
**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549**

FORM 10-K

- ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**

For the fiscal year ended May 31, 2017

or

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

For the transition period from _____ to _____

Commission file number 000-49908

CYTODYN INC.

(Exact name of registrant as specified in its charter)

Delaware
(State or other jurisdiction of
incorporation or organization)

75-3056237
(I.R.S. Employer
Identification No.)

1111 Main Street, Suite 660
Vancouver, Washington
(Address of principal executive offices)

98660
(Zip Code)

Registrant's Telephone Number, including area code: (360) 980-8524

Securities registered pursuant to Section 12(b) of the Act: None

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

Title of class

Common Stock, par value \$0.001 per share

Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act. Yes No

Indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or Section 15(d) of the Act. Yes No

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 checkmark whether the registrant has submitted electronically and posted on its corporate Web site, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files). Yes No

Indicate by check mark if disclosure of delinquent filers pursuant to Item 405 of Regulation S-K is not contained herein, and will not be contained, to the best of registrant's knowledge, in definitive proxy or information statements incorporated by reference in Part III of this Form 10-K or any amendment to this Form 10-K.

Indicate by checkmark 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 (Do not check if a smaller reporting company)

Smaller reporting company

Emerging growth company

EXPLANATORY NOTE

The registrant met the "accelerated filer" requirements as of the end of its fiscal year ended May 31, 2017, pursuant to Rule 12b-2 of the Securities Exchange Act of 1934, as amended. However, pursuant to Rule 12b-2 and SEC Release No. 33-8876, the registrant (as a smaller reporting company transitioning to the larger reporting company system based on its public float as of the end of its second fiscal quarter ended November 30, 2016) is not required to satisfy the larger reporting company requirements until its first quarterly report on Form 10-Q for the 2018 fiscal year and thus remains eligible to check the "Smaller Reporting Company" box on the cover of this Form 10-K.

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 Act). Yes No

State the aggregate market value of the voting and non-voting common equity held by non-affiliates computed by reference to the price at which the common equity was last sold, or the average bid and asked price of such common equity, as of the last business day of the registrant's most recently completed second fiscal quarter: \$84,065,616 as of November 30, 2016.

Indicate the number of shares outstanding of each of the registrant's classes of common stock, as of the latest practicable date. As of June 30, 2017, the registrant had 152,763,243 shares of common stock outstanding.

DOCUMENTS INCORPORATED BY REFERENCE

<u>Document</u>	<u>Parts Into Which Incorporated</u>
Portions of the Proxy Statement for the 2017 Annual Meeting of Stockholders	Part III

[Table of Contents](#)

CYTODYN INC.

FORM 10-K FOR THE YEAR ENDED MAY 31, 2017

Table of Contents

	Page
PART I	2
ITEM 1. BUSINESS	2
ITEM 1A. RISK FACTORS	12
ITEM 1B. UNRESOLVED STAFF COMMENTS	23
ITEM 2. PROPERTIES	24
ITEM 3. LEGAL PROCEEDINGS	24
ITEM 4. MINE SAFETY DISCLOSURES	24
PART II	25
ITEM 5. MARKET FOR REGISTRANT'S COMMON EQUITY, RELATED STOCKHOLDER MATTERS AND ISSUER PURCHASES OF EQUITY SECURITIES	25
ITEM 6. SELECTED FINANCIAL DATA	25
ITEM 7. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS	26
ITEM 7A. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK	31
ITEM 8. FINANCIAL STATEMENTS AND SUPPLEMENTARY DATA	31
ITEM 9. CHANGES IN AND DISAGREEMENTS WITH ACCOUNTANTS ON ACCOUNTING AND FINANCIAL DISCLOSURE	59
ITEM 9A. CONTROLS AND PROCEDURES	59
ITEM 9B. OTHER INFORMATION	61
PART III	61
ITEM 10. DIRECTORS, EXECUTIVE OFFICERS AND CORPORATE GOVERNANCE	61
ITEM 11. EXECUTIVE COMPENSATION	61
ITEM 12. SECURITY OWNERSHIP OF CERTAIN BENEFICIAL OWNERS AND MANAGEMENT AND RELATED STOCKHOLDER MATTERS	61
ITEM 13. CERTAIN RELATIONSHIPS AND RELATED TRANSACTIONS AND DIRECTOR INDEPENDENCE	61
ITEM 14. PRINCIPAL ACCOUNTANT FEES AND SERVICES	61
PART IV	61
ITEM 15. EXHIBITS AND FINANCIAL STATEMENT SCHEDULES	61

FORWARD-LOOKING STATEMENTS

This annual report contains certain forward-looking statements that involve risks, uncertainties and assumptions that are difficult to predict. 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 differ materially from those contained in or expressed by such statements. In evaluating all such statements we urge you to specifically consider various risk factors identified in this prospectus, including the matters set forth under the heading “Risk Factors,” 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 on current business plans. You should not place undue reliance on our forward-looking statements, which are subject to risks and uncertainties relating to, among other things: (i) the sufficiency of our cash position and our ongoing ability to raise additional capital to fund our operations, (ii) our ability to identify patients to enroll in our clinical trials in a timely fashion, (iii) our ability to achieve approval of a marketable product, (iv) design, implementation and conduct of clinical trials, (v) the results of our clinical trials, including the possibility of unfavorable clinical trial results, (vi) the market for, and marketability of, any product that is approved, (vii) the existence or development of vaccines, drugs, or other treatments for infection with the Human Immunodeficiency Virus that are viewed by medical professionals or patients as superior to our products, (viii) regulatory initiatives, compliance with governmental regulations and the regulatory approval process, (ix) general economic and business conditions, (x) changes in foreign, political, and social conditions, (xi) the specific risk factors discussed under the heading “Risk Factors” below, and (xii) various other matters, many of which are beyond our 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.

We intend that all forward-looking statements made in this annual report on Form 10-K will be subject to the safe harbor protection of the federal securities laws pursuant to Section 27A of the Securities Act of 1933, as amended (the “Securities Act”), to the extent applicable. 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 prospectus. Additionally, we do not undertake any responsibility to update you on the occurrence of any unanticipated events which may cause actual results to differ from those expressed or implied by these forward-looking statements.

PART I

Item 1. Business.

Overview / Corporate History

CytoDyn Inc. was originally incorporated under the laws of Colorado on May 2, 2002 under the name RexRay Corporation (our previous name). Effective August 27, 2015, we completed a reincorporation from Colorado to Delaware. Our principal business office is 1111 Main Street, Suite 660, Vancouver, Washington 98660. Our website can be found at www.cytodyn.com. We do not intend to incorporate any contents from our website into this annual report. Unless the context otherwise requires, references to “CytoDyn,” the “Company,” “we,” “our,” or “us” are to CytoDyn Inc. and its subsidiaries.

We are a clinical-stage biotechnology company focused on the clinical development and potential commercialization of humanized monoclonal antibodies to treat Human Immunodeficiency Virus (“HIV”) infection. Our lead product candidate, PRO 140, belongs to a class of HIV therapies known as entry inhibitors that block HIV from entering into and infecting certain cells. We believe that monoclonal antibodies are a new emerging class of therapeutics for the treatment of HIV to address unmet medical needs in the area of HIV and other immunologic indications, such as graft-versus-host disease.

Table of Contents

The preclinical and clinical development of PRO 140 was led by Progenics Pharmaceuticals, Inc. (“Progenics”) through 2011. We acquired the asset from Progenics in October 2012, as described under “PRO 140 Acquisition and Licensing Arrangements” below.

PRO 140

We believe the PRO 140 antibody shows promise as a powerful anti-viral agent with the advantage of fewer side effects, lower toxicity and less frequent dosing requirements, as compared to daily drug therapies currently in use for the treatment of HIV. The PRO 140 antibody belongs to a class of HIV therapies known as entry inhibitors that block HIV from entering into and infecting certain cells. PRO 140 blocks HIV from entering a cell by binding to a molecule called the C-C chemokine receptor type 5 (“CCR5”), a normal cell surface receptor protein to which certain strains of HIV, referred to as “R5” strains, attach as part of HIV’s entry into a cell.

PRO 140 does not affect the normal function of the CCR5 co-receptor for HIV. Instead, PRO 140 binds to a precise site on CCR5 that R5 strains of HIV use to enter the cell and, in doing so, inhibits the ability of these strains of HIV to infect the cell without affecting the cell’s normal function. The R5 strains of HIV currently represent approximately 67% of all HIV infections in the U.S. As a result, we believe PRO 140 represents a distinct class of CCR5 inhibitors with advantageous virological and immunological properties and may provide a unique tool to treat HIV infected patients.

We believe PRO 140 is uniquely positioned to address a growing HIV market, as an alternative, or in addition to current therapies, which are failing primarily due to compliance, which causes drug resistance. In seven clinical trials previously conducted, PRO 140 was generally well tolerated, and no drug-related serious adverse events, or SAEs, or dose-proportional adverse events, or AEs, were reported. In addition, there were no dose-limiting toxicities or patterns of drug-related toxicities observed during these trials. The results of these studies established that PRO 140’s antiviral activity was potent, rapid, prolonged, dose-dependent, and statistically significant following a single dose. Because PRO 140’s mechanism of action (for a monoclonal antibody use in HIV) is a relatively new therapeutic approach, it provides a very useful method of suppressing the virus in treatment-experienced patients who have failed a prior HIV regimen and need new treatment options. PRO 140, as a single agent therapy, has also demonstrated that it could replace HAART altogether for a subpopulation of R5 patients who have suppressed viral load with HAART, but are seeking an alternative treatment that allows the patient an improved quality of life, with the advantages of fewer side effects, lower toxicity and less frequent dosing requirements.

To date, PRO 140 has been tested and administered to patients either intravenously or as a subcutaneous injection. We believe that, if PRO 140 is approved for use as an injectable by the U.S. Food and Drug Administration (the “FDA”), it may nonetheless be an attractive and marketable therapeutic option for patients, particularly in the following scenarios:

- Patients desiring a break from existing treatment regimens, whether due to side-effects or for any personal reasons;
- Patients with difficulty adhering to daily drug regimens;
- Patients who poorly tolerate existing therapies;
- Patients with compromised organ function, such as HCV (hepatitis C) co-infection;
- Patients with complex concomitant medical requirements; and
- Patients who choose not to start their highly active antiretroviral therapy (“HAART”) regimen immediately after being infected with HIV.

We believe PRO 140 has demonstrated potent (as compared to existing treatments) antiretroviral activity and an encouraging safety profile in prior clinical testing, that PRO 140 has the potential to be the first long-acting (weekly or every other week), self-administered HIV therapy, and that PRO 140 inhibits CCR5-tropic HIV while preserving CCR5’s natural function. We believe PRO 140 represents a distinct class of CCR5 inhibitors with unique virological and immunological properties and may provide another distinct tool to treat HIV-infected patients.

Our ongoing HIV-related clinical trials, described in greater detail below, have been designed to demonstrate the proof of concept that PRO 140 monotherapy can continue to suppress the viral load in certain HIV-infected, treatment-experienced patients who had suppressed viral load on HAART, but would like an alternative treatment that provides a higher quality of life with one dose a week through a self-injection. Once the viral load is undetectable, weekly administration of PRO 140 can help maintain the suppressed viral load in a subpopulation of R5 patients over an extended period of time (currently shown to be approaching three years). Based on the preliminary results of such studies, we believe that a PRO 140 treatment option could also address the unmet medical need for therapy options for certain HIV-infected patients with uncontrolled viral load, despite conventional HAART treatments.

[Table of Contents](#)

To facilitate our self-funded and sponsored clinical research plans and trials, we engaged Amarex Clinical Research, LLC (“Amarex”), as our principal contract research organization (“CRO”), to provide comprehensive clinical trial management services.

Current Clinical Trials

PRO 140 is currently being studied in four ongoing clinical trials:

- Our first ongoing clinical trial is an extension study of our Phase 2b treatment substitution trial, which was initially completed in January 2015. Several patients are continuing in extension studies of this monotherapy trial by taking a weekly injection of PRO 140. Results from these extension studies thus far indicate that eight of the nine patients in this study have surpassed two and one-half years of suppressed viral load through a successful monotherapy of PRO 140 and are approaching three years of suppressed viral load with a monotherapy.
- Our second ongoing clinical trial is a pivotal Phase 2b/3 trial for PRO 140 as a combination therapy with existing HAART drug regimens. The initial 25-week trial protocol included a requirement for 300 patients. The FDA reduced this requirement to 150 patients and finally down to 30 patients. The primary endpoint for efficacy is defined as the amount of viral load drop after one week of therapy with PRO 140 in combination with the patient’s failing HAART regimen. Patient enrollment is expected to be completed in July 2017 and we will announce whether the trial has achieved its primary endpoint as soon as that determination is available. The first patients to have successfully completed this trial have transitioned into a FDA-cleared rollover study, in order to provide continued access to PRO 140 therapy, at the request of their treating physician.
- Our third ongoing trial is an investigative Phase 2b/3 trial featuring 300 patients to assess the treatment strategy of using PRO 140 subcutaneously as a long-acting single-agent maintenance therapy for 48 weeks in patients with suppressed viral load with CCR5-tropic HIV-1 infection. The primary endpoint is to assess the clinical safety of the PRO 140 monotherapy regimen and to evaluate the proportion of participants experiencing suppressed viral load. The secondary endpoint is the length of time to virologic failure. The first patients were enrolled in December 2016, and we expect enrollment to be completed by the end of calendar 2017.
- Our fourth ongoing trial of PRO 140 is a Phase 2 study for Graft-versus-Host Disease (“GvHD”) and is the first non-HIV immunologic indication for PRO 140. This trial, a randomized, double-blind, placebo-controlled, multi-center 100-day study with 60 patients is designed to evaluate the feasibility of the use of PRO 140 as an add-on therapy to standard GvHD prophylaxis treatment for prevention of acute GvHD in adult patients with acute myeloid leukemia (“AML”) or myelodysplastic syndrome (“MDS”) undergoing allogeneic hematopoietic stem cell transplantation (“HST”). Enrollment of the first patient was announced in May 2017.

Each of the foregoing trials are described more fully below.

Phase 2b Treatment Substitution Trial for HIV, as Monotherapy

Our first Phase 2b clinical trial of PRO 140 commenced in May 2014 and concluded in January 2015. This Phase 2b trial, referred to as a “treatment substitution” trial, investigated PRO 140 as a short-term treatment substitution (as a monotherapy of PRO 140) for existing HAART drug regimens. An extension study of this trial is currently ongoing, as described in greater detail below.

The treatment substitution trial had two primary objectives: (1) to assess the efficacy of PRO 140 monotherapy for the maintenance of viral suppression after being used in substitution of a patient’s HAART regimen, and (2) to assess the clinical safety and tolerability parameters for PRO 140 following use in substitution of HAART. The study protocol required patients to be stable on HAART with patient’s viral load not more than 400 HIV RNA particles per milliliter of blood for two consecutive weeks. The trial design provided that patients would be shifted from HAART regimen to PRO 140 monotherapy for 12 weeks. PRO 140 was administered as a 350mg subcutaneous dosage weekly and participants were monitored for viral rebound on a weekly basis. Total treatment duration with PRO 140 was up to 14 weeks with one week overlap of existing retroviral regimen and PRO 140 at the beginning of the study period and also one week of overlap at the end for patients who did not experience virologic failure, defined as a viral load above 400 HIV RNA particles per milliliter of blood for two consecutive weeks. An independent Data Safety Monitoring Board (“DSMB”) was required to monitor the study to ensure patient safety and to assess efficacy. The DSMB operates in conformance with the FDA guidelines for its independence. DSMB’s management and oversight of the trial was successfully completed in January 2015.

Below are the results from our Phase 2b treatment substitution clinical trial, excluding certain patients who violated trial protocol or were later categorized by third party tropism tests as not being infected by CCR5-tropic virus strains exclusively. Also, patients who had other infections before they were declared virologic failure are not categorized as a failure.

- 98% of the patients successfully completed 4 weeks of monotherapy;

Table of Contents

- 82% of the patients successfully completed 8 weeks of monotherapy; and
- 75% of the patients successfully completed 11 weeks of monotherapy (maximum allowable duration of monotherapy without an extension study)

Because only patients who have HIV R5 virus exclusively can benefit from PRO 140, prior to enrollment in the study, each patient was required to take a DNA tropism test to determine whether the strain of HIV present in the patient was exclusively the R5 strain, making the patient a suitable candidate for PRO 140 therapy.

The success of this initial monotherapy trial served as the foundation for the ongoing extension study described below.

Phase 2b Extension Study for HIV, as Monotherapy

The extension study of our initial Phase 2b trial was designed to evaluate the efficacy, safety, and tolerability of PRO 140 monotherapy for the maintenance of viral suppression in patients who completed 12 weeks of monotherapy in the initial Phase 2b treatment substitution trial without experiencing virologic failure. The objectives and endpoint definitions are the same for the Phase 2b extension study, as they were for the initial Phase 2b treatment substitution trial, except that patients in the extension study were trained for weekly self-injection to be administered at home, and their viral load was monitored initially on a bi-weekly basis and then on a monthly basis later in the study.

For the Phase 2b extension study, 21 patients were eligible, 19 patients were screened for participation, 16 were allowed to enter and 15 patients successfully completed 29 weeks of PRO 140 monotherapy. Of these 15 patients, nine patients are currently ongoing and have surpassed two and one-half years of PRO 140 monotherapy without experiencing virologic failure (defined, as in the initial study, as a viral load above 400 HIV RNA particles per milliliter of blood for two consecutive weeks). Four patients discontinued the extension protocol for reasons not attributed to PRO 140. The trial is ongoing and as a result, we are only able to discuss the clinical findings to date.

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

In view of PRO 140 being established as a safe and efficacious substitution therapy in the initial Phase 2b monotherapy trial and ongoing extension study, following the FDA's clearance of a new trial protocol, we initiated in mid-2015 a pivotal Phase 2b/3 trial for PRO 140 as combination therapy to existing HAART drug regimens. The FDA reduced the original number of required patients in this trial from 300 to 150 and finally to 30 patients. We believe that, upon successful completion of this Phase 2b/3 study, we will have the opportunity to seek accelerated approval for PRO 140 based on previously granted FDA fast-track designation.

The Phase 2b/3 combination therapy trial is designed to allow PRO 140 as a component of a HAART regimen for treatment experienced patients. HAART is the current standard of medical care for individuals with HIV. The study population includes treatment-experienced HIV-infected patients with CCR5-tropic virus with documented genotypic or phenotypic resistance to at least one antiretroviral drug from three different classes or at least one drug from two classes with limited treatment options. The treatment options may be limited as a result of drug antiretroviral class cross-resistance, documented treatment intolerance, potential for hypersensitivity to one or more antiretroviral drugs, or potential drug interactions with treatment for co-morbid conditions. Patients will have one or more fully active, approved drugs available for construction of a viable alternative option. Enrollment is expected to be completed in July 2017 followed by an evaluation of the primary endpoint soon thereafter.

In late January 2016, we announced that we had filed a request with the FDA for designation as a "breakthrough therapy" treatment for certain HIV patients. In response to our filing, the FDA requested that we submit data from the population for which the breakthrough therapy is requested. We currently plan to submit additional data to the FDA as it becomes available to us from our pivotal Phase 2b/3 combination therapy trial.

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

An investigative Phase 2b/3 trial including 300 patients to assess the treatment strategy of using PRO 140 subcutaneously as a long-acting single-agent maintenance therapy for 48 weeks in patients with suppressed viral load with CCR5-tropic HIV-1 infection. The primary endpoint is the number of patients who can maintain suppressed viral load under a PRO 140 monotherapy replacing their HAART regimen for 48 weeks. The secondary endpoint is the number of weeks a patient is off of their ART regimen. Enrollment of the first patients was announced in December 2016 and enrollment is well underway.

Table of Contents

This trial is entitled a Phase 2b/3, Multicenter Study to Assess the Treatment Strategy of Using PRO 140 SC as Long-Acting Single-Agent Maintenance Therapy for 48 Weeks in Virologically Suppressed Patients with CCR5-tropic HIV-1 infection. This study is designed to evaluate the efficacy, safety, and tolerability of the strategy of shifting clinically stable patients receiving suppressive combination antiretroviral therapy to PRO 140 monotherapy and maintaining viral suppression for 48 weeks following study entry. Consenting patients will be shifted from combination antiretroviral regimen to weekly PRO 140 monotherapy for 48 weeks during the Treatment Phase with the one week overlap of existing retroviral regimen and PRO 140 at the beginning of the study treatment and also one week overlap at the end of the treatment in patients who do not experience virologic failure.

Phase 2 Trial for Graft-versus-Host Disease

In June 2015, we announced that Company-sponsored research data has expanded the potential clinical indications for PRO 140 to include certain inflammatory diseases, autoimmunity, transplantation and cancer.

