIVE PLAN

STOCK OPTION AWARD AGREEMENT
(FOR EXECUTIVES)

This STOCK OPTION AWARD AGREEMENT (this "Option Agreement") is made effective as of **[DATE]** by and between CytoDyn Inc., a Delaware corporation (the "Corporation"), and **[NAME]** (the "Participant").

1. Grant of Option.

The Corporation hereby grants to the Participant an option (the "Option") to purchase **[NO. OF SHARES]** shares of Common Stock (the "Shares") as of **[DATE]** (the "Date of Grant") at the exercise price per Share of $**[PRICE]** (the "Exercise Price") subject to the terms and conditions of this Option Agreement.

2. Application of Plan Terms.

Unless otherwise defined herein, the capitalized terms in this Option Agreement will have the same defined meanings as set forth in the Corporation's Amended and Restated 2012 Equity Incentive Plan, as it may be amended from time to time (the "Plan").

3. Term.

The Option will automatically terminate on 10 years from the Date of Grant date (the "Expiration Date"), to the extent not exercised, unless terminated earlier in accordance with this Option Agreement. After the Expiration Date or such earlier date, the Option shall be of no further force or effect and may not be exercised.

4. Exercise of Option.

(a) Right to Exercise. The Option will become “Vested” and exercisable cumulatively according to the following schedule (the “Vesting Schedule”):

[INSERT VESTING SCHEDULE]

(b) Acceleration of Exercisability. Notwithstanding the Vesting Schedule in Section 4(a), if the Participant's employment is terminated other than for cause (not including voluntary termination, death or disability) or by the Participant with Good Reason, in each case within 12 months following a Change in Control Date, the Option will be deemed to be fully Vested effective immediately prior to such termination of employment, except to the extent the Participant chooses to decline accelerated Vesting of all or any portion of the Option. For purposes of this Section 4(b), "Cause" and "Good Reason" have the meanings set forth in the Participant's employment agreement with the Company.

(c) Method of Exercise. The Option shall be exercisable by delivery of an exercise notice (a form of which is attached as Exhibit A), stating the election to exercise the Option, the number of whole Shares in respect of which the Option is being exercised, the form of payment, the proposed closing date, and such other provisions as may be required by the Committee. The exercise notice shall be delivered to the Corporation in accordance with Section 16 below accompanied by full payment of the Exercise Price, which must be made by one or a combination of the following:

(1) Payment in cash;

(2) Delivery of previously acquired Shares having a Fair Market Value equal to the Exercise Price; or

(3) Delivery of an irrevocable direction to a securities broker acceptable to the Committee (subject to the provisions of the Sarbanes-Oxley Act of 2002 and any other applicable statute or rule) to sell Shares subject to the Option and to pay a sufficient portion of the net proceeds of the sale to the Corporation in satisfaction of the Exercise Price.

The Option shall be deemed to be exercised on the date (the "Exercise Date") on which the Corporation has received all of the following: (i) the exercise notice, (ii) the aggregate Exercise Price and (iii) the Tax Payment (defined below).

(d) Previously Acquired Shares. Delivery of previously acquired Shares in full or partial payment of the aggregate Exercise Price will be subject to the following conditions:

(1) The Shares tendered must be in good delivery form;

(2) The Fair Market Value of the Shares delivered as of the Exercise Date, together with the amount of cash, if any, tendered must equal or exceed the aggregate Exercise Price;

(3) Any Shares remaining after satisfying the payment of the aggregate Exercise Price will be reissued in the same manner as the Shares tendered; and

(4) No fractional Shares will be issued and cash will not be paid to the Participant for any fractional Share value not used to pay the aggregate Exercise Price.

(e) Taxes. The Participant (or other person exercising the Option) is responsible for the payment of all federal, state and local withholding taxes and the Participant's

portion of any applicable payroll taxes imposed in connection with the exercise of the Option (collectively, the "Tax Payment"). No portion of the Option may be exercised and no Shares will be delivered to the Participant or other person pursuant to the exercise of the Option until the Participant or other person has made arrangements acceptable to the Committee for the satisfaction of the Tax Payment obligation. At its election, the Corporation may offset or withhold (from any cash amount owed by the Corporation to the Participant), or collect from the Participant or other person, an amount sufficient to satisfy such Tax Payment obligation.

The Participant understands that the Participant may suffer adverse tax consequences as a result of the Participant's purchase or disposition of the Shares. The Participant represents that the Participant has consulted with any tax consultants the Participant deems advisable in connection with the purchase or disposition of the Shares and that the Participant is not relying on the Corporation for any tax advice.

5. Restrictions on Exercise.

The Option may not be exercised if the issuance of the Shares subject to the Option upon such exercise would constitute a violation of any applicable federal or state securities law, the rules of any securities exchange or association on which the Shares are listed or traded, or the requirements of any other governmental or regulatory agency. If the exercise of the Option within the time periods set forth in Sections 6, 7, or 8 of this Option Agreement is prevented by the provisions of this Section 5, the Option shall remain exercisable until one month after the date the Participant is notified by the Corporation that the Option is exercisable, but in no event later than the Expiration Date.

6. Termination or Change of Continuous Service.

In the event the Participant's Continuous Service terminates, other than for Cause as defined in the Participant's employment agreement, the Participant may, but only during the Post-Termination Exercise Period, exercise the portion of the Option that was Vested at the date of such termination (the "Termination Date"), including the portion Vested in accordance with Section 4(b) above. The "Post-Termination Exercise Period" is the period commencing on the Termination Date and continuing for three months thereafter. In the event of termination of the Participant's Continuous Service for cause, the Participant's right to exercise the Option shall, except as otherwise determined by the Committee, terminate concurrently with the termination of the Participant's Continuous Service (also the "Termination Date"). In no event, however, shall the Option be exercised later than the Expiration Date.

In the event of the Participant's change in status from employee to a status of Non-Employee Director or Consultant, the Option shall remain in effect. Except as provided in Sections 7 and 8 below, to the extent that the Option was not Vested on the Termination Date, or if the Participant does not exercise the Vested portion of the Option within the Post-Termination Exercise Period, the Option shall terminate.

7. Death of Participant.

In the event of the Participant's death, the person who acquires the right to exercise the Option pursuant to will or the laws of descent and distribution may exercise the portion of the Option that

was Vested on the date of death during the period commencing on the date of death and continuing for twelve months thereafter (but in no event later than the Expiration Date). To the extent that the Option was not Vested on the date of death, or if the Vested portion of the Option is not exercised within the time specified herein, the Option shall terminate.

8. Disability of Participant.

If the Participant's Continuous Service terminates as a result of the Participant's Disability, the Participant may exercise the portion of the Option that was Vested on the date of such termination of Continuous Service during the period commencing on the date of termination of Continuous Service and continuing for three months thereafter (but in no event later than the Expiration Date). To the extent that the Option was not Vested on the date of termination of Continuous Service, or if the Vested portion of the Option is not exercised within the time specified herein, the Option shall terminate.

9. Transferability of Option.

Subject to restrictions on transferability set forth in the Plan, this Option Agreement will be binding upon and benefit the parties, their successors and assigns.

10. Engaging in Competition with the Corporation.

If the Participant terminates Continuous Service with the Corporation or an Affiliate for any reason whatsoever, and within twelve months after the date thereof accepts employment with any competitor of (or otherwise engages in competition with) the Corporation, the Committee, in its sole discretion, may require the Participant to return to the Corporation the economic value of any Award that is realized or obtained (measured at the Exercise Date, Vesting, or payment) by the Participant at any time during the period beginning on the date that is one year prior to the date of the Participant's termination of Continuous Service with the Corporation.