The CCR5 receptor is expressed on a variety of cells that play a central role in inflammatory responses. The receptor is activated by a chemokine mediator called CCL5, which has been shown to be a central figure in many inflammatory disease processes. Blocking the interaction of CCL5 with the receptor CCR5 is believed to be of therapeutic benefit. PRO 140 targets the CCR5 receptor, binding to it in a way that prevents HIV from using it as an entry gateway without activating the immune function of the receptor. Our recent research data indicate that PRO 140 also interferes with activation of the receptor by the mediator CCL5.

Following new research data relating to PRO 140's mechanism of action, in October 2015, we filed with the FDA an investigational new drug (or "IND") application and a full protocol for a Phase 2 clinical trial for a transplantation indication called Graft-versus-Host Disease (or "GvHD"), as our first non-HIV clinical indication. GvHD is a life-threatening complication for patients undergoing stem cell transplants. The CCR5 receptor, the target for PRO 140, is an important mediator of GvHD, especially in the organ damage that is the usual cause of death. The only approved CCR5 inhibitor, Maraviroc, is currently in a Phase 2 study for GvHD indications, and results are expected in 2016. We believe that PRO 140 has significant advantages over Maraviroc in more favorable dosing and pharmacokinetics, less toxicity and side effects, and no direct stimulation (agonist activity) of the CCR5 receptor.

In December 2015, we received clearance from the FDA to conduct a Phase 2 trial to evaluate the safety and efficacy of PRO 140 for prophylaxis of acute GvHD in patients with acute myeloid leukemia ("AML") or myelodysplastic syndromes ("MDS") undergoing allogeneic stem-cell transplantation. The trial is a 100-day study with 60 patients. Enrollment of the first patient was announced in May 2017.

In late December 2015, we announced that we had filed with the FDA for designation of PRO 140 as an "orphan" drug, in connection with our GvHD Phase 2 trial and our request remains open at this time. We have submitted additional data from specific animal studies as requested by the FDA. Designation as an "orphan" product provides potentially faster pathways to approval and other financial incentives for drugs and biologics that are intended for the safe and effective treatment, diagnosis or prevention of rare diseases or disorders that affect fewer than 200,000 people in the U.S.

Immunological Applications for PRO 140

We are continuing to explore opportunities for clinical applications for PRO 140 involving the CCR5 receptor, other than HIV-related treatments, such as inflammatory conditions, autoimmune diseases and cancer.

The target of PRO 140 is the important immunologic receptor CCR5. The CCR5 receptor is more than the door for HIV to enter T-cells; it is also a crucial component in inflammatory responses. This opens the potential for multiple pipeline opportunities for PRO 140.

The CCR5 receptor is a protein located on the surface of white blood cells that serves as a receptor for chemical attractants called chemokines. Chemokines are the key orchestrators of leukocyte trafficking by attracting immune cells to the sites of inflammation.

At the site of an inflammatory reaction, chemokines are released. These chemokines are specific for CCR5 and cause the migration of T-cells to these sites promoting further inflammation. The mechanism of action of PRO 140 has the potential to block the movement of T-cells to inflammatory sites, which could be instrumental in diminishing or eliminating inflammatory responses. Some disease processes that could benefit from CCR5 blockade include new reactions to cancer, transplantation rejection, autoimmunity and chronic inflammation such as rheumatoid arthritis and psoriasis.

Table of Contents

Due to its mechanism of action, PRO 140 has significant advantages in terms of safety and reduced side effects over other CCR5 antagonists. Prior studies have demonstrated that PRO 140 does not cause direct activation of T-cells. We have already reported encouraging human safety data for our clinical trials with PRO 140 in HIV-infected patients.

We have initiated our first clinical trial with PRO 140 in an immunological indication – a Phase 2 clinical trial with PRO 140 for Graft-versus-Host Disease (GvHD) in patients with acute myeloid leukemia (AML) or myelodysplastic syndrome (MDS) who are undergoing bone marrow stem cell transplantation. GvHD represents an unmet medical need, with patients who contract GvHD during stem cell transplant having a significantly decreased 1-year survival rate with relapsed GvHD as the leading cause of death. PRO 140 is also being investigated in animal models of cancer progression and autoimmunity with positive results. Our animal studies in GvHD have been submitted for publication in peer-reviewed journals.

As we progress in evaluating PRO 140 in different pathways of human disease and inflammation, we are encouraged by the opportunity to build a broad pipeline of indications.

Other Product Candidates

Until the clinical trials for PRO 140 have advanced further, we do not plan to devote any resources towards the development, research, testing, approval or commercialization of other product candidates.

PRO 140 Acquisition and Licensing Arrangements

We acquired PRO 140, as well as certain other related assets, including the existing inventory of PRO 140 bulk drug substance, intellectual property, and FDA regulatory filings, pursuant to an Asset Purchase Agreement, dated as of July 25, 2012 (the “Progenics Purchase Agreement”), between CytoDyn and Progenics. On October 16, 2012, we paid to Progenics \$3,500,000 in cash to close the transaction. We are also required to pay Progenics the following milestone payments and royalties: (i) \$1,500,000 at the time of the first dosing in a U.S. Phase 3 trial or non-U.S. equivalent, which was paid during the fiscal year ended May 31, 2016; (ii) \$5,000,000 at the time of the first U.S. new drug application approval by the FDA or other non-U.S. approval for the sale of PRO 140; and (iii) royalty payments of up to 5% on net sales during the period beginning on the date of the first commercial sale of PRO 140 until the later of (a) the expiration of the last to expire patent included in the acquired assets, and (b) 10 years, in each case determined on a country-by country basis. During the year ended May 31, 2016, we paid \$1.5 million of such milestones owed to Progenics as a result of the first dosing in a U.S. Phase 3 trial. To the extent that such milestone payments and royalties are not timely made, under the terms of the Progenics Purchase Agreement, Progenics has certain repurchase rights relating to the assets sold to us thereunder.

Payments to Progenics are in addition to payments due under a Development and License Agreement, dated April 30, 1999 (the “PDL License”), between Protein Design Labs (now AbbVie Inc.) (“PDL”) and Progenics, which was assigned to us in the Progenics Purchase Agreement, pursuant to which we have an exclusive worldwide license to develop, make, have made, import, use, sell, offer to sell or have sold products that incorporate the humanized form of the PRO 140 antibody developed by PDL under the agreement and must pay additional milestone payments and royalties as follows: (i) \$1,000,000 upon initiation of a Phase 3 clinical trial, which was paid during the fiscal year ended May 31, 2016; (ii) \$500,000 upon filing a Biologic License Application with the FDA or non-U.S. equivalent regulatory body; (iii) \$500,000 upon FDA approval or approval by another non-U.S. equivalent regulatory body; and (iv) royalties of up to 7.5% of net sales for the longer of 10 years and the date of expiration of the last to expire licensed patent. Additionally, the PDL License provides for an annual maintenance fee of \$150,000 until royalties paid exceed that amount. During the year ended May 31, 2016, we paid \$1 million of such milestones. To the extent that such milestone payments and royalties are not timely made, under the terms of the PDL License, AbbVie Inc. has certain termination rights relating to our license of PRO 140 thereunder. Pursuant to the foregoing Progenics Purchase Agreement and PDL License, we accrued an expense of \$2,500,000 as of May 31, 2015 in connection with the anticipated milestone payments related to the first patient dosing in a Phase 3 clinical trial, all of which was paid during the fiscal year ended May 31, 2016.

Effective July 29, 2015, we entered into a License Agreement (the “Lonza Agreement”) with Lonza Sales AG (“Lonza”) covering Lonza’s “system know-how” technology with respect to CytoDyn’s use of proprietary cell lines to manufacture new PRO 140 material. The Lonza Agreement required payment of £600,000 (approximately US\$915,000) by December 15, 2015, which was timely paid. In connection with this license agreement, we became the primary obligor of an additional £600,000, which was accrued in the first quarter of the fiscal year ended May 31, 2016 and was timely paid by June 30, 2016. Using the foreign currency exchange rates at the time of payment, our license fee payment approximated US\$807,000. Future annual license fees and royalty rate will vary depending on whether we manufacture PRO 140 ourselves, utilize the third-party licensor as a contract manufacturer, or utilize an independent party as a contract manufacturer. The licensor does not charge an annual license fee of £300,000 when it serves as the manufacturer. However, we currently use an independent party as a contract manufacturer. If that arrangement continues, the annual license fee of £300,000 would continue to apply, as well as a royalty of 1.0% of the net selling price upon commercialization of PRO 140 (excluding value added taxes and similar amounts).

[Table of Contents](#)

Patents, Proprietary Technology and Data Exclusivity

Protection of our intellectual property rights is important to our business. We may file patent applications in the U.S., Canada, China, Japan, European countries that are party to the European Patent Convention and other countries on a selective basis in order to protect inventions we consider to be important to the development of our business.

Generally, patents issued in the U.S. are effective for either (i) 20 years from the earliest asserted filing date, if the application was filed on or after June 8, 1995, or (ii) the longer of 17 years from the date of issue or 20 years from the earliest asserted filing date, if the application was filed prior to that date. A U.S. patent, to be selected by us upon receipt of FDA regulatory approval, may be subject to up to a five-year patent term extension in certain instances. While the duration of foreign patents varies in accordance with the provisions of applicable local law, most countries provide for a patent term of 20 years measured from the application filing date and some may also allow for patent term extension to compensate for regulatory approval delay. We pursue opportunities for seeking new meaningful patent protection on an ongoing basis. We currently anticipate that, absent patent term extension, patent protection relating to the PRO 140 antibody itself will start to expire in 2023, certain methods of using PRO 140 will start to expire in 2026, and certain formulations comprising PRO 140 will start to expire in 2031.

Patents do not enable us to preclude competitors from commercializing drugs in direct competition with our products that are not covered by granted and enforceable patent claims. Consequently, patents may not provide us with any meaningful competitive advantage. See related risk factors under the heading “Risk Factors” below. We may also rely on data exclusivity, trade secrets and proprietary know-how to develop and attempt to achieve a competitive position with our product candidates. We generally require our employees, consultants and partners who have access to our proprietary information to sign confidentiality agreements in an effort to protect our intellectual property.

Separate from and in addition to the patent rights noted above, we expect that PRO 140 will be subject to at least a 12-year data exclusivity period measured from the first date of FDA licensure, during which period no other applications referencing PRO 140 will be approved by FDA. Further, no other applications referencing PRO 140 will be accepted by FDA for a 4-year period measured from the first date of FDA licensure. Accordingly, this period of data exclusivity is expected to provide at least a 12-year term of protection against competing products shown to be biosimilar or interchangeable with PRO 140. Similar data exclusivity or data protection periods of up to about 5-years or more are provided in at least Australia, Canada, Europe, Japan, and New Zealand.

We note that data exclusivity is not an extension of patent rights, and it does not prevent the introduction of generic versions of the innovative drug during the data exclusivity period, as long as the marketing approval of the generic version does not use or rely upon the innovator’s test data. Patents and data exclusivity are different concepts, protect different subject matter, arise from different efforts, and have different legal effects over different time periods.

Information with respect to our current patent portfolio as of May 31, 2017, is set forth below.

Product Candidates	Number of Patents		Expiration Dates⁽¹⁾	Number of Patent Applications	
	U.S.	International		U.S.	International
PRO 140 ⁽²⁾	8	26	2017-2031	7	28

(1) Patent term extensions and pending patent applications may extend periods of patent protection.

(2) PRO 140 patents and applications relate to HIV-1 and GvHD treatments.

Research, development and commercialization of a biopharmaceutical product often require choosing between alternative development and optimization routes at various stages in the development process. Preferred routes depend upon current—and may be affected by subsequent—discoveries and test results, availability of financial resources, and other factors, and cannot be identified with certainty. There are numerous third-party patents in fields in which we work, and we may need to obtain licenses under patents of others in order to pursue a preferred development route of one or more of our product candidates. The need to obtain a license would decrease the ultimate value and profitability of an affected product. If we cannot negotiate such a license, we might have to pursue a less desirable development route or terminate the program altogether. See “Risk Factors” below.

[Table of Contents](#)

Government Regulation

Regulation of Health Care Industry

The health care industry is highly regulated, and state and federal health care laws and regulations are applicable to certain aspects of our business. For example, there are federal and state health care laws and regulations that apply to the conduct of clinical research, the business relationships between health care providers and suppliers and the privacy and security of health information.

Regulation of Products

The design, testing, manufacture, safety, effectiveness, labeling, storage, record keeping, approval, advertising and promotion of our products is regulated by numerous third parties, including the FDA, foreign governments, independent standards auditors and our customers.

In the United States, biological products such as PRO 140 have long been subject to regulation by various federal and state agencies, primarily as to product research, development, approval, safety, efficacy, manufacturing, advertising, labeling, import, export and safety reporting. The exercise of broad regulatory powers by the FDA through its Center for Biological Evaluation and Research and other functions continues to require from companies large amounts of testing and documentation prior to FDA approval of current and new biologic products and while they are marketed. When marketing commences, the FDA can ban certain biological products; detain or seize adulterated or misbranded biological products; order repair, replacement or refund of these products; and require notification of health professionals and others with regard to biological products that present unreasonable risks of substantial harm to the public health. The FDA may also enjoin and restrain certain violations of the Federal Food, Drug and Cosmetic Act, as amended, or the Public Health Service Act pertaining to certain biological products or initiate action for criminal prosecution of such violations.

The lengthy process of seeking drug approvals, and the subsequent compliance with applicable statutes and regulations, require the expenditure of substantial resources. Failure to comply with applicable regulations can result in refusal by the FDA to approve product license applications. The FDA also has the authority to revoke previously granted product approvals.

Pharmaceutical products such as PRO 140 may not be commercially marketed without prior approval from the FDA and comparable agencies in foreign countries. In the United States, the process for obtaining FDA approval for products like PRO 140 typically includes pre-clinical studies, the filing of an Investigational New Drug application, or IND, human clinical trials and filing and approval of either a New Drug Application, or NDA, for chemical pharmaceutical products, or a BLA (biologics license application) for biological pharmaceutical products, such as PRO 140. The results of pre-clinical testing, which include laboratory evaluation of product chemistry and formulation, animal studies to assess the potential safety and efficacy of the product and its formulations, details concerning the drug manufacturing process and its controls, and proposed clinical trial protocols and other information must be submitted to the FDA as part of an IND that must be reviewed and become effective before clinical testing can begin. The study protocol and informed consent information for patients in clinical trials must also be submitted to an independent institutional review board, or IRB, for approval. Once a sponsor submits an IND, the sponsor must wait 30 calendar days before initiating any clinical trials, during which time the FDA has an opportunity to review the IND and raise concerns or questions relating to the proposed clinical trials outlined in the IND. If the FDA has comments or questions, they must be resolved to the satisfaction of the FDA before clinical trials can begin. In addition, protocols for new clinical trials must be submitted to the FDA and the FDA, an IRB or we may, at any time, impose a clinical hold on ongoing clinical trials. If the FDA imposes a clinical hold, clinical trials cannot commence or recommence without FDA authorization and then only under terms authorized by the FDA. Our non-clinical and clinical studies must conform to the FDA's Good Laboratory Practice, or GLP, and Good Clinical Practice, or GCP, requirements, which are designed to ensure the quality and integrity of submitted data and protect the rights and well-being of study patients. Information for certain clinical trials also must be publicly disclosed within certain time limits on the clinical trial registry and results databank maintained by the National Institutes of Health, or NIH.

The results of the pre-clinical and clinical testing, chemistry, manufacturing and control information and proposed labeling are then submitted to the FDA in the form of either an NDA or BLA for review and potential approval to commence commercial sales. Unless an exemption applies, a substantial user fee must accompany the application. In responding to an NDA or BLA, the FDA may grant marketing approval, request additional information in a complete response letter, or deny the approval if it determines that the NDA or BLA does not provide an adequate basis for approval. A complete response letter generally contains a statement of specific conditions that must be met in order to secure final approval of an NDA or BLA and may require additional testing. If and when those conditions have been met to the FDA's satisfaction, the FDA will typically issue an approval letter, which authorizes commercial marketing of the product with specific prescribing information for specific indications, and sometimes with specified post-marketing commitments. Any approval required from the FDA might not be obtained on a timely basis, if at all.

Among the conditions for an NDA or BLA approval is the requirement that the manufacturing operations conform on an ongoing basis with current Good Manufacturing Practices, or cGMPs. In complying with cGMPs, we must expend time, money and

Table of Contents

effort in the areas of training, production and quality control within our own organization and at any contract manufacturing facilities that we use. A successful inspection of the manufacturing facility by the FDA is a prerequisite for final approval of a biological product like PRO140. Following approval of the NDA or BLA, we and our third-party manufacturers remain subject to periodic inspections by the FDA. We also may face similar inspections coordinated by the EMEA, by inspectors from particular E.U. member countries that conduct inspections on behalf of the European Union and from other foreign regulatory authorities. Any determination by the FDA or other regulatory authorities of manufacturing or other deficiencies could materially adversely affect our business.

Regulatory requirements and approval processes in E.U. countries are similar in principle to those in the United States and can be at least as costly and uncertain. The European Union has established a unified centralized filing and approval system administered by the Committee for Medicinal Products for Human Use designed to reduce the administrative burden of processing applications for pharmaceutical products derived from new technologies. In addition to obtaining regulatory approval of products, it is generally necessary to obtain regulatory approval of the facility in which the product will be manufactured.

We use and plan to continue to use third-party manufacturers to produce our products in clinical and commercial quantities. Future FDA inspections may identify compliance issues at the facilities of our contract manufacturers that may disrupt production or distribution, or require substantial resources to correct. In addition, discovery of problems with a product, including new safety risks, or the failure to comply with requirements may result in restrictions on a product, manufacturer or holder of an approved NDA or BLA, including withdrawal or recall of the product from the market or other voluntary or FDA-initiated action that could delay further marketing. Newly discovered or developed safety or efficacy data may require changes to an approved product's approved labeling, including the addition of new warnings and contraindications, the imposition of additional mandatory post-market studies or clinical trials, or the imposition of or revisions to a REMS program, including distribution and/or use restrictions.

Once a BLA is approved, a product will be subject to certain post-approval requirements, including requirements for adverse event reporting and submission of periodic reports to the FDA, recordkeeping, product sampling and distribution, and, as discussed above, may be subject to mandatory post-market study and REMS requirements. In addition, the FDA strictly regulates the promotional claims that may be made about prescription drug products and biologics. In particular, a drug or biologic may not be promoted for uses that are not approved by the FDA as reflected in the product's approved labeling. The FDA also requires substantiation of any claims of superiority of one product over another, including the requirement that such claims be proven by adequate and well-controlled head-to-head clinical trials. The FDA also requires all promotional materials that discuss the use or effectiveness of a prescription drug or biologic to disclose in a balanced manner the risks and safety profile of the product.

The U.S. Department of Justice, or DOJ, the Office of the Inspector General of the Department of Health and Human Services, or OIG, the FDA and other agencies actively enforce the laws and regulations prohibiting the promotion of off label uses, and a company that is found to have improperly promoted off-label uses may be subject to significant liability. In addition, our relationships with doctors and other healthcare professionals are regulated by the DOJ, the OIG and other law enforcement and regulatory agencies under the federal Anti-Kickback Statute, the False Claims Act, the Sunshine Act, and similar and related federal and state laws. Violations of these laws can result in significant liability, criminal penalties and being barred from government reimbursement programs such as Medicare and Medicaid.

State Governments

Most states in which we operate have regulations that parallel federal regulations. Most states conduct periodic unannounced inspections and require licensing under such state's procedures. Our research and development activities and the manufacture and marketing of our products are and will be subject to rigorous regulations relating to product safety and efficacy by numerous governmental authorities in the United States and other countries.

Other Laws and Regulations

We are subject to various laws and regulations relating to safe working conditions, clinical, laboratory and manufacturing practices, the experimental use of animals and the use and disposal of hazardous or potentially hazardous substances, including radioactive compounds and infectious disease agents, used in connection with our research. The extent of government regulation applying to our business that might result from any legislative or administrative action cannot be accurately predicted.

[Table of Contents](#)

Environmental

We are subject to a variety of federal, state and local environmental protection measures. We believe that our operations comply in all material respects with applicable environmental laws and regulations. Our compliance with these regulations did not have during the past year and is not expected to have a material effect upon our capital expenditures, cash flows, earnings or competitive position.

Registrational Clinical Trials Process

Described below is the traditional registrational drug development track. Our current business strategy is to focus primarily on our PRO 140 Phase 2b/3 pivotal and investigative trials, to manage our Phase 2 trial for GvHD and to continue to explore other immunologic indications for PRO 140, as described above.

Phase 1

Phase 1 includes the initial introduction of an investigational new drug or biologic into humans. These studies are closely monitored and may be conducted in patients, but are usually conducted in a small number of healthy volunteer patients. These studies are designed to determine the metabolic and pharmacologic actions of the investigational product in humans, the side effects associated with increasing doses, and, if possible, to gain early evidence on effectiveness. During Phase 1, sufficient information about the investigational product's pharmacokinetics and pharmacological effects are obtained to permit the design of well-controlled, scientifically valid, Phase 2 studies. Phase 1 studies of PRO 140 have been conducted and completed by or on behalf of Progenics by certain principal investigators prior to our acquisition of PRO 140.

Phase 2

Phase 2 includes the early controlled clinical studies conducted to obtain some preliminary data on the effectiveness of the drug for a particular indication or indications in patients with the disease or condition. This phase of testing also helps determine the common short-term side effects and risks associated with the drug. Phase 2 studies are typically well-controlled, closely monitored, and conducted in a relatively small number of patients, often involving several hundred people. In some cases, depending upon the need for a new drug, a particular drug candidate may be licensed for sale in interstate commerce after a "pivotal" Phase 2 trial.

Phase 2 is often broken into Phase 2a, which can be used to refer to "pilot trials," or more limited trials evaluating exposure response in patients, and Phase 2b trials that are designed to evaluate dosing efficacy and ranges.

Phase 3

Phase 3 studies are expanded controlled clinical studies. They are performed after preliminary evidence suggesting effectiveness of the drug has been obtained in Phase 2, and are intended to gather the additional information about effectiveness and safety that is needed to evaluate the overall benefit/risk relationship of the drug. Phase 3 studies also provide an adequate basis for extrapolating the results to the general population and transmitting that information in the physician labeling. Phase 3 studies usually involve significantly larger groups of patients, and considerable additional expense. We were required to pay significant fees to third parties upon the first patient dosing in a Phase 3 trial of PRO 140, and we may be required to make additional fee payments to third parties upon the completion of additional milestones. See the discussion under the subheading "PRO 140 Acquisition and Licensing Arrangements" above.

Competition

The pharmaceutical and biotechnology industries are characterized by rapidly evolving technology and intense competition. Our development efforts may compete with more established biotechnology companies that have significantly greater financial and managerial resources than we do.

Advancing PRO 140 to commercialization is our highest priority. PRO 140 blocks a cell receptor called CCR5, which is the entry point for most strains of HIV virus. Pfizer's Maraviroc (Selzentry®) is the only currently approved CCR5 blocking agent. Maraviroc, like all other HIV approved drugs, must be taken daily and are believed to have significant side effects. For these reasons, we believe that our lead product, PRO 140, a monoclonal antibody, may prove to be useful in patients that cannot tolerate existing HIV therapies or desire a respite from those therapies. Nonetheless, manufacturers of current therapies, such as Pfizer, Gilead Sciences, Merck, Bristol-Myers Squibb and ViiV Healthcare, are very large, multi-national corporations with significant resources. We expect that these companies will compete fiercely to defend and expand their market share.

To construct a HAART regimen, three drugs from two classes of drugs are typically needed. Currently there are only five different classes of drugs. Each class of drugs has many drugs available in that class except the entry inhibitor (EI) class. The only drug in EI class approved by the FDA is Maraviroc, a drug taken orally twice a day. If approved, we believe that PRO 140 will be the only approved drug outside of the main four classes of drugs approved for HIV since 2007.

Table of Contents

The only other monoclonal antibody in clinical development for HIV, that we are aware of, is TMB-335 referred to as ibalizumab being developed by TiaMed Biologics. Ibalizumab targets the CD4 receptor on T-cells which is one of the two co-receptors required for HIV entry into T-cells. However, CD4 is the T-cell receptor for recognizing targets of the immune response and critical for immunologic responses. We believe that targeting CD4 will interfere with immune function to an undesirable extent and if developed further will vastly limit the potential of ibalizumab as an effective anti-HIV therapy.

Our potential competitors include entities that develop and produce therapeutic agents. These include numerous public and private academic and research organizations and pharmaceutical and biotechnology companies pursuing production of, among other things, biologics from cell cultures, genetically engineered drugs and natural and chemically synthesized drugs. Our competitors may succeed in developing potential drugs or processes that are more effective or less costly than any that may be developed by us or that gain regulatory approval prior to our potential drug candidates. Worldwide, there are many antiviral drugs for treating HIV. In seeking to manufacture, distribute and market the potential drugs we hope to have approved, we face competition from established pharmaceutical companies.. Many of these potential competitors have substantially greater capital resources, management expertise, research and development capabilities, manufacturing and marketing resources and experience than we do.

We also expect that the number of our competitors and potential competitors will increase as more potential drugs receive commercial marketing approvals from the FDA or analogous foreign regulatory agencies. Any of these competitors may be more successful than us in manufacturing, marketing and distributing HIV treatments.

Manufacturing

We do not own or operate manufacturing facilities for the production of PRO 140. We expect to depend on third-party manufacturing organizations and suppliers for all of our clinical trial quantities of PRO 140, in addition to previously manufactured supplies of PRO 140. We continue to explore alternative manufacturing sources, in order to ensure that we have access to sufficient manufacturing capacity in order to meet potential demand for PRO 140 in a cost-efficient manner.

We have engaged a contract manufacturing organization (“CMO”) to initiate the scale-up to commercial batch quantities of product, and develop the necessary controls and specifications to manufacture product on a consistent and reproducible manner. We have also contracted with a suitable CMO who will fill, label, and package product into the final commercial package for commercial sale. In order to commercialize product, this scaled-up material will need to be validated under best practices, and demonstrated to meet approved specifications on an ongoing basis. GMP material will be produced, as needed, to support clinical trials for all therapeutic indications and until commercial product is approved by the FDA. We will rely on CMO’s for all of our developmental and commercial needs.

Research and Development Costs

Our research and development expenses totaled approximately \$20.2 million and \$13.7 million for the fiscal years ended May 31, 2017 and May 31, 2016, respectively. We expect our research and development expenses to continue to increase in future periods as the activity within our clinical trials expands and our biologics manufacturing processes and related regulatory compliance activities increase.

Employees and Consultants

We have six full-time employees, as well as several independent consultants assisting us with our clinical trials of PRO 140 and manufacturing activities. There can be no assurances, however, that we will be able to identify or hire and retain additional employees or consultants on acceptable terms in the future.

Item 1A. Risk Factors.

The risks enumerated below are not the only risks we face, and the listed risk factors are not intended to be an all-inclusive discussion of all of the potential risks relating to our business. Any of the risk factors described below could significantly and adversely affect our business, prospects, financial condition and results of operations. Additional risks and uncertainties not currently known or that are currently considered to be immaterial may also materially and adversely affect our business.

Risks Related to Our Business

We are a biotechnology company and have a history of significant operating losses; we expect to continue to incur operating losses, and we may never achieve or maintain profitability.

We have not generated any revenue from product sales, licensing, or other potential sales to date. Since our inception, we have incurred operating losses in each year due to costs incurred in connection with research and development activities and general and administrative expenses associated with our operations. Our current drug candidate is in the later stages of clinical trials, and we expect to continue with significant additional clinical trial activities and the ongoing preparation of a BLA for an anticipated filing in 2018, before we can seek the regulatory approvals necessary to begin commercial sales. During the fiscal years ended May 31, 2017 and 2016, we incurred net losses of approximately \$25.8 million and \$25.7 million, respectively, and at May 31, 2017, we had an accumulated deficit of approximately \$123.0 million and a stockholders' deficit of \$1.1 million. We expect to incur losses for the foreseeable future as we continue development of, and seek regulatory approvals for, our drug candidate and commercialize any approved product usages. If our current drug candidate fails to gain regulatory approval, or if it or other candidates we own do not achieve approval and market acceptance, we will not be able to generate any revenue, or explore other opportunities to enhance stockholder value, such as through a sale. If we fail to generate revenue and eventually become and remain profitable, or if we are unable to fund our continuing losses, our shareholders could lose all or part of their investments.

We will need substantial additional funding for our clinical trials and to operate our business, and such funding may not be available or, if it is available, such financing is likely to substantially dilute our existing stockholders.

The discovery, development, and commercialization of new treatments, such as our PRO 140 product candidate, entail significant costs. We expect the total estimated expenses for our pivotal Phase 2b/3 combination therapy trial may range from approximately \$8 million to \$9 million and the total estimated expenses for our Phase 2b/3 monotherapy trial may range from \$15 million to \$17 million. Our total estimated expenses for the Phase 2 GvHD trial are approximately \$4 million. In addition, to the extent further development and clinical trials of PRO 140 and other products continue to appear promising and we elect to fund its development and commercialization, we will need to raise substantial additional capital, or enter into strategic partnerships, to enable us to:

- fund clinical trials and seek regulatory approvals;
- access manufacturing and commercialization capabilities;
- pay required license fees, milestone payments, and maintenance fees to Progenics (from which we acquired our PRO 140 product candidate), Lonza and AbbVie Inc. (formerly PDL);
- develop, test, and, if approved, market our product candidate;
- acquire or license additional internal systems and other infrastructure;
- hire and support additional management and scientific personnel; and
- explore additional indications for PRO 140, such as in the area of immunology.

Until we can generate a sufficient amount of product revenue to finance our cash requirements, which we may never achieve, we expect to finance our cash needs primarily through public or private equity offerings, debt financings or through strategic alliances. We cannot be certain that additional funding will be available on acceptable terms or at all. If we are not able to secure additional funding when needed, we may have to delay, reduce the scope of, or eliminate one or more of our clinical trials, collaborative development programs or future commercialization initiatives. In addition, any additional funding that we do obtain will dilute the ownership held by our existing security holders. The amount of this dilution may be substantially increased if the trading price of our common stock is lower at the time of any financing. Regardless, the economic dilution to stockholders will be significant if our stock price does not increase significantly, or if the effective price of any sale is below the price paid by a particular shareholder. Any debt financing could involve substantial restrictions on activities and creditors could seek a pledge of some or all of our assets. We have not identified potential sources for the additional financing that we will require, and we do not have commitments from any third parties to provide any future financing. If we fail to obtain additional funding as needed, we may be forced to cease or scale back operations, and our results, financial condition and stock price would be adversely affected.

Table of Contents

The amount of financing we require will depend on a number of factors, many of which are beyond our control. Our results of operations, financial condition and stock price are likely to be adversely affected if our funding requirements increase or are otherwise greater than we expect.

Our future funding requirements will depend on many factors, including, but not limited to:

- our stock price, which, if it declines, would serve as a disincentive to holders of our convertible promissory notes, totaling approximately \$1.1 million in face amount of notes at May 31, 2017 (and approximately \$5.0 million at July 10, 2017), to exercise their conversion rights, thereby increasing the probability that repayment of principal plus accrued interest will be required or that the terms of such notes will need to be renegotiated in fiscal 2018;
- the costs of our two Phase 2b/3 clinical trials for PRO 140 for HIV-related treatments, our Phase 2 clinical trial for GvHD and other clinical trials and development activities conducted by us directly, and our ability to successfully conclude the studies and achieve favorable results;
- our ability to attract strategic partners to pay for or share costs related to our product development efforts;
- the costs and timing of seeking and obtaining regulatory approvals and making related milestone payments due to Progenics, Lonza and AbbVie Inc.;
- the costs of filing, prosecuting, maintaining and enforcing patents and other intellectual property rights and defending against potential claims of infringement;
- decisions to hire additional scientific or administrative personnel or consultants;
- our ability to manage administrative and other costs of our operations; and
- the presence or absence of adverse developments in our research program.

If any of these factors cause our funding needs to be greater than expected, our operations, financial condition, ability to continue operations and stock price may be adversely affected.

Our future cash requirements may differ significantly from our current estimates.

Our cash requirements may differ significantly from our estimates from time to time, depending on a number of factors, including:

- the costs and results of our two Phase 2b/3 clinical trials for HIV-related treatments, our Phase 2 clinical trial for GvHD, and other clinical trials we are undertaking or may in the future pursue with PRO 140;
- the time and costs involved in our CMC activities;
- the time and costs involved in our BLA preparation activities;
- the time and costs involved in obtaining regulatory approvals;
- whether our outstanding convertible notes are converted into equity or we receive additional cash upon the exercise of our outstanding common stock warrants;
- whether we receive additional cash upon the exercise of our outstanding options and warrants for common stock;
- whether we are able to obtain funding under future licensing agreements, strategic partnerships, or other collaborative relationships, if any;
- the costs of compliance with laws, regulations, or judicial decisions applicable to us; and
- the costs of general and administrative infrastructure required to manage our business and protect corporate assets and stockholder interests.

If we fail to raise additional funds on a timely basis we will need to scale back our business plans, which would adversely affect our business, financial condition, and stock price, and we may even be forced to discontinue our operations and liquidate our assets.

We have significant debt as a result of recent financings and may incur more in the near future, all of which is scheduled to mature on January 31, 2018. Our substantial indebtedness could adversely affect our business, financial condition and results of operations.

Our level of debt, which includes convertible promissory notes totaling approximately \$1.1 million in face amount at May 31, 2017 (and approximately \$5.0 million at July 10, 2017), could have significant consequences for our future operations, including, among others:

- making it more difficult for us to meet our other obligations or raise additional capital;

Table of Contents

- resulting in an event of default, if we fail to comply with our payment obligations;
- reducing the availability of any financing proceeds to fund operating expenses, other debt repayment, and working capital requirements; and
- limiting our financial flexibility and hindering our ability to obtain additional financing.

Any of the above-listed factors could have a material adverse effect on our business, financial condition, results of operations, and ability to continue as a going concern.

Our ability to make interest and principal payments on our outstanding promissory notes will depend entirely on our ability to raise sufficient funds to satisfy our debt service obligations and our note holders' willingness to convert their notes to common shares, which will likely depend on our stock price from time to time. If note holders do not elect to convert, it is likely that we will need to borrow or raise additional funds to make required principal and interest payments, as such payments become due and payable, or undertake alternative financing plans, such as refinancing or restructuring our debt, selling additional shares of capital stock, selling assets or reducing or delaying investments in our business. Any inability to obtain additional funds or alternative financing on acceptable terms would likely cause us to be unable to meet our payment obligations, which could have a material adverse effect on our business, financial condition and results of operations and our ability to continue to operate.

Certain agreements and related license agreements require us to make significant milestone, royalty, and other payments, which will require additional financing and, in the event we do commercialize our PRO 140 product, decrease the revenues we may ultimately receive on sales. To the extent that such milestone, royalty and other payments are not timely made, the counterparties to such agreements in certain cases have repurchase and termination rights thereunder with respect to PRO 140.

Under the Progenics Purchase Agreement, the PDL License and the Lonza Agreement, we must pay to Progenics, AbbVie Inc. (formerly PDL) and Lonza significant milestone payments, license fees for "system know-how" technology and royalties. In order to make the various milestone and license payments that are required, we will need to raise additional funds. In addition, our royalty obligations will reduce the economic benefits to us of any future sales if we do receive regulatory approval and seek to commercialize PRO 140. To the extent that such milestone payments and royalties are not timely made, under each their respective agreements, Progenics has certain repurchase rights relating to the assets sold to us, and AbbVie Inc. has certain termination rights relating to our license of PRO 140 under the PDL License. For more information, see "Business—PRO 140 Acquisition and Licenses," as well as the Progenics Purchase Agreement, the PDL License and the Lonza Agreement, each of which are filed, respectively, as Exhibits 2.1, 10.15 and 10.21 to this Form 10-K.

Clinical trials are expensive, time-consuming and subject to delay.

Clinical trials are subject to rigorous regulatory requirements and are expensive and time-consuming to design, implement and manage. The length of time and number of trial sites and patients required for clinical trials vary substantially based on the type, complexity, novelty, intended use and any safety concerns relating to a drug candidate. The commencement and completion of clinical trials could be delayed or prevented by many factors, including, but not limited to:

- our ability to obtain regulatory or other approvals to commence and conduct clinical trials in the manner we or our partners consider appropriate for timely development;
- our ability to identify and reach agreement on acceptable terms with prospective clinical trial sites and entities involved in the conduct of our clinical trials;
- slower than expected rates of patient recruitment and enrollment which has occurred in connection with certain of our trials, including as a result of competition with other clinical trials for patients, limited numbers of patients that meet the enrollment criteria, or the introduction of alternative therapies or drugs by others;
- periodic amendments to clinical trial protocols to address certain variables which arise during the course of a trial must be negotiated with and approved by the FDA;
- unforeseen issues with our relationship with our contract clinical management services provider;
- delays in paying third-party vendors of biopharmaceutical services;
- lack of effectiveness of our drug candidates during clinical trials; or

Table of Contents

- unforeseen safety issues.

Testing of our primary product candidate, PRO 140, is ongoing and our clinical trial results may not ultimately confirm initial positive indications, which would materially and adversely affect our business, financial condition and stock price.

Our efforts to commercialize PRO 140 are dependent on obtaining FDA or other non-U.S. regulatory agency approval of its use in HIV-infected patients. Although test results have been positive thus far, the process of obtaining approval of a drug product for use in humans is extremely lengthy and time-consuming, and numerous factors may prevent our successful development of PRO 140, including negative results in future clinical trials, the development by competitors of other products with equal or better results, or inability to obtain sufficient additional funding to continue to pursue development. Failure to successfully develop PRO 140 would have a material and adverse effect on our business, financial condition and stock price, and would threaten our ability to continue to operate our business, particularly since PRO 140 is the only product candidate we are actively pursuing at this time.

Although PRO 140 has been designated for fast track approval by the FDA, our ability to obtain accelerated approval may be lost.

The FDA designated PRO 140 for fast track consideration in 2006. The letter ascribing this designation stated that, if the clinical development program pursued for PRO 140 did not continue to meet the criteria for fast track designation, the Investigational New Drug (“IND”) application would not be reviewed under the fast track program. There is no assurance that the FDA will ultimately consider PRO 140 for approval on an accelerated basis. Failure to maintain eligibility for fast track review will likely result in requirements for longer or additional clinical trials and a slower approval process, resulting in additional costs and, therefore, additional capital, which will likely result in further delay in the potential realization of revenues from commercialization of PRO 140.

Although we have applied with the FDA for breakthrough therapy designation for PRO 140, for certain HIV-related treatments, such a designation may not lead to a faster development or regulatory review or approval process, and it may not increase the likelihood that PRO 140 will receive marketing approval in the United States.

We applied with the FDA for breakthrough therapy designation for PRO 140, for certain HIV-related treatments. The FDA, in its comments to us, stated that we had insufficient data related to the population for which we were requesting such designation and we currently plan to submit additional data to the FDA as it becomes available to us from our Phase 2b/3 combination pivotal trial. A breakthrough therapy is defined as a product that is intended, alone or in combination with one or more other drugs, to treat a serious or life-threatening disease or condition, and for which preliminary clinical evidence indicates substantial improvement over existing therapies on one or more clinically significant endpoints, such as substantial treatment effects observed early in clinical development. For drugs and biologics that have been designated as breakthrough therapies, interaction and communication between the FDA and the applicant can help to identify the most efficient path for clinical development while minimizing the number of patients placed in ineffective control regimens. Products designated as breakthrough therapies by the FDA may, in some cases, also be eligible for accelerated approval.

Designation as a breakthrough therapy is within the discretion of the FDA. Accordingly, even if we believe PRO 140 meets the criteria for designation as a breakthrough therapy, the FDA may disagree. In any event, the receipt of a breakthrough therapy designation for PRO 140 may not result in a faster development process, review or approval compared to products considered for approval under conventional FDA procedures and, in any event, does not assure ultimate approval by the FDA. In addition, even if PRO 140 does qualify as a breakthrough therapy, the FDA may later decide that PRO 140 no longer meet the conditions for qualification or decide that the time period for FDA review or approval will not be shortened. The foregoing considerations could result in additional costs and/or delay in the potential realization of revenues from commercialization of PRO 140.

Although we have applied with the FDA for orphan drug designation for PRO 140, for certain GvHD-related treatments, we may not be able to obtain or maintain orphan drug designation or orphan drug exclusivity for PRO 140.

We have applied with the FDA for designation of PRO 140 as an “orphan” drug, in connection with our Phase 2 trial for GvHD. The FDA, in its comments, requested certain additional data from specific animal studies, which we have recently submitted. Under the Orphan Drug Act, the FDA may designate a drug for relatively small patient populations as an “orphan” drug, if it is intended to treat a rare disease or condition, which is generally defined as a patient population of fewer than 200,000 individuals annually in the United States.

Even if we obtain orphan drug designation for PRO 140, we may not be able to obtain orphan drug exclusivity for PRO 140. Generally, a product with orphan drug designation only becomes entitled to orphan drug exclusivity if it receives the first marketing approval for the indication for which it has such designation, in which case the FDA will be precluded from approving another marketing application for the same drug for that indication for the applicable exclusivity period. The applicable exclusivity period is seven years in the United States. Orphan drug exclusivity may be lost if the FDA determines that the request for designation was materially defective or if the manufacturer is unable to assure sufficient quantity of the drug to meet the needs of patients with the rare disease or condition.