11. Rights as Stockholder.

Until the stock certificate representing the Shares is issued, no right to vote or receive dividends or any other rights as a stockholder shall exist with respect to the Shares, notwithstanding the exercise of the Option. The Corporation shall issue (or cause to be issued) such stock certificate promptly after the Option is exercised. No adjustment will be made for a dividend or other right for which the record date is prior to the date the stock certificate is issued, except as provided in Article 10 of the Plan.

12. Adjustments Upon Changes in Capitalization.

The Option shall be subject to the provisions of Article 11 of the Plan relating to adjustments upon changes in capitalization and similar corporate events.

13. Recovery (Clawback) of Compensation.

Compensation paid to the Participant under this Option Agreement is subject to recoupment in accordance with any compensation recovery or clawback policy of the Corporation in effect from

time to time, including any such policy adopted after the date of this Option Agreement, as well as any similar requirement of applicable law, including without limitation the Dodd-Frank Wall Street Reform and Consumer Protection Act and the Sarbanes-Oxley Act of 2002, and rules adopted by a governmental agency or applicable securities exchange under any such law. The Participant agrees to promptly repay or return any such compensation as directed by the Corporation under any such policy or requirement, including the value received from a disposition of Shares acquired pursuant to this Option Agreement.

14. Governing Law.

This Option Agreement will be administered, interpreted and enforced in accordance with the laws of the State of Delaware, without regard to principles of conflicts of laws.

15. Mandatory Arbitration.

The Corporation, the Participant, and the Participant's assignees pursuant to Section 9 (the "parties") agree that ANY CONTROVERSY OR CLAIM ARISING OUT OF OR RELATING TO THIS AGREEMENT SHALL BE SETTLED BY ARBITRATION ADMINISTERED BY THE AMERICAN ARBITRATION ASSOCIATION AND JUDGMENT UPON THE AWARD RENDERED BY THE ARBITRATOR(S) MAY BE ENTERED IN ANY COURT HAVING JURISDICTION THEREOF.

16. Attorney Fees.

In the event of any suit or action or arbitration proceeding to enforce or interpret any provision of this Agreement (or which is based on this Agreement), the prevailing party will be entitled to recover, in addition to other costs, reasonable attorney fees in connection with such suit, action, or arbitration, and in any appeal. The determination of who is the prevailing party and the amount of reasonable attorney fees to be paid to the prevailing party will be decided by the arbitrator or arbitrators (with respect to attorney fees incurred prior to and during the arbitration proceedings) and by the court or courts, including any appellate courts, in which the matter is tried, heard, or decided, including the court which hears any exceptions made to an arbitration award submitted to it for confirmation as a judgment (with respect to attorney fees incurred in such confirmation proceedings).

17. Notices.

Any notice required or permitted hereunder shall be given in writing and shall be deemed effectively given (a) upon personal delivery, (b) one business day after deposit for overnight delivery by a nationally recognized air courier service, (c) five business days after deposit in the United States mail by certified mail (if the parties are within the United States), with postage and fees prepaid, (d) on the date of fax transmission, with confirmed transmission, or (e) by e-mail transmission, addressed to the party to be notified as follows:

If to the Corporation:

CytoDyn Inc.
1111 Main Street, Suite 660

Vancouver, Washington 98660
Fax: (360) 779-8549
Attn: Corporate Secretary

If to the Participant:

_____
_____

E-mail:
Fax: _____

or such other address as such party may designate by ten days' advance written notice to the other party.

[*SIGNATURE PAGE FOLLOWS*]

CYTODYN INC.

By: _____
Name: Antonio Migliarese
Title: Chief Financial Officer
PARTICIPANT

_____
Name: **[Director Name]**
Title: Director

PARTICIPANT

_____
Name: **[Name]**

PARTICIPANT

_____
Name: **[Director Name]**
Title: Director

EXHIBIT A

CYTODYN INC.
2012 EQUITY INCENTIVE PLAN

EXERCISE NOTICE

CytoDyn Inc.
1111 Main Street, Suite 660
Vancouver, Washington 98660
Telephone: (360) 980-8524
Facsimile: (360) 779-8549
Attention: Secretary

Participant: _____
Print Name

Mailing Address: _____

_____

_____

Telephone Number: _____

Option: The option evidenced by a Stock Option Award Agreement dated **[DATE]**.

OPTION EXERCISE

I hereby elect to exercise the Option to purchase shares ("Shares") of common stock of CytoDyn Inc. covered by the Option as follows:

Number of Shares Purchased (a) _____

Per-Share Exercise Price (b) $_____

Aggregate Purchase Price (a times b) $_____

Closing Date of Purchase _____

Form of Payment [Check One]:

□ My check in the full amount of the Aggregate Purchase Price (as well as a check for any withholding taxes, if this box □ is checked). See "Instructions" below.

□ Delivery of previously acquired shares of CytoDyn common stock with a fair market value equal to the Aggregate Purchase Price. See "Instructions" below.

□ My irrevocable direction to my securities broker (see below) to sell Shares subject to the Option and deliver a portion of the sales proceeds to CytoDyn Inc., in full payment of the Aggregate Purchase Price (as well as any withholding taxes, if this box □ is checked). See "Instructions" below. I hereby confirm that any sale of Shares will be in compliance with CytoDyn's policies on insider trading and Rule 144, if applicable. I HEREBY IRREVOCABLY AUTHORIZE _____ to
(*name of broker*)
transfer funds to CytoDyn Inc., from my account in payment of the Aggregate Purchase Price (and withholding taxes, if applicable) and CytoDyn Inc., is hereby directed to issue the Shares for my account with such broker and to transmit the Shares to the broker indicated above.

Instructions:

(1) If payment is to be by check, a certified or cashier's check for the amount of the Aggregate Purchase Price payable to CytoDyn Inc., should be submitted with this Notice. If you wish to pay by wire transfer, please contact CytoDyn Inc. for instructions.

(2) If payment is to be by surrender of previously acquired shares or by attestation of ownership (see Attestation Form below), either a certificate for the shares accompanied by a stock power endorsed in blank or the completed Attestation Form should be submitted with this Notice. If applicable, a certificate for any shares in excess of those needed to satisfy the Aggregate Purchase Price will be returned to you with the certificate for your option shares. Any change in registration between the payment shares and the new shares will require a properly executed stock power that is guaranteed by an institution participating in a recognized medallion signature guarantee program.

(3) Withholding tax is due immediately upon exercise of a nonqualified stock option by an employee or former employee. Non-employee directors are not currently subject to withholding. If withholding tax is due at the time of exercise, you will be notified of the amount and satisfactory arrangements must be made for payment before a stock certificate for your option shares will be delivered to you (or your broker, if applicable).

ISSUANCE INSTRUCTIONS FOR STOCK CERTIFICATES

Please register the stock certificate(s) in the following name(s):

_____
_____
_____

If applicable, please check one: ☐ JT TEN ☐ TEN COM ☐ Other

Please deliver the stock certificate(s) to (check one):

☐ My brokerage account

_____
_____
_____
Attn: _____
Account No.:_____; or

☐ My mailing address set forth above.

_____ _____
Date Signature of Participant

ATTESTATION FORM

As indicated above, I have elected to use shares of CytoDyn common stock that I already own to pay the Aggregate Purchase Price of the Option.

I attest to the ownership of the shares represented by the certificate(s) listed below or to the beneficial ownership of the shares held in the name of my broker, as indicated in the attached copy of my brokerage statement. I will be deemed to have delivered such shares to CytoDyn in connection with the exercise of my Option.

I understand that, because I (and any joint owner) will retain ownership of the shares (the "Payment Shares") deemed delivered to pay the Aggregate Purchase Price, the number of shares to be issued to me upon exercise of my Option will be reduced by the number of Payment Shares. I represent that I have full power to deliver and convey certificates representing the Payment Shares to CytoDyn and by such delivery and conveyance could have caused CytoDyn to become sole owner of the Payment Shares. The joint owner of the Payment Shares, if any, by signing this Form, consents to these representations and to the exercise of the Option by this attestation.