Table of Contents

Even if we obtain orphan drug exclusivity for PRO 140, that exclusivity may not effectively protect the product from competition, because FDA has taken the position that, under certain circumstances, another drug with the same active moiety can be approved for the same condition. Specifically, the FDA's regulations provide that it can approve another drug with the same active moiety for the same condition, if the FDA concludes that the later drug is clinically superior in that it is shown to be safer, more effective or makes a major contribution to patient care.

Any failure to attract and retain skilled directors, executives, employees and consultants could impair our drug development and commercialization activities.

Our business depends on the skills, performance, and dedication of our directors, executive officers and key scientific and technical advisors. All of our current scientific advisors are independent contractors and are either self-employed or employed by other organizations. As a result, they may have conflicts of interest or other commitments, such as consulting or advisory contracts with other organizations, which may affect their ability to provide services to us in a timely manner. We may need to recruit additional directors, executive management employees, and advisers, particularly scientific and technical personnel, which will require additional financial resources. In addition, there is currently intense competition for skilled directors, executives and employees with relevant scientific and technical expertise, and this competition is likely to continue. If we are unable to attract and retain persons with sufficient scientific, technical and managerial experience, we may be forced to limit or delay our product development activities or may experience difficulties in successfully conducting our business, which would adversely affect our operations and financial condition.

We do not have internal research and development personnel, making us dependent on consulting relationships and strategic alliances with industry partners.

We currently have no research and development staff or coordinators. We rely and intend to continue to rely on third parties for many of these functions. We engaged Amarex Clinical Research, LLC ("Amarex"), a full service clinical research organization, to manage our clinical trials. As a result, we will be dependent on consultants and strategic partners in our development and commercialization activities, and it may be administratively challenging to monitor and coordinate these relationships. If we do not appropriately manage our relationships with third parties, we may not be able to successfully manage development, testing, and approval of our PRO 140 drug candidate or other products or commercialize any products that are approved, which would have a material and adverse effect on our business, financial condition and stock price.

We will need to outsource and rely on third parties for the clinical development and manufacture, sales and marketing of product candidates, and our future success will be dependent on the timeliness and effectiveness of the efforts of these third parties.

We are dependent on third parties for important aspects of our product development strategy. We do not have the required financial and human resources to carry out independently the pre-clinical and clinical development for our product candidate, and do not have the capability or resources to manufacture, market or sell our current product candidate. As a result, we contract with and rely on third parties for important functions, including testing, storing, and manufacturing our products and managing and conducting clinical trials from which we may obtain a benefit. We have recently entered into several agreements with third parties for such services. If problems develop in our relationships with third parties, or if such parties fail to perform as expected, it could lead to delays or lack of progress, significant cost increases, changes in our strategies, and even failure of our product initiatives.

We may not be able to identify, negotiate and maintain the strategic alliances necessary to develop and commercialize our products and technologies, and we will be dependent on our corporate partners if we do.

We may seek to enter into a strategic alliance with a pharmaceutical company for the further development and approval of one or more of our product candidates. Strategic alliances potentially provide us with additional funds, expertise, access, and other resources in exchange for exclusive or non-exclusive licenses or other rights to the technologies and products that we are currently developing or may explore in the future. We cannot give any assurance that we will be able to enter into strategic relationships with a pharmaceutical company or others in the near future or at all, or maintain our current relationships. In addition, we cannot assure you that any agreements we do reach will achieve our goals or be on terms that prove to be economically beneficial to us. When we do enter into strategic or contractual relationships, we become dependent on the successful performance of our partners or counterparties. If they fail to perform as expected, such failure could adversely affect our financial condition, lead to increases in our capital needs, or hinder or delay our development efforts.

Table of Contents

Clinical trials may fail to demonstrate the desired safety and efficacy of our product candidates, which could prevent or significantly delay completion of clinical development and regulatory approval.

Prior to receiving approval to commercialize PRO 140 or any other product candidates, we must adequately demonstrate to the FDA and any foreign regulatory authorities in jurisdictions in which we seek approval that it or any other product candidate is sufficiently safe and effective with substantial evidence from well-controlled clinical trials. In clinical trials, we will need to demonstrate efficacy for the treatment of specific indications and monitor safety throughout the clinical development process and following approval. If clinical work by us or others leads to undesirable adverse effects in patients, it could delay or prevent us from furthering the regulatory approval process or cause us to cease clinical trials with respect to any drug candidate. If our current or future preclinical studies or clinical trials are unsuccessful, our business will be significantly harmed and our stock price would be negatively affected.

Our product candidates are subject to the risks of failure inherent in drug-related product development. Preclinical studies may not yield results that adequately support our regulatory applications. Even if these applications are filed with respect to our product candidates, the results of preclinical studies do not necessarily predict the results of clinical trials. In addition, even if we believe the data collected from clinical trials of our product candidates are promising, these data may not be sufficient to support approval by the FDA or foreign regulatory authorities. If regulatory authorities do not approve our products, or if we fail to maintain regulatory compliance, we would be unable to commercialize our products, and our business, results of operations and financial condition would be harmed.

Our competitors may develop drugs that are more effective, safer and less expensive than ours.

We are engaged in the HIV treatment sector of the biopharmaceutical industry, which is intensely competitive. There are current treatments that are quite effective at controlling the effects of HIV, and we expect that new developments by other companies and academic institutions in the areas of HIV treatment will continue. If approved for marketing by the FDA, depending on the approved clinical indication, our product candidates may be competing with existing and future antiviral treatments for HIV.

Our competitors may:

- develop drug candidates and market drugs that increase the levels of safety or efficacy that our product candidates will need to show in order to obtain regulatory approval;
- develop drug candidates and market drugs that are less expensive or more effective than ours;
- commercialize competing drugs before we or our partners can launch any products we are working to develop;
- hold or obtain proprietary rights that could prevent us from commercializing our products; or
- introduce therapies or market drugs that render our potential product candidates obsolete.

We expect to compete against large pharmaceutical and biotechnology companies and smaller companies that are collaborating with larger pharmaceutical companies, new companies, academic institutions, government agencies and other public and private research organizations. These competitors, in nearly all cases, operate research and development programs that have substantially greater financial resources than we do. Our competitors also have significantly greater experience in:

- developing drug and other product candidates;
- undertaking preclinical testing and clinical trials;
- building relationships with key customers and opinion-leading physicians;
- obtaining and maintaining FDA and other regulatory approvals;
- formulating and manufacturing drugs;
- launching, marketing and selling drugs; and
- providing management oversight for all of the above-listed operational functions.

If we fail to achieve superiority over other existing or newly developed treatments, we may be unable to obtain regulatory approval. If our competitors market drugs that are less expensive, safer or more effective than our potential product candidates, or that gain or maintain greater market acceptance, we may not be able to compete effectively.

[Table of Contents](#)

We expect to rely on third party manufacturers and will be dependent on their quality and effectiveness.

Our primary product candidate and potential drug candidates require precise, high-quality manufacturing. The failure to achieve and maintain high manufacturing standards, including failure to detect or control unexpected events or unanticipated manufacturing errors or the frequent occurrence of such errors, could result in patient injury or death, discontinuance or delay of ongoing or planned clinical trials, delays or failures in product testing or delivery, cost overruns, product recalls or withdrawals and other problems that could seriously hurt our business. Contract manufacturers of biopharmaceutical drugs can encounter difficulties involving manufacturing processes, facilities, operations, production yields, quality control, compliance and shortages of qualified personnel. These manufacturers are subject to stringent regulatory requirements, including the FDA's current good-manufacturing-practices regulations and similar foreign laws and standards. If our contract manufacturers fail to maintain ongoing compliance at any time, the production of our product candidates could be interrupted, resulting in delays or discontinuance of our clinical trials, additional costs and loss of potential revenues.

We may not be able to successfully manufacture our product candidates in sufficient quantities for late-stage clinical development, and scale-up manufacturing processes for commercial production, which would delay or prevent us from developing our product candidates and commercializing approved products, if any.

In order to conduct larger-scale or late-stage clinical trials, we need to maintain sufficient product inventory. A failure to manufacture a product candidate in a timely manner or unexpected failure of product in inventory due to unacceptable test results may lead to significant delays in clinical development. For commercialization of any resulting product, if that candidate is approved for sale, we will need to manufacture it in larger quantities while preserving its quality. Our contract manufacturing organization may not be able to successfully increase the manufacturing capacity for any of our product candidates in a timely or cost-effective manner, or at all. In addition, quality issues may arise during development, scale-up and validation of commercial manufacturing processes. If we are unable to successfully develop robust, commercial-scale processes to manufacture our product candidates in sufficient quality and quantity, the regulatory approval or commercial launch of such product candidates may be delayed, which could significantly harm our business.

We may be subject to potential product liability and other claims that could materially affect our business and financial condition.

The development and sale of medical products exposes us to the risk of significant damages from product liability and other claims, and the use of our product candidates in clinical trials may result in adverse effects. We cannot predict all the possible harms or adverse effects that may result. We maintain a modest amount of product liability insurance to provide some protections from claims. Nonetheless, we may not have sufficient resources to pay for any liabilities resulting from a personal injury or other claim, even if it is partially covered by insurance. In addition to the possibility of direct claims, we may be required to indemnify third parties against damages and other liabilities arising out of our development, commercialization and other business activities, which would increase our liability exposure. If third parties that have agreed to indemnify us fail to do so, we may be held responsible for those damages and other liabilities as well.

Legislative, regulatory, or medical cost reimbursement changes may adversely affect our business.

New laws, regulations and judicial decisions, or new interpretations of existing laws, regulations and decisions, that relate to the health care system in the U.S. and in other jurisdictions may change the nature of and regulatory requirements relating to drug discovery, clinical testing and regulatory approvals, limit or eliminate payments for medical procedures and treatments, or subject the pricing of pharmaceuticals to government control. Outside the U.S., and particularly in the European Union, the pricing of prescription pharmaceuticals is subject to governmental control. In addition, third-party payers in the U.S. are increasingly attempting to contain health care costs by limiting both coverage and the level of reimbursement of new drug products. Consequently, significant uncertainty exists as to the reimbursement status of newly approved health care products. Significant changes in the health care system in the U.S. or elsewhere, including changes resulting from adverse trends in third-party reimbursement programs, could have a material adverse effect on our projected future operating results and our ability to raise capital, commercialize products, and remain in business.

If we are unable to effectively implement or maintain a system of internal control over financial reporting, we may not be able to accurately or timely report our financial results and our stock price could be adversely affected.

Section 404 of the Sarbanes-Oxley Act of 2002 and related regulations require us to evaluate the effectiveness of our internal control over financial reporting as of the end of each fiscal year and to include a management report assessing the effectiveness of our internal control over financial reporting in our Annual Report on Form 10-K for that fiscal year. Management determined that as of May 31, 2017, our disclosure controls and procedures and internal control over financial reporting were effective. Prior to the fiscal year ended May 31, 2017, our disclosure controls and procedures and internal control over financial reporting were not effective due to material weaknesses in our internal control over financial reporting related to inadequate segregation of duties over authorization, review and recording of transactions, as well as the financial reporting of such transactions.

[Table of Contents](#)

Any failure to maintain our improved controls or operation of these controls, could harm our operations, decrease the reliability of our financial reporting, and cause us to fail to meet our financial reporting obligations, which could adversely affect our business and reduce our stock price.

Our success depends substantially upon our ability to obtain and maintain intellectual property protection relating to our product candidates and research technologies.

Due to evolving legal standards relating to the patentability, validity and enforceability of patents covering pharmaceutical inventions and the claim scope of patents, our ability to enforce our existing patents and to obtain and enforce patents that may issue from any pending or future patent applications is uncertain and involves complex legal, scientific and factual questions. To date, no consistent policy has emerged regarding the breadth of claims allowed in biotechnology and pharmaceutical patents. Thus, we cannot be sure that any patents will issue from any pending or future patent applications owned by or licensed to us. Even if patents do issue, we cannot be sure that the claims of these patents will be held valid or enforceable by a court of law, will provide us with any significant protection against competing products, or will afford us a commercial advantage over competitive products. If one or more products resulting from our product candidates is approved for sale by the FDA and we do not have adequate intellectual property protection for those products, competitors could duplicate them for approval and sale in the United States without repeating the extensive testing required of us or our partners to obtain FDA approval.

Known third party patent rights could delay or otherwise adversely affect our planned development and sale of PRO 140. We have identified but not exhaustively analyzed other patents that could relate to our proposed products.

We are aware of patent rights held by a third party that may cover certain compositions within our PRO 140 candidate. The patent holder has the right to prevent others from making, using, or selling a drug that incorporates the patented compositions, while the patent remains in force. While we believe that the third party's patent rights will not affect our planned development, regulatory clearance, and eventual marketing, commercial production, and sale of PRO 140, there can be no assurance that this will be the case. The relevant patent expires before we expect to commercially introduce PRO 140. In addition, the Hatch-Waxman exemption to U.S. patent law permits all uses of compounds in clinical trials and for other purposes reasonably related to obtaining FDA clearance of drugs that will be sold only after patent expiration, so our use of PRO 140 in those FDA-related activities does not infringe the patent holder's rights. However, were the patent holder to assert its rights against us before expiration of the patent for activities unrelated to FDA clearance, the development and ultimate sale of a PRO 140 product could be significantly delayed, and we could incur the expense of defending a patent infringement suit and potential liability for damages for periods prior to the patent's expiration.

In connection with our acquisition of rights to PRO 140, our patent counsel conducted a freedom-to-operate search that identified other patents that could relate to our proposed PRO 140 candidate. Sufficient research and analysis was conducted to enable us to reach the conclusion that PRO 140 likely does not infringe those patent rights. However, we did not have an exhaustive analysis conducted as to the identified patent rights, because doing so would have been more costly than appeared to be justified. If any of the holders of the identified patents were to assert patent rights against us, the development and sale of PRO 140 could be delayed, we could be required to spend time and money defending patent litigation, and we could incur liability for infringement or be enjoined from producing our products if the patent holders prevailed in an infringement suit.

If we are sued for infringing on third-party intellectual property rights, it will be costly and time-consuming, and an unfavorable outcome would have a significant adverse effect on our business.

Our ability to commercialize our product candidates depends on our ability to use, manufacture and sell those products without infringing the patents or other proprietary rights of third parties. Numerous U.S. and foreign issued patents and pending patent applications owned by third parties exist in the monoclonal antibody therapeutic area in which we are developing product candidates and seeking new potential product candidates. There may be existing patents, unknown to us, on which our activities with our product candidates could infringe.

If a third party claims that our actions infringe on its patents or other proprietary rights, we could face a number of issues that could seriously harm our competitive position, including, but not limited to:

- infringement and other intellectual property claims that, even if meritless, can be costly and time-consuming, delay the regulatory approval process and divert management's attention from our core business operations;
- substantial damages for infringement, if a court determines that our products or technologies infringe a third party's patent or other proprietary rights;

Table of Contents

- a court prohibiting us from selling or licensing our products or technologies unless the holder licenses the patent or other proprietary rights to us, which it is not required to do; and
- even if a license is available from a holder, we may have to pay substantial royalties or grant cross-licenses to our patents or other proprietary rights.

If any of these events occur, it could significantly harm our operations and financial condition and negatively affect our stock price.

We may undertake infringement or other legal proceedings against third parties, causing us to spend substantial resources on litigation and exposing our own intellectual property portfolio to challenge.

We may come to believe that third parties are infringing on our patents or other proprietary rights. To prevent infringement or unauthorized use, we may need to file infringement and/or misappropriation suits, which are very expensive and time-consuming and would distract management's attention. Also, in an infringement or misappropriation proceeding a court may decide that one or more of our patents is invalid, unenforceable, or both, in which case third parties may be able to use our technology without paying license fees or royalties. Even if the validity of our patents is upheld, a court may refuse to stop the other party from using the technology at issue on the ground that the other party's activities are not covered by our patents.

We may become involved in disputes with our present or future contract partners over intellectual property ownership or other matters, which would have a significant effect on our business.

Inventions discovered in the course of performance of contracts with third parties may become jointly owned by our strategic partners and us, in some cases, and the exclusive property of one of us, in other cases. Under some circumstances, it may be difficult to determine who owns a particular invention or whether it is jointly owned, and disputes could arise regarding ownership or use of those inventions. Other disputes may also arise relating to the performance or alleged breach of our agreements with third parties. Any disputes could be costly and time-consuming, and an unfavorable outcome could have a significant adverse effect on our business.

We are subject to the oversight of the SEC and other regulatory agencies. Investigations by those agencies could divert management's focus and could have a material adverse effect on our reputation and financial condition.

We are subject to the regulation and oversight of the U.S. Securities and Exchange Commission (the "SEC") and state regulatory agencies, in addition to the FDA. As a result, we may face legal or administrative proceedings by these agencies. We are unable to predict the effect of any investigations on our business, financial condition or reputation. In addition, publicity surrounding any investigation, even if ultimately resolved in our favor, could have a material adverse effect on our business.

Our auditors have issued a going concern opinion, and we will not be able to achieve our objectives and will have to cease operations if we cannot adequately fund our operations.

Our auditors issued a going concern opinion in connection with the audit of our annual financial statements for the fiscal year ended May 31, 2017. A going concern opinion means that there is substantial doubt that we can continue as an ongoing business for the next 12 months. If we are unable to continue as a going concern, we might have to liquidate our assets and the values we receive for our assets in liquidation or dissolution could be significantly lower than the values reflected in our financial statements. In addition, the inclusion of an explanatory paragraph regarding substantial doubt about our ability to continue as a going concern and our lack of cash resources may materially adversely affect our share price and our ability to raise new capital or to enter into critical contractual relations with third parties. There is no assurance that we will be able to adequately fund our operations in the future.

Risks Relating to Our Common Stock

The significant number of shares of common stocks issuable upon the exercise of outstanding common stock options and warrants could adversely affect the trading price of our common stock.

If our existing stockholders sell, or indicate an intent to sell, substantial amounts of our common stock in the public market, the trading price of our common stock could decline significantly. In addition, as of May 31, 2017, we have 8,402,281 shares subject to outstanding options under our stock option plans 7,543,807 shares reserved for future issuance under our equity compensation plan and 69,457,345 shares issuable upon exercise of outstanding warrants. If our existing stockholders sell substantial amounts of our common stock in the public market, or if the public perceives that such sales could occur, this could have an adverse impact on the market price of our common stock, even if there is no relationship between such sales and the performance of our business.

[Table of Contents](#)

The price of our common stock has been and could remain volatile, and the market price of our common stock may decrease.

The market price of our common stock has historically experienced and may continue to experience significant volatility. From June 1, 2015 through May 31, 2017, the market price of our common stock has fluctuated from a high of \$1.57 per share in the quarter ended May 31, 2016, to a low of \$0.46 per share in quarter ending May 31, 2017. The volatile nature of our common share price may cause investment losses for our stockholders. In addition, the market price of stock in small capitalization biotech companies is often driven by investor sentiment, expectation and perception, all of which may be independent of fundamental valuation metrics or traditional financial performance metrics, thereby exacerbating volatility. In addition, our common stock is quoted on the OTCQB of the OTC Markets marketplace, which may increase price quotation volatility and could limit liquidity, all of which may adversely affect the market price of our shares.

If we implement a reverse stock split, there can be no assurances that the price per share of our common stock will increase proportionately with the reverse stock split, or at all.

Our stockholders have currently authorized our Board of Directors to implement a reverse stock split at a ratio of any whole number between one-for-two and one-for-eight, as determined by our Board of Directors, with no reduction in the total number of authorized shares of our common stock, at any time before August 24, 2017, if and as determined by our Board of Directors. At our 2017 annual meeting of stockholders, which is scheduled to occur on August 24, 2017, we are seeking approval from our stockholders for a reverse stock split at a ratio of any whole number between one-for-two and one-for-ten, as determined by our Board of Directors, and a simultaneous reduction in the total number of authorized shares of our common stock to 200,000,000, at any time before August 24, 2018, if and as determined by our Board of Directors.

Reducing the number of outstanding shares of our common stock through a reverse stock split is intended, absent other factors, to increase the per share market price of our common stock in preparation for a potential uplisting to a national securities exchange. However, other factors, such as our financial results, market conditions and the market perception of our business, may adversely affect the market price of our common stock. As a result, there can be no assurance that the reverse stock split, if completed, will result in making our common stock more attractive to a broader range of institutional and other investors, that the per share market price of our common stock will increase following the reverse stock split or that the per share market price of our common stock will not decrease in the future. Additionally, we cannot assure shareholders that the per share market price per share of our common stock after the reverse stock split, if completed, will increase in proportion to the reduction in the number of shares of our common stock outstanding before the reverse stock split. Accordingly, the total market capitalization of our common stock after the reverse stock split may be lower than the total market capitalization before the reverse stock split.

We do not expect any cash dividends to be paid on our shares in the foreseeable future.

We have never declared or paid a cash dividend and we do not anticipate declaring or paying dividends for the foreseeable future. We expect to use future financing proceeds and earnings, if any, to fund operating expenses. Consequently, stockholders' only opportunity to achieve a return on their investment is if the price of our stock appreciates and they sell their shares at a profit. We cannot assure stockholders of a positive return on their investment when they sell their shares or that stockholders will not lose the entire amount of their investment.

If the beneficial ownership of our stock becomes highly concentrated, it may prevent you and other stockholders from influencing significant corporate decisions.

Our significant stockholders may exercise substantial influence over the outcome of corporate actions requiring stockholder approval, including the election of directors, any merger, consolidation or sale of all or substantially all of our assets, or any other significant corporate transactions. These stockholders may also vote against a change of control, even if such a change of control would benefit our other stockholders. See "Stock Ownership by Principal Stockholders and Management" below.

Our common stock is classified as "penny stock" and trading of our shares may be restricted by the SEC's penny stock regulations.

Rules 15g-1 through 15g-9 promulgated under the Securities Exchange Act of 1934 (the "Exchange Act") impose sales practice and disclosure requirements on certain brokers-dealers who engage in transactions involving a "penny stock." The SEC has adopted regulations which generally define "penny stock" to be any equity security that has a market price of less than \$5.00 per share or an exercise price of less than \$5.00 per share, subject to certain exceptions. Our common stock is covered by the penny stock rules, which impose additional sales practice requirements on broker-dealers who sell to persons other than established customers and "accredited investors." The penny stock rules require a broker-dealer, prior to a transaction in a penny stock not otherwise exempt from the rules, to deliver a standardized risk disclosure document in a form prepared by the SEC which provides information about penny stocks and the nature and level of risks in the penny stock market. The broker-dealer also must provide the customer with current bid and offer quotations for the penny stock, the compensation of the broker-dealer and its salesperson in the transaction, and monthly account statements showing the market value of each penny stock held in the customer's account. In addition, the penny stock rules require that, prior to a transaction in a penny stock that is not otherwise exempt, the broker-dealer must make a special written determination that the penny stock is a suitable investment for the purchaser and receive the purchaser's written agreement to the transaction. These disclosure requirements may have the effect of reducing the level of trading activity in the secondary market for stock that is subject to these penny stock rules. Consequently, these penny stock rules may affect the ability of broker-dealers to trade our securities. We believe that the penny stock rules may discourage investor interest in and limit the marketability of our common stock.

Future sales of our securities could adversely affect the market price of our common stock and our future capital-raising activities could involve the issuance of equity securities, which would dilute your investment and could result in a decline in the trading price of

our common stock.

We may sell securities in the public or private equity markets if and when conditions are favorable, or at prices per share below the current market price of our common stock, even if we do not have an immediate need for additional capital at that time. Sales of substantial amounts of our common stock, or the perception that such sales could occur, could adversely affect the prevailing market price of our shares and our ability to raise capital. We may issue additional shares of common stock in future financing transactions or as incentive compensation for our executive management and other key personnel, consultants and advisors. Issuing any equity securities would be dilutive to the equity interests represented by our then-outstanding shares of common stock. Moreover, sales of substantial amounts of shares in the public market, or the perception that such sales could occur, may adversely affect the prevailing market price of our common stock and make it more difficult for us to raise additional capital.

[Table of Contents](#)

Purchasers in future offerings may experience immediate and substantial dilution.

The current trading price of the common stock is higher than the current net tangible book value per share of our common stock. Therefore, if you purchase shares of common stock in future offerings, if any, you may incur immediate and substantial dilution in the pro forma net tangible book value per share of common stock from the price per share that you pay for the common stock. In addition, you will experience dilution when we issue additional shares of common stock that we are permitted or required to issue under outstanding options and warrants and under our equity incentive plan or other compensation plans.

Our certificate of incorporation allows for our Board of Directors to create new series of preferred stock without further approval by our stockholders, which could adversely affect the rights of the holders of our common stock.

Our Board of Directors has the authority to fix and determine the relative rights and preferences of preferred stock. Currently, our Board of Directors has the authority to designate and issue up to 4,600,000 shares of our preferred stock without further stockholder approval. As a result, our Board of Directors could authorize the issuance of a series of preferred stock that would grant to holders the preferred right to our assets upon liquidation, the right to receive dividend payments before dividends are distributed to the holders of common stock and the right to the redemption of the shares, together with a premium, prior to the redemption of our common stock. In addition, our Board of Directors could authorize the issuance of a series of preferred stock that has greater voting power than our common stock or that is convertible into our common stock, which could decrease the relative voting power of our common stock or result in dilution to our existing stockholders.

Anti-takeover provisions of our certificate of incorporation, our bylaws and Delaware law could make an acquisition of us, which may be beneficial to our stockholders, more difficult and may prevent attempts by our stockholders to replace or remove the current members of our Board of Directors and management.

Certain provisions of our amended and restated certificate of incorporation and bylaws could discourage, delay or prevent a merger, acquisition or other change of control that stockholders may consider favorable, including transactions in which stockholders might otherwise receive a premium for shares of common stock. Furthermore, these provisions could prevent or frustrate attempts by our stockholders to replace or remove members of our Board of Directors. These provisions also could limit the price that investors might be willing to pay in the future for our common stock, thereby depressing the market price of our common stock. Stockholders who wish to participate in these transactions may not have the opportunity to do so. Among other things, these provisions:

- allow us to designate and issue shares of preferred stock, without stockholder approval, that could adversely affect the rights, preferences and privileges of the holders of our common stock and could make it more difficult or less economically beneficial to acquire or seek to acquire us.
- provide that special meetings of stockholders may be called only by the Board of Directors acting pursuant to a resolution approved by the affirmative majority of the entire Board of Directors.
- provide that stockholders may, at a special stockholders meeting called for the purpose of removing directors, remove the entire Board of Directors or any lesser number, but only with cause, by a majority vote of the shares entitled to vote at an election of directors.
- do not include a provision for cumulative voting in the election of directors. Under cumulative voting, a minority stockholder holding a sufficient number of shares may be able to ensure the election of one or more directors. The absence of cumulative voting may have the effect of limiting the ability of minority stockholders to effect changes in our Board of Directors.

In addition, we are governed by the provisions of Section 203 of the Delaware General Corporation Law, which may, unless certain criteria are met, prohibit large stockholders, in particular those owning 15% or more of the voting rights on our common stock, from merging or combining with us for a prescribed period of time.

Item 1B. Unresolved Staff Comments.

None.

[Table of Contents](#)

Item 2. Properties.

Our principal office location is 1111 Main Street, Suite 660, Vancouver, Washington 98660. Effective May 1, 2016, we entered into a new lease with our current landlord to increase our commercial office space from 1,383 to 1,812 square feet, pursuant to a lease that expires on April 30, 2021 at a cost of \$3,209 per month, plus modest annual increases.

Item 3. Legal Proceedings.

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

Item 4. Mine Safety Disclosures.

Not applicable.

Table of Contents

PART II

Item 5. Market for Registrant's Common Equity, Related Stockholder Matters and Issuer Purchases of Equity Securities.

Market Information

Our common stock is presently quoted on the OTCQB of the OTC Markets marketplace under the trading symbol CYDY. Historically, trading in our stock has been very limited and the trades that have occurred cannot be characterized as amounting to an established public trading market. As a result, the trading prices of our common stock may not reflect the price that would result if our stock was actively traded.

The following are high and low bid prices quoted on the OTCQB during the periods indicated. The quotations reflect inter-dealer prices, without retail mark-up, mark-down or commission and may not represent actual transactions:

	<u>High</u>	<u>Low</u>
Fiscal Year Ended May 31, 2017:		
First quarter ended August 31, 2016	\$1.49	\$0.96
Second quarter ended November 30, 2016	\$1.08	\$0.61
Third quarter ended February 28, 2017	\$0.84	\$0.66
Fourth quarter ended May 31, 2017	\$0.73	\$0.46
Fiscal Year Ended May 31, 2016:		
First quarter ended August 31, 2015	\$1.08	\$0.70
Second quarter ended November 30, 2015	\$0.99	\$0.67
Third quarter ended February 29, 2016	\$1.40	\$0.64
Fourth quarter ended May 31, 2016	\$1.57	\$0.76

Holdings

The number of record holders of our common stock on May 31, 2017, was approximately 540.

Dividends

Holdings of our common stock are entitled to receive dividends as may be declared from time to time by our Board. We have not paid any cash dividends since inception on our common stock and do not anticipate paying any in the foreseeable future. Our current policy is to retain earnings, if any, for use in our operations.

Holdings of 92,100 shares of Series B Preferred Stock are entitled to receive, in preference to the common stock, annual cumulative dividends equal to \$0.25 per share per annum from the date of issuance, which shall accrue, whether or not declared. At the time shares of Series B Preferred Stock are converted into common shares, accrued and unpaid dividends will be paid in cash or with common shares. In the event we elect to pay dividends with common shares, the shares issued will be valued at \$0.50 per share. As of June 30, 2017, if we declared a dividend and elected pay such dividend in the form of common stock, approximately 345,000 shares of common stock would be issued in the form of dividend.

Purchases of Equity Securities by the Issuer and Affiliated Purchasers

There were no repurchases of our equity securities during the year ended May 31, 2017 or subsequent interim period.

Item 6. Selected Financial Data.

Because we are entitled to comply with the disclosure obligations applicable to a "smaller reporting company," as defined by Rule 12b-2 of the Exchange Act, with respect to this Annual Report on Form 10-K, we are not required to provide the information required by this Item.

[Table of Contents](#)

Item 7. Management's Discussion and Analysis of Financial Condition and Results of Operations.

The following discussion and analysis of our financial condition and results of operations should be read in conjunction with the other sections of this Annual Report, including our consolidated financial statements and related notes set forth in Item 8. This discussion and analysis contains forward-looking statements, including information about possible or assumed results of our financial condition, operations, plans, objectives and performance that involve risks, uncertainties and assumptions. The actual results may differ materially from those anticipated and set forth in such forward-looking statements.

Business Highlights

Over the past two fiscal years ending May 31, 2017 and 2016, we commenced several initiatives to advance our lead product candidate, PRO 140. The following is a brief summary of key accomplishments:

- Raised approximately \$51.0 million, net of offering costs, in capital through equity offerings;
- Raised approximately \$1.1 million in capital through short-term private convertible debt offerings (and approximately \$3.9 million through July 10, 2017);
- Received approximately \$0.9 million in proceeds from the exercise of warrants;
- Induced the conversion of approximately \$2.7 million in aggregate principal amount of convertible promissory notes into common stock resulting in the retirement or conversion of all previously outstanding debt;
- Successfully concluded the Phase 2b clinical trial for a PRO 140 monotherapy study for HIV;
- Obtained FDA clearance to initiate an extension study of the Phase 2b monotherapy trial for HIV;
- Obtained FDA clearance to initiate two Phase 2b/3 clinical trials for patients with HIV, one of which is a pivotal trial;
- Obtained FDA clearance to initiate a Phase 2 trial for GvHD, the first non-HIV or immunologic clinical indication for PRO 140;
- Obtained FDA clearance for a compassionate use protocol to accommodate one patient and obtained FDA clearance for a roll over protocol for other patients who are successfully completing the Phase 2b/3 combination therapy trial and wish to continue with PRO 140 as part of their treatment;
- Further advanced preparations for the manufacturing of new cGMP PRO 140 antibody material and engaged a new contract manufacturing organization;
- Organized and implemented a comprehensive team to commence preparation of our biologics license application; and
- Expanded the exploration of additional immunologic indications for PRO 140.

Results of Operations

Clinical Trials Update

Phase 2b Extension Study for HIV, as Monotherapy. Our Phase 2b treatment substitution trial for HIV, as monotherapy, was initially completed in January 2015. Several patients are continuing in extension studies of this monotherapy trial by taking a weekly injection of PRO 140. Results from these extension studies thus far indicate that eight of the nine patients in this study have surpassed two and one-half years of suppressed viral load through a successful monotherapy of PRO 140 and are approaching three years of suppressed viral load with a monotherapy.

Phase 2b/3 Pivotal Trial for HIV, as Combination Therapy. Our Phase 2b/3 trial for PRO 140 as a combination therapy with existing HAART drug regimens initially had a 25-week trial protocol with a requirement for 300 patients. The FDA subsequently reduced this requirement to 150 patients. In October 2016, the FDA agreed to further protocol modifications, including a further reduction in the number of patients required from 150 patients to 30 patients and lowering the primary endpoint for viral load reduction from 0.7log to 0.5log. Based upon the new protocol modifications, we estimate that the total costs for this trial will be approximately \$8 million to \$9 million. Patient enrollment is expected to be completed in July 2017, and we will announce whether the trial has achieved its primary endpoint as soon as that determination is available.

Phase 2b/3 Investigative Trial for HIV, as Long-term Monotherapy. Our Phase 2b/3 investigative trial is a strategic trial requiring 300 patients to assess the treatment strategy of using PRO 140 subcutaneously as a long-acting single-agent maintenance therapy for 48 weeks in patients with suppressed viral load with CCR5-tropic HIV-1 infection. The primary endpoint is to assess the clinical safety of the PRO 140 monotherapy regimen and to evaluate the proportion of participants experiencing suppressed viral load. The secondary endpoint is the length of time to virologic failure. The first patients were enrolled in December 2016. To accelerate enrollment, we anticipate increasing the number of sites, following the completion of enrollment for our Phase 2b/3 pivotal combination therapy trial. Our original estimates for the total cost of this trial ranged from \$15.0 million to \$17.0 million, but these estimates will need to be updated upon determining the number of additional sites. We expect enrollment to be completed by the end of calendar 2017.

Phase 2 Trial for Graft-versus-Host Disease. Our Phase 2 study for Graft-versus-Host Disease ("GvHD") explores the first non-HIV immunologic indication for PRO 140. This trial is a randomized, double-blind, placebo-controlled, multi-center 100-day study with 60 patients designed to evaluate the feasibility of the use of PRO 140 as an add-on therapy to standard GvHD prophylaxis treatment for prevention of acute GvHD in adult patients with acute myeloid leukemia ("AML") or myelodysplastic syndrome ("MDS") undergoing allogeneic hematopoietic stem cell transplantation ("HST"). Enrollment of the first patient was announced in May 2017. We estimate that

the cost for this trial will be approximately \$3.5 million to \$4.0 million.

Rollover Study for HIV, as Combination Therapy. Our rollover study is an FDA-cleared study designed for patients who have successfully completed our Phase 2b/3 pivotal trial for HIV, as combination therapy, and whose treating physicians request continued access to PRO 140 therapy. If this study enrolls 30 patients from the Phase 3 trial and all patients remain in the study for one year, we estimate that the cost of this study would be approximately \$3.5 million to \$4.0 million.

[Table of Contents](#)

Results of operations for the year ended May 31, 2017, compared to May 31, 2016, are as follows:

For the years ended May 31, 2017 and 2016, we had no activities that produced revenues from operations.

For the years ended May 31, 2017 and 2016, we incurred net losses of approximately \$25.8 million and \$25.7 million, respectively. The increase in net loss of approximately \$0.1 million for fiscal 2017 over fiscal 2016 was primarily attributable to an increase in research and development, offset by the non-cash benefit from a change in derivative liability and substantially lower interest expense. The loss per share for the fiscal year ended May 31, 2017 was \$(0.19) compared to \$(0.27) for the prior fiscal year.

Total operating expenses for the years ended May 31, 2017 and 2016, were as follows:

	2017	2016
General and administrative:		
Salaries and other compensation	\$ 2,333,000	\$ 1,341,000
Stock-based compensation	1,205,000	2,353,000
Other	3,222,000	3,388,000
Total general and administrative	6,760,000	7,082,000
Research and development	20,206,000	13,731,000
Amortization and depreciation	367,000	362,000
Total operating expenses	<u>\$27,333,000</u>	<u>\$21,175,000</u>

The increase in fiscal 2017 total operating expenses of approximately \$6.2 million, or 29%, over fiscal 2016 was primarily related to the increased research and development, offset in part by moderately lower general and administrative expenses.

Salaries and other compensation increased approximately \$1.0 million in fiscal year 2017 over fiscal year 2016 due to additional employees and related expenses.

Stock-based compensation (a non-cash expense) decreased approximately \$1.1 million, or 49%, in fiscal 2017, from fiscal 2016 due to the granting of long-term incentive stock options covering a fewer number of shares for management.

Other operating expenses of approximately \$3.2 million for fiscal 2017 decreased approximately \$166,000, or 5%, from fiscal 2016 as a result of increased insurance costs and travel, offset in part by reductions in professional fee expenses.

Research and development (“R&D”) expenses of approximately \$20.2 million for fiscal 2017 increased approximately \$6.5 million over fiscal 2016 principally due to additional clinical trial and manufacturing expenses and the acceleration of non-clinical related expenses required for the BLA submission. The fiscal 2017 R&D expenditures were primarily devoted to: (1) advancing clinical trials of PRO 140 for the extension study of the Phase 2b monotherapy trial, one pivotal Phase 2b/3 combination therapy trial, one investigative Phase 2b/3 monotherapy trial, initiation of a Phase 2 GvHD trial, (2) increased CMC (chemistry, manufacturing and controls) activities to address regulatory compliance requirements of a future BLA filing and to advance the preparations for manufacturing new PRO 140 and (3) preparation of the non-clinical section necessary to complete the BLA filing with the FDA.

Table of Contents

We expect R&D expenses to continue to increase in future periods, as the activity within our clinical trials expands and the biologics manufacturing processes and related regulatory compliance activities increase, all of which support our objectives to advance the preparation for an anticipated BLA filing in 2018.

We record research and development expenses where directly identifiable as follows:

	Year Ended May 31,	
	2017	2016
Research and development:		
Clinical	\$ 9,846,000	\$ 6,468,000
Non-Clinical	691,000	21,000
CMC Manufacturing	8,998,000	6,214,000
Licenses and patent fees	671,000	1,028,000
Total research and development	<u>\$20,206,000</u>	<u>\$13,731,000</u>

For the fiscal years ended May 31, 2017 and May 31, 2016, we recognized non-cash benefits associated with the fair value of a derivative liability of approximately \$2.2 million and \$0.6 million, respectively. For each reporting period, we determine the fair value of the derivative liability and record a corresponding non-cash benefit or a non-cash charge.

The derivative liability for fiscal 2017 arose from our issuance of warrants to investors and the placement agent in connection with the September 2016 registered direct equity offering. The warrants contain a provision for net cash settlement in the event that there is a fundamental transaction (contractually defined as a merger, sale of substantially all assets, tender offer or share exchange). If a fundamental transaction occurs in which the consideration issued consists principally of cash or stock in a successor entity, then the warrant holder has the option to receive cash, equal to the fair value of the remaining unexercised portion of the warrant. Due to this contingent cash settlement provision, the investor and placement agent warrants require liability classification as derivatives in accordance with ASC 480 and ASC 815 and are recorded at fair value.

The derivative liability for fiscal 2016 related to a provision for potential adjustment of the conversion rate of a note, commonly known as an anti-dilution or “down round” provision. The note was converted into common stock in June 2015.

Interest expense for fiscal 2017 totaled approximately \$0.6 million, all of which was non-cash, and was primarily due to the derivative liability arising from the issuance of certain warrants. Interest expense for fiscal 2017 declined approximately \$4.1 million from fiscal 2016 owing to the non-comparable inducement interest expense incurred in fiscal 2016 and the conversion or repayment of all previously outstanding debt.

The future trends in all expenses will be driven, in part, by the future outcomes of our clinical trials and the correlative effect on general and administrative expenses, especially FDA regulatory requirements for the preparation of filing a BLA, in addition to the manufacturing of new commercial grade PRO 140, along with the necessary regulatory processes to confirm its qualification for future sale, if approved. Our ability to continue to fund operations will continue to depend on our ability to raise additional capital. See, in particular, Item 1A “Risk Factors” above.

Liquidity and Capital Resources

We had cash and cash equivalents of approximately \$1.8 million as of May 31, 2017, compared with approximately \$9.6 million as of May 31, 2016. The net decrease in cash from a year ago was attributable to net cash used in operating activities of approximately \$26.7, offset in part by net cash provided by financing activities of approximately \$18.9 million.

As of May 31, 2017, we had negative working capital of approximately \$23,000, which compares to positive working capital of \$7.9 million at May 31, 2016.

Cash Flows

Net cash used in operating activities totaled approximately \$26.7 million during fiscal year 2017, which represents an increase of approximately \$1.9 million from net cash used in operating activities of approximately \$24.8 million in fiscal 2016. The increase in the net cash used in operating activities for fiscal 2017, as compared to fiscal 2016, was primarily attributable to an increase in prepaid expenses of approximately \$1.6 million, lower stock-based compensation of approximately \$1.1 million, a reduction in non-cash interest expense components and debt discount amortization of approximately \$3.8 million and a non-comparable loss on extinguishment of debt of approximately \$0.6 million, offset in part by increased accounts payable of approximately \$6.9 million, coupled with the change in fair value of derivative liability of approximately \$1.5 million.