I certify that any Payment Shares originally issued to me as restricted shares are now fully vested.

List certificate(s) and number of shares covered, or attach a copy of your brokerage statement:

Common Stock Certificate Number	Number of Shares Covered

Date: _____

Print Name of Optionholder: _____

Signature of Optionholder: _____

Print Name of Joint Owner: _____

Signature of Joint Owner: _____

If you are attaching a copy of your brokerage statement, you must have your securities broker complete the following:

The undersigned hereby certifies that the foregoing attestation is correct.

_____
Name of Brokerage Firm

By: _____

_____
Print Name of Signing Broker

Date: _____

Telephone No.: _____

Exhibit 10.4

CYTODYN INC.

AMENDED AND RESTATED 2012 EQUITY INCENTIVE PLAN

Page

TABLE OF CONTENTS

CYTODYN INC.
2012 EQUITY INCENTIVE PLAN

ARTICLE 1
ESTABLISHMENT AND PURPOSE

1.1 Establishment. CytoDyn Inc., a Delaware corporation (the "Corporation"), has established an incentive compensation plan known as the CytoDyn Inc. 2012 Equity Incentive Plan (the "Plan"). The original version of this Plan initially became effective upon its approval by the stockholders of the Corporation on December 12, 2012 (the "Initial Effective Date"), and was subsequently amended by the stockholders of the Corporation on February 27, 2015, March 18, 2016, August 24, 2017, and May 22, 2019 and by the Board on June 16, 2020, pursuant to Article 12, and on August 14, 2020 was restated by the Board to incorporate the prior amendments to the Plan. This amended and restated Plan has been approved by the Board and shall become effective upon approval by the stockholders of the Company (the "Effective Date") and shall remain in effect as provided in Section 4.1.

1.2 Purpose. The purpose of the Plan is to promote and advance the interests of the Corporation and its stockholders by enabling the Corporation to attract, retain, and reward employees, directors, and outside consultants of the Corporation and its subsidiaries. It is also intended to strengthen the mutuality of interests between such employees, directors, and consultants and the Corporation's stockholders. The Plan is designed to serve these purposes by offering stock options and other equity-based incentive awards, thereby providing a proprietary interest in pursuing the long-term growth, profitability, and financial success of the Corporation.

ARTICLE 2
DEFINITIONS

2.1 Defined Terms. For purposes of the Plan, the following terms have the meanings set forth below:

"Affiliate" means any parent corporation or subsidiary corporation of the Corporation, whether now or hereafter existing, as those terms are defined in Sections 424(e) and (f), respectively, of the Code.

"**Award**" means an award or grant made to a Participant of Options, Stock Appreciation Rights, Restricted Awards, or Other Stock-Based Awards pursuant to the Plan.

"**Award Agreement** " means an agreement as described in Section 5.4. "**Board**" means the Board of Directors of the Corporation.

"**Change in Control** " means:

(i) Any one person or entity, or more than one person or entity acting as a group (as defined in Treasury RegulationSection 1.409A-3), acquires ownership of stock of the Corporation that,

together with stock previously held by the acquiror, constitutes more than fifty (50%) percent of the total fair market value or total voting power of the Corporation's stock. If any one person or entity, or more than one person or entity acting as a group, is considered to own more than fifty (50%) percent of the total fair market value or total voting power of the Corporation's stock, the acquisition of additional stock by the same person or entity or persons or entities acting as a group does not cause a Change in Control. An increase in the percentage of stock owned by any one person or entity, or persons or entities acting as a group, as a result of a transaction in which the Corporation acquires its stock in exchange for property, is treated as an acquisition of stock; or (ii) A majority of the members of the Corporation's board of directors is replaced during any twelve (12) month period by directors whose appointment or election is not endorsed by a majority of the members of the board of directors prior to the date of appointment or election; or (iii) Any one person or entity, or more than one person or entity acting as a group, acquires (or has acquired during the twelve (12) month period ending on the date of the most recent acquisition by that person or entity or persons or entities acting as a group) assets from the Corporation that have a total gross fair market value equal to at least forty (40%) percent of the total gross fair market value of all the Corporation's assets immediately prior to the acquisition or acquisitions. Gross fair market value means the value of the Corporation's assets, or the value of the assets being disposed of, without regard to any liabilities associated with these assets.

In determining whether a Change in Control occurs, the attribution rules of Code Section 318 apply to determine stock ownership. The stock underlying a vested option is treated as owned by the individual who holds the vested option, and the stock underlying an unvested option is not treated as owned by the individual who holds the unvested option.

"**Change in Control Date**" means the date a Change in Control actually occurs.

"**Code**" means the Internal Revenue Code of 1986, as amended and in effect from time to time, or any successor statute, together with rules, regulations, and interpretations promulgated thereunder.

"**Committee**" means the committee appointed by the Board, if any, to administer the Plan as provided in Article 3 of the Plan. If no separate committee has been appointed to administer the Plan, the term "Committee" will refer to the full Board as administrator of the Plan.

"**Common Stock**" means the common stock of the Corporation.

"**Consultant**" means any consultant or adviser to the Corporation or an Affiliate selected by the Committee, who is not an employee of the Corporation or an Affiliate.

"**Continuing Restriction**" means a Restriction contained in Sections 5.5(d), 5.5(g), 13.4, 13.5, 13.7 and 13.8 of the Plan and any other Restrictions expressly designated by the Committee in an Award Agreement as a Continuing Restriction.

"**Continuous Service**" means that the Participant's service with the Corporation, or an Affiliate whether as an Employee, Non-Employee Director or Consultant, is not interrupted or terminated. The Committee may in its sole discretion determine whether Continuous Service shall be considered interrupted in the case of (i) any leave of absence approved by the Corporation, including sick leave, maternity leave, military leave or any other personal leave, or (ii) a change in the capacity in which the Participant renders services to the Corporation or an Affiliate.

"**Corporation**" means CytoDyn Inc., a Delaware corporation, or any successor corporation.

"Disability" means the condition of being "disabled" within the meaning of Section 22(e)(3) of the Code.

"**Exchange Act**" means the Securities Exchange Act of 1934, as amended and in effect from time to time, or any successor statute, together with rules and interpretations promulgated thereunder.

"**Fair Market Value**" means, on any given day, the fair market value per share of the Common Stock determined as follows:

(a) If the Common Stock is traded on an established securities exchange, including without limitation The Nasdaq Stock Market or any successor market thereto, the closing sale price of Common Stock as reported for such day by the principal exchange on which the Common Stock is traded (as determined by the Committee) or, if Common Stock was not traded on such day, on the next preceding day on which the Common Stock was traded;

(b) If trading activity in the Common Stock is reported on an established over-the-counter market, including without limitation the OTC Markets or any successor market thereto, the closing sale price of Common Stock as reported for such day by the principal market on which the Common Stock is traded (as determined by the Committee) or, if Common Stock was not traded on such day, on the next preceding day on which the Common Stock was traded;

(c) If there is no market for the Common Stock or if trading activities for the Common Stock are not reported in one of the manners described above, the Fair Market Value will be as determined by the Committee, including valuation by an independent appraisal that satisfies the requirements of Code Section 401(a)(28)(C) as of a date that is no more than twelve (12) months before the date of the transaction for which the appraisal is used (e.g., the date of grant of an Award) or such other reasonable valuation method acceptable under Treasury Regulation Section 1.409A-1(b)(5)(iv).

"**Incentive Stock Option**" or "**ISO**" means any Option intended to be an "incentive stock option" within the meaning of Section 422 of the Code.

"**Non-Employee Director**" means a member of the Board who is not an employee of the Corporation or any Affiliate.

"**Nonqualified Option**" or "**NQO**" means any Option granted pursuant to the Plan that is not an Incentive Stock Option.

"**Option**" means an ISO or an NQO.