Table of Contents

Net cash provided by financing activities of approximately \$18.9 million for the year ended May 31, 2017 included net proceeds of approximately \$17.3 million from equity offerings, proceeds of approximately \$0.4 million from the exercise of warrants and proceeds from short-term convertible notes of approximately \$1.1 million.

As reported in the accompanying financial statements, we incurred net losses for fiscal years ended May 31, 2017 and 2016 of approximately \$25.8 million and \$25.7 million, respectively. We had no activities that produced revenue in the periods presented and have sustained sizable operating losses since inception. Our ability to continue as a going concern is dependent upon our ability to raise additional capital, commence operations and achieve a level of profitability. Since inception, we have financed our activities principally from the public and private sale of equity securities and proceeds from convertible notes payable and related party notes payable. We intend to finance future operating activities and working capital needs largely from the sale of equity securities and debt securities, combined with additional funding from other traditional financing sources. The sale of equity and convertible debt securities may result in dilution to stockholders and those securities may have rights senior to those of common shares. If we raise additional funds through the issuance of preferred stock, convertible debt securities or other debt financing, these activities or other debt could contain covenants that would restrict our operations. Any other third-party funding arrangements could require us to relinquish valuable rights. We may require additional capital beyond our currently anticipated needs. On August 26, 2016, we filed a registration statement on Form S-3 universal shelf registration statement covering \$100 million of securities. On September 9, 2016, the registration statement was declared effective. We intend to utilize this shelf registration statement to raise additional capital through the sale of securities. As of June 30, 2017, we had approximately \$81.6 million remaining available to be issued under this shelf registration statement. Additional capital, if available, may not be available on reasonable terms or at all. If we are unsuccessful in raising additional capital in the future, we may be required to reduce or cease operations. Please refer to the risk factors herein under Item 1.A.

Capital Requirements

We have not generated revenue to date, and will not generate product revenue in the foreseeable future. We expect to continue to incur sizable operating losses as we proceed with the clinical trials for PRO 140 and continue to advance it through the product development and regulatory process in an effort to seek FDA approval. In addition to increasing research and development expenses, we expect general and administrative and manufacturing expenses to increase, as we add resources associated with our current operational objective to file a BLA in 2018. We will require a significant amount of additional capital in the future to fulfill BLA requirements related to manufacturing PRO 140 for commercial use.

In connection with this undertaking, we entered into an arrangement with a third party CMO to provide process transfer, validation and manufacturing services for PRO 140. Management believes our CMO will best serve our strategic objectives for the anticipated BLA filing and, if approved, the long-term commercial manufacturing capabilities for PRO 140. Management will continue to assess manufacturing capacity requirements as new market information becomes available. In the event that we terminate the agreement with our CMO, we may incur certain financial penalties which would become payable to the CMO. Conditioned on the timing of termination, the financial penalties may range from an approximate low of \$1.2 million to an approximate high of \$3.6 million. These CMO undertakings are anticipated to require approximately \$25 million of additional capital over the next two calendar years, including the estimated costs to fill, label, and package product into the final commercial package for commercial sale.

We have entered into project work orders for each of our clinical trials with our CRO and related laboratory vendors. Under the terms of these agreements, we have prepaid certain execution fees for direct services costs. The fees are reflected as a current asset and have an unamortized balance of approximately \$4.1 million at May 31, 2017. In connection with our clinical trials, we have entered into separate project work orders for each trial with our CRO. In the event we were to terminate any trial, we may incur certain financial penalties which would become payable to the CRO. Conditioned upon the form of termination of any one trial, the financial penalties may range from an approximate low of \$0.1 million to an approximate high of \$0.5 million. In the remote circumstance that we would terminate all clinical trials, the collective financial penalties may range from an approximate low of \$0.5 million to an approximate high of \$1.8 million.

Under the Progenics Purchase Agreement, we acquired from Progenics PRO 140, as well as certain other related assets, including the existing inventory of bulk PRO 140 drug product, intellectual property, certain related licenses and sublicenses, and FDA regulatory filings. On October 16, 2012, we paid \$3,500,000 in cash to Progenics to close the acquisition transaction. We are also required to pay Progenics the following milestone payments and royalties: (i) \$1,500,000 at the time of the first dosing in a U.S. Phase 3 trial or non-US equivalent, which was paid during the fiscal year ended May 31, 2016; (ii) \$5,000,000 at the time of the first US new drug application approval by the FDA or other non-U.S. approval for the sale of PRO 140; and (iii) royalty payments of up to five percent (5%) on net sales during the period beginning on the date of the first commercial sale of PRO 140 until the later of (a) the expiration of the last to expire patent included in the acquired assets, and (b) 10 years, in each case determined on a country-by country basis.

Table of Contents

Payments to Progenics are in addition to payments due under the PDL License, between Protein Design Labs (now AbbVie Inc.) and Progenics, which was assigned to us in the PRO 140 transaction, pursuant to which the Company must pay additional milestone payments and royalties as follows: (i) \$1,000,000 upon initiation of a Phase 3 clinical trial, which was paid during the fiscal year ended May 31, 2016; (ii) \$500,000 upon filing a Biologic License Application with the FDA or non-U.S. equivalent regulatory body; (iii) \$500,000 upon FDA approval or approval by another non-U.S. equivalent regulatory body; and (iv) royalties of up to 7.5% of net sales for the longer of 10 years and the date of expiration of the last to expire licensed patent. Additionally, the PDL License provides for an annual maintenance fee of \$150,000 until royalties paid exceed that amount.

As more fully described above, pursuant to the Lonza Agreement, we were obligated to Lonza for the approximate one-time amount of \$807,000 (using exchange rates in effect at the time of payment) in connection with Lonza's "system-know how" technology with respect to our use of proprietary cell lines to manufacture new PRO 140 material. This amount was previously accrued in the fiscal year ended May 31, 2016 and was timely paid to Lonza on June 30, 2016. Ongoing annual license fees with Lonza are £300,000 payable in December of each year.

As of the date of this filing, we have concluded that the probability of achieving the subsequent future scientific research milestones is not reasonably determinable, thus the future milestone payments payable to Progenics and its sub-licensors are deemed contingent consideration and, therefore, are not currently accruable.

Going Concern

Our ability to continue as a going concern is dependent upon our ability to raise additional capital, commence operations and achieve a level of profitability. We have not generated revenue to date, and will not generate product revenue in the foreseeable future. We expect to continue to incur operating losses as we proceed with clinical trials with respect to PRO 140 and continue to advance it through the product development and regulatory process. In addition to increasing research and development expenses, we expect general and administrative and manufacturing costs to increase, as we add resources associated with our current operating objectives to file a BLA in 2018.

Our ability to continue as a going concern will be contingent upon our ability to raise additional capital to fund operations. If we are unsuccessful in raising additional capital in the future, we may be required to reduce or cease operations. See, in particular, Item 1A (Risk Factors) above.

The accompanying consolidated financial statements have been prepared on a going concern basis, which contemplates the realization of assets and the satisfaction of liabilities in the normal course of business. We have incurred losses for all periods presented and has a substantial accumulated deficit. As of May 31, 2017, these factors, among others, raise substantial doubt about our ability to continue as a going concern.

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

Off-Balance Sheet Arrangements

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

Critical Accounting Policies and Estimates

The preparation of financial statements in conformity with accounting principles generally accepted in the United States of America requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of expenses during the reporting period. Actual results could differ from those estimates.

We believe that the following critical policies affect our more significant judgments and estimates used in preparation of our consolidated financial statements.

Table of Contents

We follow the provisions of FASB ASC 815 “Derivatives and Hedging” (“ASC 815”), FASB ASC 480 “Distinguishing liabilities from equity”, ASC 470, “Debt and debt with conversion and other options.” We have issued instruments that meet the criteria of derivative liabilities. Derivative financial instruments consist of financial instruments that contain a notional amount and one or more underlying variable (e.g., interest rates, security price, variable conversion rate or other variable), require no initial net investment and permit net settlement. Derivative financial instruments may be free-standing or embedded in other financial instruments. We have induced conversion of certain instruments with bifurcated conversion options. We have followed the general extinguishment model to record certain conversion and the extinguishment of derivative liabilities. We utilized a Binomial Lattice Model to value the conversion options, which utilizes assumptions that market participants would likely consider in negotiating the transfer of the convertible options, including early conversions. The assumptions in the model are subject to estimates and judgement.

We use the Black-Scholes option pricing model to estimate the fair value of stock-based awards on the date of grant utilizing certain assumptions that require judgments and estimates. These assumptions include estimates for volatility, expected term and risk-free interest rates in determining the fair value of the stock-based awards.

We periodically issue stock options and warrants to consultants for various 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. This determination requires judgment in terms of the consideration being measured.

We have historically issued convertible promissory notes with detachable warrants to purchase common stock. The conversion options are fixed, but beneficial to the note holders at the respective commitment dates. The valuation of the beneficial conversion feature of the notes and of the warrants gives rise to the recognition of a debt discount, which requires the use of certain assumptions inherent in the Black-Scholes option pricing model, including various judgments and estimates.

As discussed in Notes 8 and 9 to the consolidated financial statements, we have significant license and contingent milestone and royalty liabilities. We must estimate the likelihood of paying these contingent liabilities periodically based on the progress of our clinical trials.

Item 7A. Quantitative and Qualitative Disclosures about Market Risk.

Because we are entitled to comply with the disclosure obligations applicable to a “smaller reporting company,” as defined by Rule 12b-2 of the Exchange Act, with respect to this Annual Report on Form 10-K, we are not required to provide the information required by this Item.

Item 8. Financial Statements and Supplementary Data.

CYTODYN INC.

CONTENTS	PAGE
REPORTS OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM	32
CONSOLIDATED BALANCE SHEETS AS OF MAY 31, 2017 AND MAY 31, 2016	34
CONSOLIDATED STATEMENTS OF OPERATIONS FOR THE YEARS ENDED MAY 31, 2017 AND 2016	35
CONSOLIDATED STATEMENTS OF CHANGES IN SHAREHOLDERS’ (DEFICIT) EQUITY FOR THE YEARS ENDED MAY 31, 2017 AND 2016	36
CONSOLIDATED STATEMENTS OF CASH FLOWS FOR THE YEARS ENDED MAY 31, 2017 AND 2016	40
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS	42

[Table of Contents](#)

REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

To the Board of Directors and Stockholders
CytoDyn Inc.
Vancouver, Washington

We have audited the accompanying consolidated balance sheets of CytoDyn Inc. (the “Company”) as of May 31, 2017 and 2016 and the related consolidated statements of operations, changes in stockholders’ (deficit) equity, and cash flows for each of the years in the two-year period ended May 31, 2017. Management of the Company is responsible for these consolidated financial statements. Our responsibility is to express an opinion on these consolidated financial statements based on our audits.

We conducted our audits in accordance with the standards of the Public Company Accounting Oversight Board (United States). Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the consolidated financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the consolidated financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall consolidated financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

In our opinion, the consolidated financial statements referred to above present fairly, in all material respects, the financial position of CytoDyn, Inc. as of May 31, 2017 and 2016 and the results of its operations and its cash flows for each of the years in the two-year period ended May 31, 2017 in conformity with accounting principles generally accepted in the United States of America.

We also have audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States), CytoDyn Inc.’s internal control over financial reporting as of May 31, 2017, based on criteria established in *Internal Control-Integrated Framework* issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO), and our report dated July 19, 2017 expressed an unqualified opinion.

The accompanying consolidated financial statements have been prepared assuming the Company will continue as a going concern. As discussed in Note 2 to the consolidated financial statements, the Company incurred a net loss of \$25,763,801 for the year ended May 31, 2017 and has an accumulated deficit of \$122,989,715 through May 31, 2017, which raises substantial doubt about its ability to continue as a going concern. The consolidated financial statements do not include any adjustments that might result from the outcome of this uncertainty.

/s/ Warren Averett, LLC

Warren Averett, LLC
Certified Public Accounts
Tampa, Florida
July 19, 2017

[Table of Contents](#)

REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

To the Board of Directors and
Stockholders of CytoDyn Inc.

We have audited CytoDyn Inc.'s internal control over financial reporting as of May 31, 2017, based on criteria established in *Internal Control—Integrated Framework* issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO). CytoDyn Inc.'s management is responsible for maintaining effective internal control over financial reporting and for its assessment of the effectiveness of internal control over financial reporting included in the accompanying Management's Annual Report on Internal Control over Financial Reporting. Our responsibility is to express an opinion on CytoDyn Inc.'s internal control over financial reporting based on our audit.

We conducted our audit in accordance with the standards of the Public Company Accounting Oversight Board (United States). Those standards require that we plan and perform the audit to obtain reasonable assurance about whether effective internal control over financial reporting was maintained in all material respects. Our audit of internal control over financial reporting included obtaining an understanding of internal control over financial reporting, assessing the risk that a material weakness exists, and testing and evaluating the design and operating effectiveness of internal control based on the assessed risk. Our audit also included performing such other procedures as we considered necessary in the circumstances. We believe that our audit provides a reasonable basis for our opinion.

A company's internal control over financial reporting is a process designed 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. A company's internal control over financial reporting includes those policies and procedures that (1) pertain to the maintenance of records that, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of the company; (2) provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with generally accepted accounting principles, and that receipts and expenditures of the company are being made only in accordance with authorizations of management and directors of the company; and (3) provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use, or disposition of the company's assets that could have a material effect on the financial statements.

Because of its inherent limitations, internal control over financial reporting may not prevent or detect misstatements. Also, projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies or procedures may deteriorate.

In our opinion, CytoDyn Inc. maintained, in all material respects, effective internal control over financial reporting as of May 31, 2017, based on criteria established in *Internal Control—Integrated Framework* issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).

We have also audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States), the consolidated balance sheets as of May 31, 2017 and 2016, and the related consolidated statements of operations, changes in stockholders' (deficit) equity, and cash flows for each of the years in the two-year period ended May 31, 2017 of CytoDyn Inc., and our report dated July 19, 2017, expressed an unqualified opinion.

/s/ Warren Averett, LLC

Warren Averett, LLC
Certified Public Accountants
Tampa, Florida
July 19, 2017

[Table of Contents](#)CytoDyn Inc.
Consolidated Balance Sheets

	May 31,	
	2017	2016
Assets		
Current assets:		
Cash	\$ 1,775,583	\$ 9,641,776
Prepaid expenses	207,314	141,714
Prepaid service fees	4,138,041	1,710,852
Total current assets	6,120,938	11,494,342
Furniture and equipment, net	17,281	24,550
Intangibles, net	1,917,219	2,267,239
Total assets	<u>\$ 8,055,438</u>	<u>\$ 13,786,131</u>
Liabilities and Stockholders' (Deficit) Equity		
Current liabilities:		
Accounts payable	\$ 4,281,204	\$ 2,467,973
Accrued liabilities and salaries	637,190	242,708
Accrued license fee	167,000	870,000
Convertible notes payable, net	1,058,611	—
Total current liabilities	6,144,005	3,580,681
Long-term liabilities:		
Derivative liability	3,014,667	—
Total long-term liabilities	3,014,667	—
Total liabilities	9,158,672	3,580,681
Commitments and Contingencies	—	—
Stockholders' (Deficit) Equity		
Series B convertible preferred stock, \$0.001 par value; 400,000 shares authorized, 92,100 and 95,100 shares issued and outstanding at May 31, 2017 and May 31, 2016, respectively	92	95
Common stock, \$0.001 par value; 350,000,000 and 250,000,000 shares authorized, 149,468,244 and 123,335,634 issued and outstanding at May 31, 2017 and May 31, 2016, respectively	149,468	123,336
Additional paid-in capital	121,736,921	107,307,933
Accumulated (deficit)	(122,989,715)	(97,225,914)
Total stockholders' (deficit) equity	(1,103,234)	10,205,450
Total liabilities and stockholders' (deficit) equity	<u>\$ 8,055,438</u>	<u>\$ 13,786,131</u>

See accompanying notes to consolidated financial statements.

[Table of Contents](#)CytoDyn Inc.
Consolidated Statement of Operations

	Year ended May 31,	
	2017	2016
Operating expenses:		
General and administrative	\$ 6,758,606	\$ 7,082,475
Research and development	20,205,743	13,731,426
Amortization and depreciation	366,385	361,610
Total operating expenses	<u>27,330,734</u>	<u>21,175,511</u>
Operating loss	(27,330,734)	(21,175,511)
Interest income	15,167	7,918
Gain on settlement of accounts payable	—	72,898
Loss on extinguishment of convertible notes	—	(584,177)
Change in fair value of derivative liability	2,164,533	646,505
Interest expense:		
Amortization of discount on convertible notes	—	(1,791,967)
Amortization of debt issuance costs	—	(604,625)
Amortization of discount on related party convertible notes	—	(94,344)
Interest related to derivative liability	(540,330)	—
Interest related to warrant extensions	(72,437)	(866,713)
Inducement interest	—	(1,194,887)
Interest on notes payable	—	(118,709)
Total interest expense	<u>(612,767)</u>	<u>(4,671,245)</u>
Loss before income taxes	(25,763,801)	(25,703,612)
Provision for taxes on income	—	—
Net loss	<u>\$ (25,763,801)</u>	<u>\$ (25,703,612)</u>
Basic and diluted loss per share	<u>\$ (0.19)</u>	<u>\$ (0.27)</u>
Basic and diluted weighted average common shares outstanding	<u>138,004,461</u>	<u>95,437,594</u>

See accompanying notes to consolidated financial statements.

[Table of Contents](#)

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

	Preferred Stock		Common Stock	
	Shares	Amount	Shares	Amount
Balance May 31, 2015	95,100	\$ 95	63,644,348	\$ 63,644
Warrant issued related to conversion inducement	—	—	—	—
Modification of warrants related to conversion inducement	—	—	—	—
Debt discount due to reduction in note conversion price from (\$0.75 to \$0.675/share)	—	—	—	—
Conversion of convertible debt & accrued, unpaid interest to common stock (\$0.675/share)	—	—	4,095,008	4,095
Conversion of convertible debt and extinguishment of derivative liability	—	—	5,274,656	5,275
Conversion of convertible debt & accrued, unpaid interest to common stock (\$0.75/share)	—	—	792,201	792
Exercise of common stock warrants (cashless)	—	—	74,490	74
Exercise of common stock warrants (\$0.50/share)	—	—	192,307	192
Exercise of common stock warrants (\$0.75/share)	—	—	603,286	604
Stock-based compensation	—	—	—	—
Proceeds from private equity offering (\$0.75/share)	—	—	44,357,838	44,358
Proceeds from private equity offering (\$1.00/share)	—	—	4,301,500	4,302
Deferred offering costs	—	—	—	—
Net (loss) for year ended May 31, 2016	—	—	—	—
Balance at May 31, 2016	<u>95,100</u>	<u>\$ 95</u>	<u>123,335,634</u>	<u>\$123,336</u>

[Table of Contents](#)

	Additional Paid-In Capital	Accumulated Deficit	Total
Balance May 31, 2015	\$ 60,766,047	\$(71,522,302)	\$(10,692,516)
Warrant issued related to conversion inducement	757,871	—	757,871
Modification of warrants related to conversion inducement	866,713	—	866,713
Debt discount due to reduction in note conversion price from (\$0.75 to \$0.675/share)	329,524	—	329,524
Conversion of convertible debt & accrued, unpaid interest to common stock (\$0.675/share)	2,760,059	—	2,764,154
Conversion of convertible debt and extinguishment of derivative liability	4,727,239	—	4,732,514
Conversion of convertible debt & accrued, unpaid interest to common stock (\$0.75/share)	593,360	—	594,152
Exercise of common stock warrants (cashless)	(74)	—	—
Exercise of common stock warrants (\$0.50/share)	95,962	—	96,154
Exercise of common stock warrants (\$0.75/share)	451,861	—	452,465
Stock-based compensation	2,353,194	—	2,353,194
Proceeds from private equity offering (\$0.75/share)	33,224,106	—	33,268,464
Proceeds from private equity offering (\$1.00/share)	4,297,198	—	4,301,500
Deferred offering costs	(3,915,127)	—	(3,915,127)
Net (loss) for year ended May 31, 2016	—	(25,703,612)	(25,703,612)
Balance at May 31, 2016	<u>\$107,307,933</u>	<u>\$(97,225,914)</u>	<u>\$ 10,205,450</u>