"**Other Stock-Based Award**" means an Award as defined in Section 9.1.

"**Participant**" means an employee of the Corporation or an Affiliate, a Consultant or a Non-Employee Board Director who is granted an Award under the Plan.

"**Plan**" means this CytoDyn Inc. Amended and Restated 2012 Equity Incentive Plan, as set forth herein and as it may be amended from time to time. "**Reporting Person**" means a Participant who is subject to the reporting requirements of Section 16(a) of the Exchange Act.

"**Restricted Award**" means a Restricted Share or a Restricted Unit granted pursuant to Article 8 of the Plan. "**Restricted Share**" means an Award described in Section 8.1(a) of the Plan.

"**Restricted Unit**" means an Award of units representing Shares described in Section 8.1(b) of the Plan.

"**Restriction**" means a provision in the Plan or in an Award Agreement which limits the exercisability or transferability, or which governs the forfeiture or required sale, of an Award or Shares, cash, or other property payable pursuant to an Award.

"**Share**" means a share of Common Stock.

"**Stock Appreciation Right**" or "**SAR**" means an Award to benefit from the appreciation of Common Stock granted pursuant to the provisions of Article 7 of the Plan.

"**Vest**," "**Vesting**," or "**Vested**" means:

(a) In the case of an Award that requires exercise, to be or to become immediately and fully exercisable and free of all Restrictions (other than Continuing Restrictions);

(b) In the case of an Award that is subject to forfeiture, to be or to become nonforfeitable, freely transferable, and free of all Restrictions (other than Continuing Restrictions);

(c) In the case of an Award that is required to be earned by attaining specified performance goals, to be or to become earned and nonforfeitable, freely transferable, and free of all Restrictions (other than Continuing Restrictions); or

(d) In the case of any other Award as to which payment is not dependent solely upon the exercise of a right, election, or option, to be or to become immediately payable and free of all Restrictions (except Continuing Restrictions).

2.2 Gender and Number. Except where otherwise indicated by the context, any masculine or feminine terminology used in the Plan also includes the opposite gender; and the definition of any term in Section 2.1 in the singular also includes the plural, and vice versa.

ARTICLE 3
ADMINISTRATION

3.1 Administration by Board. The Board shall administer the Plan unless and until the Board delegates administration to a Committee, as provided in Section 3.2. The body administering the plan from time to time is referred to herein as the "Committee."

3.2 Delegation to Committee. The Board may delegate administration of the Plan to a Committee or Committees of one (1) or more members of the Board, and the term "Committee" shall apply to any person or persons to whom such authority has been delegated. If administration is delegated to a Committee, the Committee shall have, in connection with the administration of the Plan, the powers theretofore possessed by the Board, including the power to further delegate administrative powers, subject, however, to such resolutions, not inconsistent with the provisions of the Plan, as may be adopted from time to time by the Board. The Board may abolish the Committee at any time and re-vest in the Board the administration of the Plan.

3.3 Authority of the Committee. The Committee has full power and authority (subject to such orders or resolutions as may be issued or adopted from time to time by the Board in the event of delegation to a board committee) to administer the Plan in its sole discretion, including the authority to:

(a) Construe and interpret the Plan and any Award Agreement;

(b) Promulgate, amend, and rescind rules and procedures relating to the implementation of the Plan;

(c) Select the employees, Non-Employee Directors, and Consultants who will be granted Awards;

(d) Determine the number and types of Awards to be granted to each Participant;

(e) Determine the number of Shares, or Share equivalents, to be subject to each Award;

(f) Determine the Fair Market Value of Shares if no public market exists for such Shares;

(g) Determine the option price, purchase price, base price, or similar feature for any Award

(h) Accelerate Vesting of Awards and waive any Restrictions; and (i) Determine all the terms and conditions of all Award Agreements, consistent with the requirements of the Plan.

Decisions of the Committee, or any delegate as permitted by the Plan, will be final, conclusive, and binding on all Participants.

3.4 Action by the Committee. A majority of the members of the Committee will constitute a quorum for the transaction of business. Action approved by a majority of the members present at any meeting at which a quorum is present, or action in writing by all of the members of the Committee, will be the valid acts of the Committee.

3.5 Further Delegation. Notwithstanding the foregoing, the Committee may delegate to one or more officers of the Corporation the authority to determine the recipients, types, amounts, and terms of Awards granted to Participants who are not Reporting Persons.

ARTICLE 4
DURATION; SHARES SUBJECT TO THE PLAN; ELIGIBILITY

4.1 Duration of the Plan. The Plan is effective as of the Effective Date. The Plan will terminate ten years after the Effective Date or, if earlier, when Awards have been granted covering all available Shares or the Plan is otherwise terminated by the Board. Termination of the Plan will not affect outstanding Awards.

4.2 Prior Plans. The Plan is separate from the CytoDyn Inc. 2004 Stock Incentive Plan (the "Prior Plan"). The adoption of the Plan neither affects nor is affected by the continued existence of the Prior Plan except that no further Awards will be granted under the Prior Plan after the Effective Date.

4.3 Shares Subject to the Plan. The Shares which may be made subject to Awards under the Plan are Shares of Common Stock, which may be either authorized and unissued Shares or reacquired Shares. Subject to adjustment pursuant to Article 11, the number of Shares authorized and available for Awards under this Plan will initially be 50,000,000 shares of Common Stock (the "Share Reserve"). In addition, the Share Reserve will automatically increase on June 1 of each calendar year, for the period beginning on June 1, 2021 and ending on (and including) June 1, 2029 (each, an "Evergreen Date") in an amount equal to one percent (1%) of the total number of shares of Common Stock outstanding on May 31st immediately preceding the applicable Evergreen Date (the "Evergreen Increase"). Notwithstanding the foregoing, the Board may act prior to the Evergreen Date of a given year to provide that there will be no Evergreen Increase for such year, or that the Evergreen Increase for such year will be a lesser number of shares of Common Stock than would otherwise occur pursuant to the preceding sentence.

4.4 Reversion of Shares to the Plan Shares covered by an Award shall be counted as used only to the extent they are actually issued. Any Shares related to Awards under this Plan that terminate by expiration, forfeiture, cancellation or otherwise without the issuance of the Shares or are settled in cash in lieu of Shares, or are exchanged with the Committee's permission, prior to the issuance of Shares, will again become available for issuance under the Plan. Any shares reacquired by the Company in satisfaction of tax withholding obligations on an Award or as consideration for the exercise or purchase price of an Award and any shares not issued or delivered as a result of a "net exercise" of a stock option will not become available for re-issuance under the Plan.

4.5 Incentive Stock Option Limit. Subject to the provisions of Article 11, and notwithstanding any other provision of this Section 4, the aggregate maximum number of shares of Common Stock that may be issued pursuant to the exercise of Incentive Stock Options will be 50,000,000 shares of Common Stock.

4.6 Limitation on Compensation of Non-Employee Directors. The maximum number of shares of Common Stock subject to Stock Awards granted under this Plan or otherwise during any one year to any Non-Employee Director, will not exceed U.S. $600,000 in total value (calculating the value of any such Stock Awards based on the grant date fair value of such Stock Awards for financial reporting purposes).

4.7 Reservation of Shares. The Corporation, during the term of the Plan and outstanding Awards, will at all times reserve and keep available such number of Shares as shall be sufficient to satisfy the requirements of the Plan.

4.8 Eligibility. Employees of the Corporation and any Affiliate (including employees who may also be directors of the Corporation or an Affiliate), Consultants, and Non-Employee Directors are eligible to receive Awards under the Plan.

ARTICLE 5
AWARDS

5.1 Types of Awards. The types of Awards that may be granted under the Plan are:

(a) Options governed by Article 6 of the Plan;

(b) Stock Appreciation Rights governed by Article 7 of the Plan;

(c) Restricted Awards governed by Article 8 of the Plan; and

(d) Other Stock-Based Awards or combination awards governed by Article 9 of the Plan.