Table of Contents

	Preferred Stock		Common Stock	
	Shares	Amount	Shares	Amount
Balance May 31, 2016	95,100	\$ 95	123,335,634	\$123,336
Interest expense related to warrant extension		—		36
Stock-based compensation		—		—
Legal fees in connection with registered offerings		—		—
Proceeds from private equity offering (\$1.00/share)		—	729,500	730
Proceeds from Registered Direct Offering (\$0.75/share)		—	24,538,994	24,539
Offering costs related to equity offering		—		—
Debt discount related to convertible notes payable		—		—
Conversion of Series B Preferred (\$0.50/share)	(3,000)	(3)	40,602	3
Proceeds from warrant exercise (\$0.50/share)		—	730,765	730
Proceeds from warrant exercise (\$0.75/share)		—	43,332	44
Cashless exercise of warrants		—	49,417	50
Net (loss) for the year ended May 31, 2017				
Balance May 31, 2017	<u>92,100</u>	<u>\$ 92</u>	<u>149,468,244</u>	<u>\$149,468</u>

Table of Contents

	Additional Paid-In Capital	Accumulated Deficit	Total
Balance May 31, 2016	\$107,307,933	\$ (97,225,914)	\$ 10,205,450
Interest expense related to warrant extension	72,398	—	72,434
Stock-based compensation	1,204,791	—	1,204,791
Legal fees in connection with registered offerings	(280,883)	—	(280,883)
Proceeds from private equity offering (\$1.00/share)	728,770	—	729,500
Proceeds from Registered Direct Offering (\$0.75/share)	14,019,713	—	14,044,252
Offering costs related to equity offering	(1,804,249)	—	(1,804,249)
Debt discount related to convertible notes payable	91,389	—	91,389
Conversion of Series B Preferred (\$0.50/share)	—	—	—
Proceeds from warrant exercise (\$0.50/share)	364,653	—	365,383
Proceeds from warrant exercise (\$0.75/share)	32,456	—	32,500
Cashless exercise of warrants	(50)	—	—
Net (loss) for the year ended May 31, 2017		(25,763,801)	(25,763,801)
Balance May 31, 2017	<u>\$121,736,921</u>	<u>\$(122,989,715)</u>	<u>\$ (1,103,234)</u>

See accompanying notes to consolidated financial statements

[Table of Contents](#)CytoDyn Inc.
Consolidated Statements of Cash Flows

	Year Ended May 31,	
	2017	2016
Cash flows from operating activities:		
Net loss	\$(25,763,801)	\$(25,703,612)
Adjustments to reconcile net loss to net cash used by operating activities:		
Amortization and depreciation	366,385	361,610
Amortization of debt issuance costs	—	604,625
Amortization of discount on convertible notes	—	1,791,967
Amortization of discount on related party notes	—	94,344
Interest expense associated with derivative liability	540,330	—
Gain on extinguishment of accounts payable	—	72,898
Change in fair value of derivative liability	(2,164,533)	(646,505)
Loss on extinguishment of convertible notes	—	584,177
Inducement interest expense	72,437	1,954,108
Stock-based compensation	1,204,791	2,353,194
Changes in current assets and liabilities:		
(Increase) decrease in prepaid expenses	(2,492,789)	(864,817)
(Decrease) increase in accounts payable and accrued expenses	1,504,712	(5,412,640)
Net cash used in operating activities	<u>\$(26,732,468)</u>	<u>\$(24,810,651)</u>
Cash flows from investing activities:		
Furniture and equipment purchases	<u>(11,114)</u>	<u>(11,949)</u>
Net cash used in investing activities	<u>(11,114)</u>	<u>(11,949)</u>
Cash flows from financing activities:		
Proceeds from sale of common stock and warrants	19,133,755	37,569,964
Proceeds from warrant exercises	397,883	548,619
Proceeds from convertible notes payable	1,150,000	—
Payment of principal and interest on convertible notes payable	—	(789,140)
Payment of offering costs	<u>(1,804,249)</u>	<u>(3,915,127)</u>
Net cash provided by financing activities	<u>18,877,389</u>	<u>33,414,316</u>
Net change in cash	(7,866,193)	8,591,716
Cash, beginning of period	<u>9,641,776</u>	<u>1,050,060</u>
Cash, end of period	<u>\$ 1,775,583</u>	<u>\$ 9,641,776</u>

[Table of Contents](#)

	Year Ended May 31,	
	2017	2016
Supplemental disclosure of cash flow information:		
Cash paid during the period for:		
Interest	\$ —	\$ 26,890
Non-cash investing and financing transactions:		
Common stock issued upon conversion of convertible debt	\$ —	\$7,947,342
Common stock issued or to be issued for accrued interest payable	\$ —	\$ 143,479
Accounts payable extinguished through settlements	\$ —	\$ 72,898
Financing costs associated with investor warrants	\$ 819,200	\$ —
Debt discount associated with convertible notes payable	\$ 91,389	\$ —
Derivative liability associated with certain warrants	\$5,179,200	\$ —

See accompanying notes to consolidated financial statements.

[Table of Contents](#)

CYTODYN INC.
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS
AS OF MAY 31, 2017

Note 1 – Organization

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

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

Note 2 – Summary of Significant Accounting Policies

Principles of Consolidation

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

Reclassifications

Certain prior year amounts shown in the accompanying consolidated financial statements have been reclassified to conform to the 2017 presentation. These reclassifications did not have any effect on total current assets, total assets, total current liabilities, total liabilities, total stockholders’ (deficit) equity, net loss or earnings per share.

Going Concern

The consolidated accompanying financial statements have been prepared on a going concern basis, which contemplates the realization of assets and the satisfaction of liabilities in the normal course of business. As shown in the accompanying consolidated financial statements, the Company had losses for all periods presented. The Company incurred a net loss of \$25,763,801 and \$25,703,612 for the years ended May 31, 2017 and May 31, 2016, respectively, and has an accumulated deficit of \$122,989,715 as of May 31, 2017. These factors, among others, raise substantial doubt about the Company’s ability to continue as a going concern.

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

Use of Estimates

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

Cash

Cash is maintained at federally insured financial institutions and, at times, balances may exceed federally insured limits. The Company has never experienced any losses related to these balances. Balances in excess of federally insured limits at May 31, 2017 and May 31, 2016 approximated \$1.5 million and \$9.4 million, respectively.

[Table of Contents](#)

Identified Intangible Assets

The Company follows the provisions of FASB ASC Topic 350 Intangibles-Goodwill and Other, which establishes accounting standards for the impairment of long-lived assets such as intangible assets subject to amortization. The Company reviews long-lived assets to be held and used for impairment whenever events or changes in circumstances indicate that the carrying amount of the assets may not be recoverable. If the sum of the undiscounted expected future cash flows over the remaining useful life of a long-lived asset group is less than its carrying value, the asset is considered impaired. Impairment losses are measured as the amount by which the carrying amount of the asset group exceeds the fair value of the asset. There were no impairment charges for the years ended May 31, 2017 and May 31, 2016. The value of the Company's patents would be significantly impaired by any adverse developments as they relate to the clinical trials pursuant to the patents acquired as discussed in Notes 7 and 9.

Research and Development

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

Pre-launch Inventory

The Company may scale-up and make commercial quantities of its product candidate prior to the date it anticipates that such product will receive final FDA approval. The scale-up and commercial production of pre-launch inventories involves the risk that such products may not be approved for commercial use by the FDA on a timely basis, or ever. This risk notwithstanding, the Company may scale-up and build pre-launch inventories of product that have not yet received final governmental approval when the Company believes that such action is appropriate in relation to the commercial value of the product launch opportunity. The determination to capitalize is made once the Company (or its third party development partners) has filed a Biologics License Application ("BLA"), that has been acknowledged by the FDA as containing sufficient information to allow the FDA to conduct its review in an efficient and timely manner and management is reasonably certain that all regulatory and legal hurdles will be cleared. This determination is based on the particular facts and circumstances relating to the expected FDA approval of the drug product being considered. As of May 31, 2017 and May 31, 2016, the Company did not have pre-launch inventory that qualified for capitalization pursuant to U.S. GAAP ASC 330 "Inventory."

Fair Value of Financial Instruments

At May 31, 2017 and May 31, 2016, the carrying value of the Company's cash, accounts payable and accrued liabilities approximate their fair value due to the short-term maturity of the instruments. The Company carries derivative financial instruments at fair value as required by U.S. GAAP.

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

Derivative financial instruments may be free-standing or embedded in other financial instruments. The Company follows the provisions of FASB ASC 815 "Derivatives and Hedging" ("ASC 815"), as their instruments are recorded as a derivative liability, at fair value, and FASB ASC 480 "Distinguishing Liabilities from Equity" (ASC 480), as it relates to warrant liability, with changes in fair value reflected in income.

Fair Value Hierarchy

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

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

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

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

[Table of Contents](#)

Liability measured at fair value on a recurring basis by level within the fair value hierarchy as of May 31, 2017 and May 31, 2016 is as follows:

	Fair Value Measurement at May 31, 2017 (1)		Fair Value Measurement at May 31, 2016	
	Using Level 3	Total	Using Level 3	Total
Liability:				
Derivative liability	\$3,014,667	\$3,014,667	\$ —	\$ —
Total liability	\$3,014,667	\$3,014,667	\$ —	\$ —

- (1) The Company did not have any assets or liabilities measured at fair value using Level 1 or 2 of the fair value hierarchy as of May 31, 2017 and May 31, 2016.

A financial instrument's level within the fair value hierarchy is based on the lowest level of any input that is significant to the fair value measurements. These instruments are not quoted on an active market, so the Company uses a Binomial Lattice Model to estimate the value of the derivative liability. A Binomial Lattice 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 of the fair value hierarchy because certain unobservable inputs were used in the valuation model.

The following is a reconciliation of the beginning and ending balances for liabilities measured at fair value on a recurring basis using significant unobservable inputs (Level 3) during the year ended May 31, 2017 and May 31, 2016:

Balance at May 31, 2015	\$ 2,008,907
Note conversion June 24, 2015	(521,133)
Note conversion June 24, 2015	(841,269)
Fair value adjustments	(646,505)
Balance at May 31, 2016	\$ —
Investor warrants issued with registered direct equity offering	\$ 4,360,000
Placement agent warrants issued with registered direct equity offering	819,200
Fair value adjustments	(2,164,533)
Balance at May 31, 2017	\$ 3,014,667

Stock-Based Compensation

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

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

Common Stock

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

[Table of Contents](#)

Preferred Stock

The Company's Board of Directors is authorized to issue up to 5,000,000 shares of preferred stock without stockholder approval. As of May 31, 2017, the Company has authorized the issuance of 400,000 shares of Series B convertible preferred stock, of which 92,100 shares were outstanding. The remaining preferred shares authorized have no specified rights.

Debt Discount and Issuance Costs

During the year ended May 31, 2015, the Company incurred direct costs associated with the issuance of short-term convertible notes, as described in Note 4, and recorded approximately \$709,000 of debt issuance costs and recorded approximately \$-0- and \$605,000 of related amortization for the years ended May 31, 2017 and May 31, 2016, respectively. During the year ended May 31, 2017, the Company incurred approximately \$92,000 of debt discount related to convertible promissory notes issued with detachable warrants. The discount will be amortized over the life of the convertible promissory notes.

Offering Costs

During the years ended May 31, 2017 and May 31, 2016, the Company incurred approximately \$1.8 and \$3.9 million in direct incremental costs associated with the sale of equity securities, respectively. The offering costs were recorded as a component of equity upon receipt of the proceeds, as fully described in Notes 10 and 11.

Stock for Services

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

Loss per Common Share

Basic loss per share is computed by dividing the net loss by the weighted average number of common shares outstanding during the period. Diluted loss per share would include the weighted average common shares outstanding and potentially dilutive common share equivalents. Because of the net losses for all periods presented, the basic and diluted weighted average shares outstanding are the same since including the additional shares would have an anti-dilutive effect on the loss per share. For this reason, common stock options and warrants to purchase 77,859,626 and 63,307,150 shares of common stock were not included in the computation of basic and diluted weighted average common shares outstanding for the years ended May 31, 2017 and May 31, 2016, respectively. As of May 31, 2017, shares of Series B convertible preferred stock in the aggregate of 92,100 shares can potentially convert into 921,000 shares of common stock. As of May 31, 2017, convertible promissory notes in the aggregate principal amount of \$1,150,000 can potentially convert into 1,533,333 shares of common stock.

Income Taxes

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

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

Note 3 – Recent Accounting Pronouncements

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

In July 2017, the Financial Accounting Standards Board ("FASB") issued Accounting Standards Update ("ASU") No. 2017-11, *Earnings Per Share (Topic 260), Distinguishing Liabilities from Equity (Topic 480), Derivatives and Hedging (Topic 815)*. The amendments in Part I of this Update change the classification analysis of certain equity-linked financial instruments (or embedded features) with down round features. When determining whether certain financial instruments should be classified as liabilities or equity instruments, a down round feature no longer precludes equity classification when assessing whether the instrument is indexed to an entity's own stock. The amendments also clarify existing disclosure requirements for equity-classified instruments. As a result, a freestanding equity-linked financial instrument (or embedded conversion option) no longer would be accounted for as a derivative liability at fair value as a result of the existence of a down round feature. For freestanding equity classified financial instruments, the amendments require entities that present earnings per share (EPS) in accordance with Topic 260 to recognize the effect of the down round feature when it is triggered. That effect is treated as a dividend and as a reduction of income available to common shareholders in basic EPS. Convertible instruments with embedded conversion options that have down round features are now subject to the specialized guidance for contingent beneficial conversion features

(in Subtopic 470-20, Debt—Debt with Conversion and Other Options), including related EPS guidance (in Topic 260). The amendments in Part II of this Update recharacterize the indefinite deferral of certain provisions of Topic 480 that now are presented as pending content in the Codification, to a scope exception. Those amendments do not have an accounting effect. For public business entities, the amendments in Part I of this Update are effective for fiscal years, and interim periods within those fiscal years, beginning after December 15, 2018. For all other entities, the amendments in Part I of this Update are effective for fiscal years beginning after December 15, 2019, and interim periods within fiscal years beginning after December 15, 2020. Early adoption is permitted for all entities, including adoption in an interim period. If an entity early adopts the amendments in an interim period, any adjustments should be reflected as of the beginning of the fiscal year that includes that interim period.

In May 2017, the FASB issued ASU 2017-09, *Compensation-Stock Compensation (Topic 718), Scope of Modification Accounting*. The amendments in this Update provide guidance about which changes to the terms or conditions of a share-based payment award require an entity to apply modification accounting in Topic 718. The amendments in this Update are effective for all entities for annual periods, and interim periods within those annual periods, beginning after December 15, 2017. Early adoption is permitted, including adoption in any interim period, for (1) public business entities for reporting periods for which financial statements have not yet been issued and (2) all other entities for reporting periods for which financial statements have not yet been made available for issuance.

In February 2016, the FASB issued Accounting Standards Update No. 2016-02 (ASU 2016-02), *Leases (Topic 842)* effective for annual periods beginning after December 15, 2018, and interim periods within those annual periods. The ASU is to be applied using a modified retrospective approach with optional practical expedients and other special transition provisions. Early adoption is

Table of Contents

permitted.)—The ASU supersedes FASB ASC 840, *Leases*, and adds FASB ASC 842. It also amends and supersedes a number of other paragraphs throughout the FASB ASC. Management is currently assessing the impact the adoption of ASU 2016-02 will have on the Company's Consolidated Financial Statements.

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

In April 2015, the FASB issued Accounting Standards Update No. 2015-03 "Simplifying the Presentation of Debt Issuance Costs" ("ASU2015-03") The standard requires that debt issuance costs related to a recognized debt liability be presented in the balance sheet as a direct reduction from the carrying amount of that debt liability, consistent with debt discounts. The recognition and measurement guidance for debt issuance costs are not affected by the amendments in this standards update. The Company evaluated this ASU and began early adoption beginning with the annual period ended May 31, 2016. The adoption of this guidance did not have a material impact on the Company's financial position, overall results of operations or cash flows.

In June 2014, the FASB issued Accounting Standards Update ("ASU") No. 2014-12, "Compensation—Stock Compensation (Topic 718), Accounting for Share-Based Payments When the Terms of an Award Provide That a Performance Target Could Be Achieved after the Requisite Service Period" (ASU 2014-12). ASU 2014-12 provides guidance for awards with performance targets that could be achieved after the requisite service period has been met. The adoption of the guidance did not have a material impact on the Company's financial position, overall results of operations or cash flows.

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

Note 4 – Convertible Instruments

Series B Convertible Preferred Stock

During fiscal 2010, the Company issued 400,000 shares of Series B, \$0.001 par value Convertible Preferred Stock ("Series B") at \$5.00 per share for cash proceeds totaling \$2,009,000, of which 92,100 shares remain outstanding at May 31, 2017. Each share of the Series B is convertible into ten shares of the Company's \$0.001 par value common stock, including any accrued dividends, with an effective fixed conversion price of \$0.50 per share. The holders of the Series B can only convert their shares to common shares provided the Company has sufficient authorized common shares at the time of conversion. Accordingly, the conversion option was contingent upon the Company increasing its authorized common shares, which occurred in April 2010, when the Company's shareholders approved an increase in the authorized shares of common stock to 100,000,000. At the commitment date, which occurred upon such shareholder approval, the conversion option related to the Series B was beneficial. The intrinsic value of the conversion option at the commitment date resulted in a constructive dividend to the Series B holders of approximately \$6,000,000. The constructive dividend increased and decreased additional paid-in capital by identical amounts. The Series B has liquidation preferences over the common shares at \$5.00 per share plus any accrued dividends. Dividends are payable to the Series B holders when declared by the board of directors at the rate of \$0.25 per share per annum. Such dividends are cumulative and accrue whether or not declared and whether or not there are any profits, surplus or other funds or assets of the Company legally available. The Series B holders have no voting rights.

2013 Convertible Notes

During the year ended May 31, 2013, the Company issued \$6,588,250 in aggregate original principal amount of unsecured convertible notes (the "2013 Convertible Notes") to investors for cash. Each outstanding 2013 Convertible Note was convertible at the election of the holder at any time into common shares at a fixed conversion price. At issuance, total principal of \$6,208,250 was convertible at \$0.75 per share, and \$380,000 was convertible at \$0.65 per share. The 2013 Convertible Notes were payable in full between November 30, 2013 and March 6, 2016, and bore interest at rates ranging from 5% to 10% per year, payable in cash semi-annually in arrears beginning on April 1, 2013. At May 31, 2017 and May 31, 2016, there were no convertible notes outstanding related to this offering.

Table of Contents

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

Additionally, at the commitment date, the Company determined that the conversion feature related to the 2013 Convertible Notes was beneficial to the investors. As a result, the Company determined the intrinsic value of the conversion feature utilizing the fair value of the underlying common stock at the commitment date and the effective conversion price after discounting the 2013 Convertible Notes for the fair value of the warrants. The fair value of the warrants and the intrinsic value of the beneficial conversion feature were recorded as a debt discount to the 2013 Convertible Notes, with a corresponding increase to additional paid-in capital. The debt discount was amortized over the life of the 2013 Convertible Notes. During the years ended May 31, 2017 and May 31, 2016, the Company recognized approximately \$ -0- and \$7,000, respectively, as interest expense related to amortization of the debt discount. The unamortized discount was fully amortized upon any conversion of the 2013 Convertible Notes before maturity. Activity related to the 2013 Convertible Notes for the year ended May 31, 2017 and May 31, 2016 was as follows:

	May 31, 2017	May 31, 2016
Face amount of Notes	\$ —	\$ 50,000
Unamortized discount	—	—
Conversions	—	(50,000)
Total carrying value of Notes	\$ —	\$ —

The Company determined the fair value of the extended warrants described below, as follows:

	2016	2017
Expected dividend yield	0%	0%
Stock price volatility	64.56% - 69.30%	4.00%
Expected term	1 year	1 month
Risk-free interest rate	0.33%	77.00%
Grant-date fair value	\$0.15-\$0.18	\$0.11

During each of the fiscal years ended May 31, 2015 and 2016, the board approved a one-year extension of expiration dates on the aforementioned detachable common stock warrants, which had an original term of two years, covering approximately 6.3 million shares of common stock, with an exercise price of \$1.00 per share. The first extension of expiration dates ranged from October 2015 through January 2016 and the second extension deferred the expiration dates to October 2016 through January 2017. The extensions were effective upon the receipt of certain executed documentation from the warrant holders. Pursuant to U.S. GAAP, the Company recognized non-cash interest expense in fiscal years ended May 31, 2017 and 2016 of approximately \$72,000 and \$867,000, respectively, in connection with these extensions, which represented the incremental increase in the fair value of the modified warrants.

As fully disclosed in Note 6 below, these warrants were granted an additional and final extension with all extended expirations dates being May 31, 2017, subsequently extended until June 30, 2017. The Company determined the fair value of the new warrants using the Black-Scholes option pricing model utilizing certain weighted-average assumptions, such as expected stock price volatility, term of the warrants, risk-free rate and expected dividend yield at the commitment date.