In the discretion of the Committee, any Award may be granted alone, in addition to, or in tandem with other Awards under the Plan.

5.2 General. Subject to the limitations of the Plan, the Committee may cause the Corporation to grant Awards to such Participants, at such times, of such types, in such amounts, for such periods, with such option prices, purchase prices, or base prices, and subject to such terms, conditions, limitations, and restrictions as the Committee, in its discretion, deems appropriate. Awards may be granted as additional compensation to a Participant or in lieu of other compensation to such Participant. A Participant may receive more than one Award and more than one type of Award under the Plan.

5.3 Nonuniform Determinations. The Committee's determinations under the Plan or under one or more Award Agreements, including, without limitation, (a) the selection of Participants to receive Awards, (b) the type, form, amount, and timing of Awards, (c) the terms of specific Award Agreements, and (d) elections and determinations made by the Committee with respect to exercise or payments of Awards, need not be uniform and may be made by the Committee selectively among Participants and Awards, whether or not Participants are similarly situated.

5.4 Award Agreements. Each Award will be evidenced by a written agreement (an "Award Agreement") between the Corporation and the Participant. Award Agreements may, subject to the provisions of the Plan, contain any provision approved by the Committee.

5.5 Provisions Governing All Awards. All Awards are subject to the following provisions:

(a) Alternative Awards. If any Awards are designated in their Award Agreements as alternative to each other, the exercise of all or part of one Award will automatically cause an immediate equal (or pro rata) corresponding termination of the other alternative Award or Awards.

(b) Rights as Stockholders. No Participant will have any rights of a stockholder with respect to Shares subject to an Award until such Shares are issued in the name of the Participant.

(c) Employment Rights. Neither the adoption of the Plan nor the granting of any Award confers on any person the right to continued employment with the Corporation or any Affiliate or the right to remain as a director of or a Consultant to the Corporation or any Affiliate, as the case may be, nor does it interfere in any way with the right of the Corporation or an Affiliate to terminate such person's employment or to remove such person as a Consultant or as a director at any time for any reason, with or without cause.

(d) Restriction on Transfer. Unless otherwise expressly provided in an individual Award Agreement, each Award (other than Restricted Shares after they Vest) will not be transferable other than by will or the laws of descent and distribution and will be exercisable (if exercise is required), during the lifetime of the Participant, only by the Participant or, in the event the Participant becomes legally incompetent, by the Participant's guardian or legal representative. Notwithstanding the foregoing, any Award may be surrendered to the Corporation pursuant to Section 5.5(h) in connection with the payment of the purchase or option price of another Award or the payment of the Participant's federal, state, or local tax withholding obligation with respect to the exercise or payment of another Award.

(e) Termination of Employment. The terms and conditions under which an Award may be exercised, if at all, after a Participant's termination of employment or service as a Non-Employee Board Director or Consultant will be determined by the Committee and specified in the applicable Award Agreement.

(f) Change in Control. In connection with a Change in Control, the Committee, in its sole discretion, may, unless otherwise provided in an Award Agreement:

(i) Provide that, upon the occurrence of a Change in Control Date, each outstanding Award will become immediately Vested to the full extent not previously Vested. Any such acceleration of Award Vesting must comply with applicable regulatory requirements and any Participant will be entitled to decline the accelerated Vesting of all or any portion of his or her Award, if he or she determines that such acceleration may result in adverse tax consequences to him or her; and

(ii) In the event the Board approves a proposal that will result in a Change in Control or a Change in Control Date occurs (each, a "Transaction"), the Committee may, in its sole discretion, and to the extent possible under the structure of the Transaction, select one of the following alternatives for treating outstanding Awards under the Plan:

(A) The Committee may provide that outstanding Awards will be converted into or replaced by Awards of a similar type in the stock of the surviving or acquiring corporation in the Transaction. The amount and type of securities subject to and the exercise price (if applicable) of the replacement or converted Awards will be determined by the Committee based on the exchange ratio, if any, used in determining shares of the surviving corporation to be issued to holders of Shares of the Corporation. If there is no exchange ratio in the Transaction, the Committee will, in making its determination, take into account the relative values of the companies involved in the Transaction and such other factors as the Committee deems relevant; provided in all cases such replacement or converted Awards will not be treated as the issuance of a new award under Treas. Reg. Sec. 1.409A-1(b)(5)(v) or Treas. Reg. Sec. 1.424-1(e). Such replacement or converted Awards will continue to Vest over the period (and at the same rate) as the Awards which the replacement or converted Awards replaced, unless determined otherwise by the Committee; or

(B) The Committee may provide a 10-day period prior to the consummation of the Transaction during which all outstanding Awards will tentatively become fully Vested, and upon consummation of such Transaction, all outstanding and unexercised Awards will immediately terminate. If the Committee elects to provide such 10-day period for the exercise of Awards, the Committee must provide written notice (a "Proposal Notice") to all Participants at least 15 days prior to the commencement of such 10-day period and must so state its intention to terminate all unexercised Awards. Participants, by written notice to the Corporation, may exercise their Awards and, in so exercising the Awards, may condition such exercise upon, and provide that such exercise will become effective immediately prior to, the consummation of the Transaction, in which event Participants need not make payment for any Common Stock to be purchased upon exercise of an Award until five days after written notice by the Corporation to the Participants that the Transaction has been consummated. If the Transaction is consummated, each Award, to the extent not previously exercised prior to the consummation of the Transaction, will terminate and cease being exercisable as of the effective date of such Transaction. If the Transaction is abandoned, (1) all outstanding Awards not exercised will continue to be Vested and exercisable, to the extent such Awards were Vested and exercisable prior to the date of a Proposal Notice, and (2) to the extent that any Awards not exercised prior to such abandonment have become Vested and exercisable solely by operation of this Section 5.5(f)(ii), such Vesting and exercisability will be deemed annulled, and the Vesting and exercisability provisions otherwise in effect will be reinstituted, as of the date of such abandonment; or

(C) The Committee may provide that outstanding Awards that are not fully Vested will become fully Vested subject to the Corporation's right to pay each Participant a cash amount (determined by the Committee and based on the amount, if any, being received by the Corporation's stockholders in the Transaction) in exchange for cancellation of the applicable Award.

Unless the Committee specifically provides otherwise in a Change in Control provision for a specific Award Agreement, Awards will become Vested as of a Change in Control Date only if, or to the extent, such acceleration in the Vesting of the Awards does not result in an "excess parachute payment" within the meaning of Section 280G(b) of the Code. The Committee, in its discretion, may include specific Change in Control provisions in some Award Agreements and not in others, may include different Change in Control provisions in different Award Agreements, and may include Change in Control provisions for some Awards or some Participants and not for others.

(g) Conditioning or Accelerated Benefits. The Committee, in its discretion, may include in any Award Agreement a provision conditioning or accelerating the Vesting of an Award or the receipt of benefits pursuant to an Award, either automatically or in the discretion of the Committee, upon the occurrence of specified events, including without limitation, a Change in Control of the Corporation (subject to the foregoing), a sale of all or substantially all of the property and assets of Corporation, or an event of the type described in Article 11 of this Plan.

(h) Payment of Purchase Price and Withholding. The Committee, in its discretion, may include in any Award Agreement a provision permitting the Participant to pay the purchase or option price, if any, for Shares or other property issuable pursuant to the Award, in whole or in part by any one or more of the following methods; provided, however, that the availability of any one or more methods of payment may be suspended from time to time if the Committee determines that the use of such payment method would result in adverse financial accounting treatment for the Corporation or a violation of laws or regulations applicable to the Corporation:

(i) By delivering cash or a check;

(ii) By delivering previously owned Shares (including vested Restricted Shares);

(iii) By reducing the number of Shares or other property otherwise Vested and issuable pursuant to the Award;

(iv) Unless specifically prohibited by any applicable statute or rule, including, without limitation, the provisions of the Sarbanes-Oxley Act of 2002, by delivering to the Corporation a promissory note on such terms and over such period as the Committee may determine;

(v) In the event Shares are publicly traded, by delivery (in a form approved by the Committee) of an irrevocable direction to a securities broker acceptable to the Committee (subject to the provisions of the Sarbanes-Oxley Act of 2002 and any other applicable statute or rule); or

(vi) In any combination of the foregoing or in any other form approved by the Committee.

If Restricted Shares are surrendered in full or partial payment of the purchase or option price of Shares issuable under an Award, a corresponding number of the Shares issued upon exercise of the Award will be Restricted Shares subject to the same Restrictions as the surrendered Restricted Shares. Shares withheld or surrendered as described above will be valued based on their Fair Market Value on the date of the transaction. Any Shares withheld or surrendered with respect to a Reporting Person will be subject to such additional conditions and limitations as the Committee may impose to comply with the requirements of the Exchange Act.

(i) Service Periods. At the time of granting an Award, the Committee may specify, by resolution or in the Award Agreement, the period or periods of service performed or to be performed by the Participant in connection with the grant of the Award.

ARTICLE 6
OPTIONS

6.1 Types of Options. Options granted under the Plan may be in the form of Incentive Stock Options or Nonqualified Options. The grant of each Option and the Award Agreement governing each Option will identify the Option as an ISO or an NQO. In the event the Code is amended to provide for tax-favored forms of stock options other than or in addition to Incentive Stock Options, the Committee may grant Options under the Plan meeting the requirements of such forms of options. ISOs may not be awarded unless the Plan is approved by stockholders within 12 months of adoption of the Plan.

6.2 General. All Options will be subject to the terms and conditions set forth in Article 5 and this Article 6 and Award Agreements governing Options may contain such additional terms and conditions, not inconsistent with the express provisions of the Plan, as the Committee deems desirable.

6.3 Option Price. Each Award Agreement for Options will state the option exercise price per Share of Common Stock purchasable under the Option, which may not be less than 100 percent of the Fair Market Value of a Share on the date of grant for all Options; provided, however, that such price will not be less than 110 percent of the Fair Market Value of a Share on the date of grant if at the time an ISO is granted, the Participant owns, directly or indirectly, more than 10 percent of the total combined voting power of all classes of stock of the Corporation or any Affiliate.

6.4 Option Term. The Award Agreement for each Option will specify the term of each Option, which may be unlimited or may have a specified period during which the Option may be exercised, as determined by the Committee, provided, however, that no ISO may be exercisable after the expiration of 10 years from the date such ISO is granted or 5 years from the date of grant in the case of an ISO granted to a Participant who, at the time an ISO is granted, owns, directly or indirectly, more than 10 percent of the total combined voting power of all classes of stock of the Corporation or any Affiliate.

6.5 Time of Exercise. The Award Agreement for each Option will specify, as determined by the Committee:

(a) The time or times when the Option becomes exercisable and whether the Option becomes exercisable in full or in graduated amounts based on: (i) continuation of employment over a period specified in the Award Agreement, (ii) satisfaction of performance goals or criteria specified in the Award Agreement, or (iii) a combination of continuation of employment and satisfaction of performance goals or criteria; and

(b) Such other terms, conditions, and restrictions as to when the Option may be exercised as determined by the Committee.

(c) The extent, if any, to which the Option will remain exercisable after the Participant ceases to be an employee, Consultant, or director of Corporation or an Affiliate.

An Award Agreement for an Option may, in the discretion of the Committee, provide whether, and to what extent, the time when an Option becomes exercisable may be accelerated or otherwise modified (i) in the event of the death, Disability, or retirement of the Participant or (ii) upon the occurrence of a Change in Control. The Committee may, at any time in its discretion, accelerate the time when all or any portion of an outstanding Option becomes exercisable.

6.6 Special Rules for Incentive Stock Options. In the case of an Option designated as an Incentive Stock Option, the terms of the Option and the Award Agreement will conform with the statutory and regulatory requirements specified pursuant to Section 422 of the Code, as in effect on the date such ISO is granted. ISOs may be granted only to employees of the Corporation or an Affiliate. ISOs may not be granted under the Plan after ten years following the Effective Date, unless the ten-year limitation of Section 422(b)(2) of the Code is removed or extended.

6.7 Restricted Shares. In the discretion of the Committee, the Shares issuable upon exercise of an Option may be Restricted Shares if so provided in the Award Agreement for the Option.

ARTICLE 7
STOCK APPRECIATION RIGHTS

7.1 General. Stock Appreciation Rights are subject to the terms and conditions set forth in Article 5 and this Article 7 and Award Agreements governing Stock Appreciation Rights may contain such additional terms and conditions, not inconsistent with the express terms of the Plan, as the Committee deems desirable.

7.2 Nature of Stock Appreciation Right. A Stock Appreciation Right is an Award entitling a Participant to receive an amount equal to the excess (or, if the Committee determines at the time of grant, a portion of the excess) of the Fair Market Value of a Share of Common Stock on the date of exercise of the SAR over the base price, as described below, on the date of grant of the SAR, multiplied by the number of Shares with respect to which the SAR is being exercised. The base price will be designated by the Committee in the Award Agreement for the SAR and may be the Fair Market Value of a Share on the grant date of the SAR or such other higher price as the Committee determines. The base price may not be less than the Fair Market Value of a Share on the grant date of the SAR.

7.3 Exercise. A Stock Appreciation Right may be exercised by a Participant in accordance with procedures established by the Committee. The Committee may also provide that a SAR will be automatically exercised on one or more specified dates or upon the satisfaction of one or more specified conditions.

7.4 Form of Payment. Payment upon exercise of a Stock Appreciation Right may be made in cash, in Shares, in other property, or in any combination of the foregoing, or in any other form as the Committee may determine.

ARTICLE 8
RESTRICTED AWARDS

8.1 Types of Restricted Awards. Restricted Awards granted under the Plan may be in the form of either Restricted Shares or Restricted Units.

(a) Restricted Shares. A Restricted Share is an Award of Shares to a Participant subject to such terms and conditions as the Committee deems appropriate, including, without limitation, a requirement that the Participant forfeit such Restricted Shares back to the Corporation upon termination of Participant's employment (or service as a Non-Employee Board Director or Consultant) for specified reasons within a specified period of time or upon other conditions, including failure to achieve performance goals, as set forth in the Award Agreement for such Restricted Shares. Each Participant receiving a Restricted Share will be issued a stock certificate in respect of such Shares, registered in the name of such Participant, and will execute a stock power in blank with respect to the Shares evidenced by such certificate. The certificate evidencing such Restricted Shares and the stock power will be held in custody by the Corporation until the Restrictions have lapsed.

(b) Restricted Units. A Restricted Unit is an Award of units (with each unit having a value equivalent to one Share) granted to a Participant subject to such terms and conditions as the Committee deems appropriate, and may include a requirement that the Participant forfeit such Restricted Units upon termination of Participant's employment (or service as a Non-Employee Board Director or Consultant) for specified reasons within a specified period of time or upon other conditions, as set forth in the Award Agreement for such Restricted Units. The Committee will set the terms and conditions of the Award Agreement so that the Restricted Unit Award will comply with or be exempt from Code Section 409A.

8.2 General. Restricted Awards are subject to the terms and conditions of Article 5 and this Article 8 and Award Agreements governing Restricted Awards may contain such additional terms and conditions, not inconsistent with the express provisions of the Plan, as the Committee deems desirable.

8.3 Restriction Period. Award Agreements for Restricted Awards will provide that Restricted Awards, and the Shares subject to Restricted Awards, may not be transferred, and may provide

that, in order for a Participant to Vest in such Restricted Awards, the Participant must remain in the employment (or remain as a Non-Employee Board Director or Consultant) of the Corporation or its Affiliates, subject to relief for reasons specified in the Award Agreement, for a period commencing on the grant date of the Award and ending on such later date or dates as the Committee may designate at the time of the Award (the "Restriction Period"). During the Restriction Period, a Participant may not sell, assign, transfer, pledge, encumber, or otherwise dispose of Shares received under or governed by a Restricted Award grant. The Committee, in its sole discretion, may provide for the lapse of restrictions in installments during the Restriction Period. In addition, the Committee, in its discretion, may condition Vesting of Restricted Awards on continued employment (or service as a Non-Employee Board Director or Consultant) or attainment of performance goals, or both.

8.4 Forfeiture. If a Participant ceases to be an employee (or Consultant or Non-Employee Director) of the Corporation or an Affiliate during the Restriction Period for any reason other than reasons which may be specified in an Award Agreement, the Award Agreement may require that all non-Vested Restricted Awards previously granted to the Participant be forfeited and returned to the Corporation.

8.5 Settlement of Restricted Awards.

(a) Restricted Shares. Upon Vesting of a Restricted Share Award, the restrictive stock legend on certificates for such Shares covering applicable Restrictions will be removed, the Participant's stock power will be returned, and the Shares will no longer be Restricted Shares.

(b) Restricted Units. Upon Vesting of a Restricted Unit Award, a Participant is entitled to receive payment for Restricted Units in an amount equal to the aggregate Fair Market Value of the Shares covered by such Restricted Units at the expiration of the Applicable Restriction Period. Unless otherwise provided in an Award Agreement, payment in settlement of a Restricted Unit will be made as soon as practicable following the conclusion of the applicable Restriction Period in cash, in installments, in Restricted Shares or unrestricted Shares equal to the number of Restricted Units or in any other manner or combination as the Committee, in its sole discretion, determines.

8.6 Rights as a Stockholder. A Participant has, with respect to unforfeited Shares received under a grant of Restricted Shares, all the rights of a stockholder of the Corporation, including the right to vote the shares and the right to receive any cash dividends. Stock dividends issued with respect to Restricted Shares will be treated as additional Shares covered by the grant of Restricted Shares and will be subject to the same Restrictions. A Participant will have no rights as a stockholder with respect to a Restricted Unit Award until Shares are issued to the Participant in settlement of the Award.

ARTICLE 9
OTHER STOCK-BASED AND COMBINATION AWARDS

9.1 Other Stock-Based Awards. The Committee may grant other Awards under the Plan pursuant to which Shares are or may in the future be acquired, or Awards denominated in or measured by

Share equivalent units, including Awards valued using measures other than the market value of Shares. Other Stock-Based Awards are not restricted to any specific form or structure and may include, without limitation, Share purchase warrants, other rights to acquire Shares, and securities convertible into or redeemable for Shares. Such Other Stock-Based Awards may be granted either alone, in addition to, or in tandem with, any other type of Award granted under the Plan.

9.2 Combination Awards. The Committee may also grant Awards under the Plan in tandem or combination with other Awards or in exchange of Awards, or in tandem or combination with, or as alternatives to, grants or rights under any other employee plan of the Corporation, including the plan of any acquired entity. No action authorized by this section will reduce the amount of any existing benefits or change the terms and conditions thereof without the Participant's consent.

ARTICLE 10
DIVIDEND EQUIVALENTS

Any Awards, other than Options or Stock Appreciation Rights, may, at the discretion of the Committee, earn dividend equivalents. In respect of any such Award which is outstanding on a dividend record date for Common Stock, the Participant may be credited with an amount equal to the amount of cash or stock dividends that would have been paid on the Shares covered by such Award, had such covered Shares been issued and outstanding on such dividend record date. The Committee will establish such rules and procedures governing the crediting of dividend equivalents, including the timing, form of payment, and payment contingencies of such dividend equivalents, as it deems appropriate or necessary.

ARTICLE 11
ADJUSTMENTS UPON CHANGES IN CAPITALIZATION, ETC.

11.1 Plan Does Not Restrict the Corporation. The existence of the Plan and the Awards granted under the Plan will not affect or restrict in any way the right or power of the Board or the stockholders of the Corporation to make or authorize any adjustment, recapitalization, reorganization, or other change in the Corporation's capital structure or its business, any merger or consolidation of the Corporation, any issue of bonds, debentures, preferred or prior preference stocks ahead of or affecting the Corporation's capital stock or the rights thereof, the dissolution or liquidation of the Corporation or any sale or transfer of all or any part of its assets or business, or any other corporate act or proceeding.

11.2 Mandatory Adjustment. In the event of any stock dividend, stock split, reverse stock split, recapitalization, reclassification, or other distribution of the Corporation's securities without the receipt of consideration by the Corporation, of or on the Common Stock, the Committee shall make proportionate adjustments or substitution to the aggregate number and type of Shares for which Awards may be granted under the Plan, the maximum number and type of Shares which may be sold or awarded to any Participant, the number and type of Shares covered by each outstanding Award, and the base price or purchase price per Share in respect of outstanding Awards.

11.3 Adjustments by the Committee. In the event of any change in capitalization affecting the Common Stock of the Corporation not described in Section 11.2 above, such proportionate adjustments, if any, as the Committee, in its sole discretion, may deem appropriate to reflect such change, will be made with respect to the aggregate number of Shares for which Awards in respect thereof may be granted under the Plan, the maximum number of Shares which may be sold or awarded to any Participant, the number of Shares covered by each outstanding Award, and the base price or purchase price per Share in respect of outstanding Awards. The Committee may also make such adjustments in the number of Shares covered by, and price or other value of, any outstanding Awards in the event of a spin-off or other distribution (other than normal cash dividends), of the Corporation assets to stockholders.

ARTICLE 12
AMENDMENT AND TERMINATION

The Board may amend, suspend, or terminate the Plan or any portion of the Plan at any time, provided that no amendment may be made without stockholder approval if such approval is required by applicable law or the requirements of an applicable stock exchange or registered securities association.

ARTICLE 13
MISCELLANEOUS

13.1 Tax Withholding. The Corporation has the right to deduct from any settlement of any Award under the Plan, including the delivery or Vesting of Shares or Awards, any federal, state, or local taxes of any kind the Corporation reasonably determines is required by law to be withheld with respect to such payments or to take such other action as may be necessary in the opinion of the Corporation to satisfy all obligations for the payment of such taxes. The recipient of any payment or distribution under the Plan has the obligation to make arrangements satisfactory to the Corporation for the satisfaction of any such tax withholding obligations. The Corporation will not be required to make any such payment or distribution under the Plan until such obligations are satisfied.

13.2 Unfunded Plan. The Plan will be unfunded and the Corporation will not be required to segregate any assets that may at any time be represented by Awards under the Plan. Any liability of the Corporation to any person with respect to any Award under the Plan will be based solely upon any contractual obligations that may be effected pursuant to the Plan. No such obligation of the Corporation will be deemed to be secured by any pledge of, or other encumbrance on, any property of the Corporation.

13.3 Fractional Shares. No fractional Shares of Common Stock will be issued or delivered under the Plan or any Option, Options granted under the Plan will not be exercisable with respect to fractional Shares. In lieu of such fractional Shares, the Corporation will pay an amount in cash equal to the same fraction using the current market value of a Share of Common Stock.

13.4 Annulment of Awards. Any Award Agreement may provide that the grant of an Award payable in cash is revocable until cash is paid in settlement thereof or that grant of an Award

payable in Shares is revocable until the Participant becomes entitled to the certificate in settlement thereof. In the event Participant's employment (or services as a Non-Employee Director or Consultant) terminates for cause (as defined below), any Award which is revocable will be annulled as of the date of such termination for cause. For the purpose of this Section 13.4, the term "for cause" has the meaning set forth in the Participant's employment agreement, if any, or otherwise means any discharge (or removal) for material or flagrant violation of the policies and procedures of the Corporation or for other performance or conduct which is materially detrimental to the best interests of the Corporation, as determined by the Committee.

13.5 Engaging in Competition With the Corporation. Any Award Agreement may provide that, if a Participant terminates employment (or service as a Non-Employee Board Director or Consultant) with the Corporation or an Affiliate for any reason whatsoever, and within a period of time (as specified in the Award Agreement) after the date thereof accepts employment with any competitor of (or otherwise engages in competition with) the Corporation, the Committee, in its sole discretion, may require such Participant to return to the Corporation the economic value of any Award that is realized or obtained (measured at the date of exercise, Vesting, or payment) by such Participant at any time during the period beginning on the date that is one year prior to the date of such Participant's termination of employment (or service as a Non-Employee Board Director or Consultant) with the Corporation.

13.6 Other Corporation Benefit and Compensation Programs. Payments and other benefits received by a Participant under an Award made pursuant to the Plan are not to be deemed a part of a Participant's regular, recurring compensation for purposes of the termination indemnity or severance pay law of any state or country and will not be included in, or have any effect on, the determination of benefits under any other employee benefit plan or similar arrangement provided by the Corporation or an Affiliate unless expressly so provided by such other plan or arrangements, or except where the Committee expressly determines that an Award or portion of an Award should be included to accurately reflect competitive compensation practices or to recognize that an Award has been made in lieu of a portion of cash compensation. Awards under the Plan may be made in combination with or in tandem with, or as alternatives to, grants, awards, or payments under any other Corporation or Affiliate plans, arrangements, or programs. The Plan notwithstanding, the Corporation or any Affiliate may adopt such other compensation programs and additional compensation arrangements as it deems necessary to attract, retain, and reward employees and directors for their service with the Corporation and its Affiliates.

13.7 Securities Law Restrictions. No Shares may be issued under the Plan unless counsel for the Corporation is satisfied that such issuance will be in compliance with applicable federal and state securities laws. Certificates for Shares delivered under the Plan may be subject to such stop-transfer orders and other restrictions as the Committee may deem advisable under the rules, regulations, and other requirements of the Securities and Exchange Commission, any stock exchange or registered securities association upon which the Common Stock is then listed or quoted, and any applicable federal or state securities laws. The Committee may cause a legend or legends to be put on any such certificates to make appropriate reference to such restrictions.

13.8 Continuing Restriction Agreement. Each Participant will, if requested by the Corporation and as a condition to issuance of Shares under the Plan upon an Award or exercise of an Award

granted under the Plan that results in the issuance of Shares, become a party to and be bound by a stock restriction or other agreement with the Corporation containing restrictions on transfer of Shares, including a right of first refusal for the benefit of the Corporation, a market stand-off provision, and such other terms as the Corporation may reasonably require.

13.9 Governing Law. Except with respect to references to the Code or federal securities laws, the Plan and all actions taken thereunder will be governed by and construed in accordance with the laws of the state of Delaware, without regard to principles of conflict of laws.

13.10 Section 409A. It is intended that all Awards issued under the Plan be in a form and administered in a manner that will comply with the requirement of Section 409A of the Code, or the requirements of an exception to Section 409A of the Code, and the Award Agreements and this Plan will be construed and administered in a manner that is consistent with and gives effect to such intent. The Committee is authorized to adopt rules or regulations deemed necessary or appropriate to qualify for an exception from or to comply with the requirements of Section 409A of the Code. With respect to an Award that constitutes a deferral of compensation subject to Section 409A of the Code: (a) if any amount is payable under such Award upon a termination of service, a termination of service will be treated as having occurred only at such time the Participant has experienced a "separation from service" within the meaning of Section 409A of the Code; (b) if any amount is payable under such Award upon a disability, a disability will be treated as having occurred only at such time the Participant has experienced a "disability" as such term is defined for purposes of Section 409A of the Code; (c) if any amount is payable under such Award on account of the occurrence of a Change in Control, a Change in Control will be treated as having occurred only at such time a "change in the ownership or effective control of the corporation or in the ownership of a substantial portion of the assets of the corporation" as such terms are defined for purposes of Section 409A of the Code; (d) if any amount becomes payable under such Award on account of a Participant's "separation from service" within the meaning of Section 409A of the Code at such time as the Participant is a "specified employee" within the meaning of Section 409A of the Code, then no payment will be made, except as permitted under Code Section 409A, prior to the first business day after the earlier of (i) the date that is six months after the date of the Participant's "separation from service" within the meaning of Section 409A of the Code or (ii) the Participant's death; and (e) no amendment to or payment under such Award will be made except and only to the extent permitted under Section 409A of the Code. With respect to an Award that is exempt from the requirements of Code Section 409A as a short term deferral under Treas. Reg. Sec. 1.409A-1(b)(4) or by reason of the separation pay exception under Treas. Reg. Sec. 1.409A-1(b)(9), if any amount is payable under such Award upon a termination of service, a termination of service will be treated as having occurred only at such time the Participant has experienced a "separation from service" within the meaning of Section 409A of the Code.

Exhibit 31.1

Certification of Principal Executive Officer

I, Cyrus Arman, 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. I am responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the Registrant and have:
    a. designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the Registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this quarterly report is being prepared;
    b. designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
    c. evaluated the effectiveness of the Registrant's disclosure controls and procedures and presented in this quarterly report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report, based on such evaluation; and
    d. disclosed in this report any change in the Registrant's internal control over financial reporting that occurred during the registrant's most-recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the Registrant's internal control over financial reporting; and
5. I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the Registrant's auditors and the audit committee of the Registrant's board of directors (or persons performing the equivalent functions):
    a. all significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the Registrant's ability to record, process, summarize and report financial information; and
    b. any fraud, whether or not material, that involves management or other employees who have a significant role in the Registrant's internal control over financial reporting.

Date: January 9, 2023

/s/ Cyrus Arman
Cyrus Arman, Ph.D.
President

Exhibit 31.2

Certification of Chief Financial Officer

I, Antonio Migliarese, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of CytoDyn Inc.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the Registrant as of, and for, the periods presented in this report;
4. The Registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the Registrant and have:
    a. designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the Registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this quarterly report is being prepared;
    b. designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
    c. evaluated the effectiveness of the Registrant's disclosure controls and procedures and presented in this quarterly report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report, based on such evaluation; and
    d. disclosed in this report any change in the Registrant's internal control over financial reporting that occurred during the registrant's most-recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the Registrant's internal control over financial reporting; and
5. The Registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the Registrant's auditors and the audit committee of the Registrant's board of directors (or persons performing the equivalent functions):
    a. all significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the Registrant's ability to record, process, summarize and report financial information; and
    b. any fraud, whether or not material, that involves management or other employees who have a significant role in the Registrant's internal control over financial reporting.

Date: January 9, 2023

/s/ Antonio Migliarese
Antonio Migliarese
Chief Financial Officer

Exhibit 32

CERTIFICATION PURSUANT TO

18 U.S.C. SECTION 1350

In connection with the Quarterly Report of CytoDyn Inc. (the "Company") on Form 10-Q for the fiscal quarter ended November 30, 2022, as filed with the Securities and Exchange Commission on the date hereof (the "Report"), the undersigned certify, pursuant to 18 U.S.C. Section 1350, that:

(1) The Report fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934; and

(2) The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

/s/ Cyrus Arman	/s/ Antonio Migliarese
Cyrus Arman, Ph.D. President Date: January 9, 2023	Antonio Migliarese Chief Financial Officer Date: January 9, 2023

A signed original of this written statement required by Section 906 has been provided to CytoDyn Inc. and will be retained by CytoDyn Inc. and furnished to the Securities and Exchange Commission or its staff upon request.