AVCP Convertible Notes

During the year ended May 31, 2015, the Company issued a three-month unsecured convertible promissory note (the "AVCP Bridge Note" and together with the AVCP Two-Year Note, the "AVCP Convertible Notes") in the aggregate principal amount of \$1,500,000 to Alpha Venture Capital Partners, L.P. ("AVCP"), an affiliate of one of the Company's directors. As described in greater detail below, the AVCP Bridge Note, along with the AVCP Two-Year Note, were subsequently converted in a transaction occurring during the year ended May 31, 2016. The principal amount of the AVCP Bridge Note plus unpaid accrued interest was convertible at the

Table of Contents

election of the holder into shares of the Company's common stock at any time prior to maturity at an initial conversion price of \$1.00 per share. The AVCP Bridge Note bore simple interest of 1.2% per month, payable at maturity on May 5, 2015, and monthly thereafter, upon the Company's election to exercise a one-time option to extend the maturity by an additional three months, which the Company exercised on April 1, 2015 (extending the maturity date to August 5, 2015). Prepayment was permitted without penalty subject to the Company's obligation to pay at least three months' interest on the principal amount. The conversion price was subject to (i) adjustment for stock splits and similar corporate events and (ii) reduction to a price per share that is 10% below the lowest sale price that is below \$.9444 per share, for shares of common stock sold or deemed sold in future securities offerings, including sales to AVCP and its designees subject to certain exempt transactions. Without AVCP's prior written consent, the Company was not permitted to incur additional indebtedness for borrowed money, other than up to an additional \$6.0 million in convertible promissory notes that may be issued to AVCP or related parties, unless such indebtedness was subordinated in right of payment to the Company's obligations under the AVCP Bridge Note and any additional notes issued to AVCP or related parties.

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

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

The Company accounted for the AVCP Convertible Notes and related warrants, fully described below, as a financing transaction, wherein proceeds were allocated to the financial instruments issued. Prior to making the accounting allocation, the AVCP Convertible Notes and warrants were evaluated for proper classification under FASB ASC 480 "Distinguishing Liabilities from Equity" and ASC 815. The debt discounts associated with the notes were amortized over the term of the notes and the Company recognized approximately \$ -0- and \$94,000 in non-cash amortization expense for the years ended May 31, 2017 and May 31, 2016, respectively.

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

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

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

On June 23, 2015, the Company, Alpha Venture Capital Management, LLC and AVCP entered into a Debt Conversion and Termination Agreement pursuant to which (i) AVCP agreed to convert the \$3,535,627 in aggregate indebtedness as of June 23, 2015 under the AVCP Convertible Notes in exchange for 5,237,966 shares of the Company's common stock; (ii) subject to the conversion of the two AVCP Convertible Notes, the Company agreed to issue AVCP an additional five-year warrant covering 1,000,000 shares of common stock at an exercise price of \$0.675 per share and (iii) subject to the AVCP's receipt of the common shares and warrant, the parties agreed to (a) terminate the subscription agreements; and (b) release and discharge each other party from all claims and obligations arising under the two AVCP Convertible Notes and subscription agreements. As a result of the debt conversion, during the

Table of Contents

year ended May 31, 2016, the Company recognized a loss on extinguishment of the AVCP Convertible Notes of approximately \$584,000, a non-cash gain on the change in the fair value of the derivative liability of approximately \$647,000 and non-cash inducement interest expense of approximately \$758,000 arising from the aforementioned warrant.

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

The following table summarizes the fair value of the derivative liability and linked common shares of the AVCP Notes, as of the derivative liability inception dates (September 26, 2014 and February 6, 2015) and fiscal year end May 31, 2016.

	Total	Total
	Shares Indexed	Derivative Liability
Derivative Liability May 31, 2014	—	\$ —
September 26, 2014	2,000,000	767,038
February 6, 2015	1,500,000	403,226
Change in fair value 2015	<u>1,685,185</u>	<u>838,643</u>
Balance May 31, 2015	5,185,185	\$ 2,008,907
Change in fair value 2016	—	(646,505)
Conversion of notes payable June 24, 2015	<u>(5,185,185)</u>	<u>(1,362,402)</u>
Balance May 31, 2016	<u>—</u>	<u>\$ —</u>

Changes in the fair value of the derivative liability, carried at fair value, are reported as “Change in fair value of derivative liability” in the Consolidated Statements of Operations. During the year ended May 31, 2017 and May 31, 2016, the Company recognized a non-cash gain of approximately of \$-0- and \$647,000, due to the change in derivative liability related to the fundamental transaction feature in the registered direct warrants and embedded derivative in the AVCP Notes.

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

Table of Contents

Significant inputs and assumptions used in the Lattice for the derivative liability related to the AVCP notes payable are as follows:

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

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

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

2015 Short-Term Convertible Notes

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

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

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

Additionally, at the commitment date, the Company determined that the conversion feature related to the Short-Term Convertible Notes was beneficial to the investors. As a result, the Company determined the intrinsic value of the beneficial conversion feature utilizing the fair value of the underlying common stock at the commitment date and the effective conversion price after discounting the Short-Term Convertible Notes for the fair value of the warrants. The fair value of the warrants and the intrinsic value of the conversion feature were recorded as a debt discounts to the 2015 Short-Term Convertible Notes, and a corresponding increase to additional paid-in capital. The debt discounts are amortized over the life of the 2015 Short-Term Convertible Notes. The Company recognized approximately \$-0- and \$1,784,000 as interest expense related to the amortization of the debt during the year ended May 31, 2017 and 2016, respectively. There were no 2015 Short-Term Convertible Notes outstanding at May 31, 2017 or May 31, 2016. The unamortized discounts were fully amortized upon any conversion of the 2015 Short-Term Convertible Notes before maturity.

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

Following the consummation of the exchange offer described above, an aggregate principal amount of \$525,000 and accrued but unpaid interest of \$17,830 converted into 723,773 shares of common stock. The principal and interest for 2015 Short-Term

Table of Contents

Convertible Notes that were not exchanged in the exchange offer, or that are not otherwise converted pursuant to their terms, became due and payable between October 30, 2015 and November 15, 2015, six months from their issuance. The Company repaid the remaining aggregate principal and interest on such Convertible Notes of approximately \$789,000 Short-Term Convertible Notes on their respective maturity dates. Related to the tender offer conversions, the Company recognized approximately \$330,000 in non-cash interest expense and approximately \$108,000 commission expense to assist the Company in conversion of the debt at the commitment date.

Activity related to the 2015 Short-Term Convertible Notes for fiscal year ended May 31, 2017 and May 31, 2016 was as follows:

	May 31, 2017	May 31, 2016
Face amount of Notes	\$ —	\$ 3,981,050
Unamortized discount	—	—
Tender offer conversions	—	(2,693,800)
Conversions	—	(525,000)
Payments upon maturity	—	(762,250)
Total carrying value of Notes	\$ —	\$ —

2017 Short-Term Convertible Notes

During the year ended May 31, 2017, the Company issued \$1.15 million of unsecured convertible promissory notes, with a maturity date of January 31, 2018, (the "2017 Notes") and related warrants to investors for cash. The principal amount of the 2017 Notes, including any accrued but unpaid interest thereon, is convertible at the election of the holder at any time into shares of common shares at any time prior to maturity at a conversion price of \$0.75 per share. The 2017 Notes bear simple interest at the annual rate of 7%. Principal and accrued interest, to the extent not previously paid or converted, is due and payable on the maturity date. At the commitment date, the conversion price was greater than the fair value of the common stock. Accordingly, no beneficial conversion feature was recorded. The Company incurred approximately \$92,000 of debt discount related to the detachable warrants issued with the 2017 Notes, which will be amortized over the term of the notes.

In connection with the sale of the 2017 Notes, detachable common stock warrants to purchase a total of 383,333 common shares, with an exercise price of \$1.35 per share and a five-year term were issued to the investors. The Company determined the fair value of the warrants at issuance using the Black-Scholes option pricing model utilizing certain weighted average assumptions, such as expected stock price volatility, expected term of the warrants, risk-free interest rates and expected dividend yield at the grant date.

	2017
Expected dividend yield	0%
Stock price volatility	69.00%
Expected term	5 year
Risk-free interest rate	1.75%
Grant-date fair value	\$0.24

The fair value of the warrants were recorded as a debt discount to the 2017 Notes and a corresponding increase to additional paid-in capital. The non-cash debt discount, of approximately \$92,000 will be amortized over the term of the 2017 Notes.

Note 5 - Derivative Liability:

Registered Direct Equity Offering

The investor warrants issued with the September 2016 registered direct equity offering, and the placement agent warrants issued in conjunction with the offering, as fully described in Note 11, contain a provision for net cash settlement in the event that there is a fundamental transaction (contractually defined as a merger, sale of substantially all assets, tender offer or share exchange). If a fundamental transaction occurs in which the consideration issued consists principally of cash or stock in a successor entity, then the warrant holder has the option to receive cash, equal to the fair value of the remaining unexercised portion of the warrant. Due to this contingent cash settlement provision, the investor and placement agent warrants require liability classification as derivatives in accordance with ASC 480 and ASC 815 and are recorded at fair value.

Table of Contents

The following tables summarize the fair value of the warrant derivative liability and related common shares as of inception date September 15, 2016 and May 31, 2017:

	<u>Shares Indexed</u>	<u>Derivative Liability</u>
Balance May 31, 2016	—	\$ —
Inception date September 15, 2016	7,733,334	5,179,200
Balance May 31, 2017	7,733,334	\$ 3,014,667

Changes in the fair value of the derivative liability are reported as “Change in fair value of derivative liability” in the Consolidated Statements of Operations. During the year ended May 31, 2017, the Company recognized a net non-cash gain of approximately \$2.2 million, due to the changes in the fair value of the liability associated with such classified warrants and non-cash interest expense of approximately \$540,000.

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

The Company estimated the fair value of the warrant derivative liability as of inception, and May 31, 2017, using the following assumptions:

	<u>September 15, 2016</u>	<u>May 31, 2017</u>
Fair value of underlying stock	\$ 0.78	\$ 0.60
Risk free rate	1.20%	1.71%
Expected term (in years)	5	4.29
Stock price volatility	106%	94%
Expected dividend yield	—	—
Probability of Fundamental Transaction	50%	50%
Probability of holder requesting cash payment	50%	50%

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

Note 6 – Stock Options and Warrants

The Company has one active stock-based equity plan at May 31, 2017, the CytoDyn Inc. 2012 Equity Incentive Plan (the “2012 Plan”) and one stock-based equity plan that is no longer active, but under which certain prior awards remain outstanding, the CytoDyn Inc. 2004 Stock Incentive Plan (the “2004 Plan”) and, together with the 2012 Plan, the “Incentive Plans”). The 2012 Plan was approved by shareholders at the Company’s 2012 annual meeting to replace the 2004 Plan. The 2012 Plan was subsequently amended by shareholder approval, in February 2015, to increase the number of shares available for issuance from 3,000,000 to 5,000,000 shares of common stock and, in March 2016, to increase the number of shares available for issuance from 5,000,000 to 7,000,000 shares of common stock. On February 12, 2017, the Board of Directors approved an amendment to the 2012 Plan to increase the number of shares available for issuance from 7,000,000 to 15,000,000 shares of common stock and modify certain other provisions in the 2012 Plan. The amendment is conditioned upon stockholder approval at the 2017 annual meeting of stockholders. As of May 31, 2017, the Company had 7,543,807 shares available for future stock-based grants under the 2012 Plan, as amended, but subject to future stockholder approval.

Stock Options

During the year ended May 31, 2017, the Company’s Compensation Committee of the Board of Directors granted a time-based option covering 550,000 shares of common stock and a milestone-based option covering 450,000 shares of common stock to the Executive Chairman. The time-based option has an exercise price of \$0.76 and a ten-year term. The option vests in equal monthly installments over the next two years and has a grant date fair value of \$0.64 per share. The grant of the milestone-based option is conditioned on

Table of Contents

stockholder approval of the increase in the number of shares authorized for issuance under the 2012 Plan, as discussed above. The milestone-based option will not be exercisable unless and until approval of the share increase, for the 2012 Plan, as discussed above, is obtained from the stockholders. At that time the vesting will be contingent upon the achievement of certain strategic milestones specified in the option agreement.

During the year ended May 31, 2017, the Company granted annual stock option awards to directors to purchase a total of 300,000 shares of common stock with an exercise price of \$1.09 per share. These option awards vest quarterly over one year and have a ten-year term. The grant date fair value related to these options was \$0.78 per share. An additional stock option covering 100,000 shares of common stock was granted to a director. The option has an exercise price of \$0.68 and vests 25% immediately with the remainder ratably over one year, has a ten-year term and grant date fair value of \$0.53 per share. In April 2017, an option award was granted to the Company's newly appointed director, subject to stockholder approval of the increase in the number of shares authorized for issuance under the 2012 Plan, in a pro-rata amount covering 7,123 shares of common stock with an exercise price of \$0.61 per share. The option vested May 31, 2017 and has a ten-year term and grant date fair value of \$0.36 per share.

During the year ended May 31, 2017, the Company granted options covering an aggregate of 1,050,000 shares of common stock to executive management and certain employees with exercise prices of \$1.09 and \$1.10 per share. The options vest annually over three years, have a ten-year term and grant date fair values of \$0.75 and \$0.76 per share, respectively.

Warrants

In connection with a private equity offering completed in June 2016, as fully described in Note 10, the Company issued common stock warrants covering 182,375 shares of common stock to investors. The warrants have a five-year term and an exercise price of \$1.35 per share. During the year ended May 31, 2017, holders of warrants covering 774,097 shares of common stock exercised the right to purchase such shares at either \$0.50 or \$0.75 per share and the Company received proceeds of approximately \$398,000. Additionally, warrants covering 138,864 shares with an exercise price of \$0.75 per share were exercised pursuant to a cashless exercise provision.

In connection with a registered direct equity offering completed in September 2016, as fully described in Note 11, the Company issued common stock warrants covering 6,666,667 shares of common stock to investors. The investor warrants have a five-year term and an exercise price of \$1.00 per share. In connection with this offering, the Company also issued common stock warrants covering 1,066,667 shares of common stock to the placement agent. The placement agent warrants have a five-year term and an exercise price of \$0.825 per share.

During the year ended May 31, 2017, in connection with the December, January and February registered direct equity offerings, as fully described in Note 11, the Company issued common stock warrants covering 5,602,821 shares of common stock to investors. The investor warrants have a five-year term and an exercise price of \$1.00 per share. In connection with these offerings, the Company also issued common stock warrants covering 576,451 shares of common stock to the placement agent. The placement agent warrants have a five-year term and an exercise price of \$0.825 per share.

In January 2017, the Company determined to extend the expiration dates of certain warrants to May 31, 2017, covering an aggregate of 6,310,667 shares of common stock. The warrants were originally issued in connection with the sale of the 2013 Convertible Notes, as identified in Note 4. The warrants currently have an exercise price of \$1.00 per share, and all but two warrants were exercisable through October 2016. One warrant, for the purchase of 186,667 shares of common stock, was exercisable through December 2016 and one warrant, for the purchase of 160,000 shares of common stock, is exercisable until January 15, 2017. The extension to May 31, 2017 is contingent upon the execution of a release of claims by each of the warrant holders, the delivery of the "form of exercise," and the receipt of the exercise proceeds to the Company.

On May 31, 2017, in connection with the sale of the 2017 Convertible Notes, as fully described in Note 4, the Company issued common stock warrants covering 383,333 shares of common stock to note holders. The investor warrants have a five-year term and an exercise price of \$1.35 per share.

Compensation expense related to stock options and warrants for the fiscal years ended May 31, 2017 and May 31, 2016 was approximately \$1,205,000 and \$2,353,000, respectively. The grant date fair value of options and warrants vested during the fiscal years ended May 31, 2017 and May 31, 2016, was approximately \$949,000 and \$1,712,000, respectively. As of May 31, 2017, there was approximately \$940,000 of unrecognized compensation expense related to share-based payments for unvested options, which is expected to be recognized over a weighted-average period of 1.78 years.

[Table of Contents](#)

The following table represents stock option and warrant activity for the periods ended May 31, 2017 and 2016:

	Number of Shares	Weighted Average Exercise Price	Weighted Average Remaining Contractual Life in Years	Aggregate Intrinsic Value
Options and warrants outstanding - May 31, 2015	31,008,915	\$ 0.88	2.94	\$ 5,538,335
Granted	33,838,536	0.80	—	—
Exercised	(1,050,301)	0.70	—	—
Forfeited/expired/cancelled	(490,000)	2.01	—	—
Options and warrants outstanding - May 31, 2016	63,307,150	0.83	3.20	9,863,492
Granted	16,935,437	0.99	—	—
Exercised	(912,961)	0.55	—	—
Forfeited/expired/cancelled	(1,470,000)	1.56	—	—
Options and warrants outstanding - May 31, 2017	77,859,626	0.86	3.40	40,250
Outstanding exercisable - May 31, 2017	74,535,543	\$ 0.85	3.17	\$ 40,250

Note 7 – Acquisition of patents

As discussed in Note 9 below, the Company consummated an asset purchase on October 16, 2012, and paid \$3,500,000 for certain assets, including intellectual property, certain related licenses and sublicenses, FDA filings and various forms of the PRO 140 drug substance. The Company followed the guidance in Financial Accounting Standards Topic 805 to determine if the Company acquired a business. Based on the prescribed accounting, the Company acquired assets and not a business. As of May 31, 2017, the Company has recorded, and is amortizing, \$3,500,000 of intangible assets in the form of patents. The Company estimates the acquired patents have an estimated life of ten years. Subsequent to the acquisition date, the Company has continued to expand, amend and file new patents central to its current trial strategies, which, in turn, have extended the protection period for certain methods of using PRO 140 and formulations comprising PRO 140 out through at least 2026 and 2031, respectively, in various countries.

The following presents intangible assets activity:

	May 31, 2017	May 31, 2016
Gross carrying amounts	\$ 3,500,000	\$ 3,500,000
Accumulated amortization	(1,618,770)	(1,268,750)
Total amortizable intangible assets, net	1,881,230	2,231,250
Patents currently not amortized	35,989	35,989
Carrying value of intangibles, net	\$ 1,917,219	\$ 2,267,239

Amortization expense related to intangible patents was approximately \$350,000 for each of the fiscal years ended May 31, 2017 and May 31, 2016. The estimated aggregate future amortization expense related to the Company's intangible assets with finite lives is estimated at approximately \$350,000 per year for the next five years.

Note 8 – License Agreements

During the year ended May 31, 2016, the Company executed a license agreement with a third-party licensor covering the licensor's "system know-how" technology with respect to the Company's use of proprietary cell lines to manufacture new PRO 140 material. The agreement required payment of £600,000 (approximately US\$915,000) by December 15, 2015, which was accrued and timely paid during the year ended May 31, 2016. In connection with this license agreement, the Company became the primary obligor of an additional £600,000 (approximately US\$807,000 utilizing current exchange rates), which was accrued and timely paid by June 30, 2016. Future annual license fees and royalty rate will vary depending on whether we manufacture PRO 140 ourselves, utilize the third-party licensor as a contract manufacturer, or utilize an independent party as a contract manufacturer. The licensor does not charge an annual license fee of £300,000 (approximately US\$432,000) when it serves as the manufacturer. This annual license fee is currently being accrued for a payment in December 2017.

[Table of Contents](#)

Note 9 – Commitments and Contingencies

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

Payments to the third-party licensor for “system know-how” technology, see Note 8, and to Progenics are in addition to payments due under a Development and License Agreement, dated April 30, 1999 (the “PDL License”), between Protein Design Labs (now AbbVie Inc.) (“PDL”) and Progenics, which was assigned to the Company in the Asset Purchase Agreement, pursuant to which the Company has an exclusive worldwide license to develop, make, have made, import, use, sell, offer to sell or have sold products that incorporate the humanized form of the PRO 140 antibody developed by PDL under the agreement and must pay additional milestone payments and royalties as follows: (i) \$1,000,000 upon initiation of a Phase 3 clinical trial, which was paid during the year ended May 31, 2016; (ii) \$500,000 upon filing a Biologic License Application with the FDA or non-U.S. equivalent regulatory body; (iii) \$500,000 upon FDA approval or approval by another non-U.S. equivalent regulatory body; and (iv) royalties of up to 7.5% of net sales for the longer of 10 years and the date of expiration of the last to expire licensed patent. Additionally, the PDL License provides for an annual maintenance fee of \$150,000 until royalties paid exceed that amount. During the year ended May 31, 2016, the Company paid \$1 million of such milestones. To the extent that such milestone payments and royalties are not timely made, under the terms of the PDL License, AbbVie Inc. has certain termination rights relating to the Company’s license of PRO 140 thereunder. Pursuant to the foregoing Asset Purchase Agreement and PDL License, the Company accrued an expense of \$2,500,000 as of May 31, 2015 in connection with the anticipated milestone payments related to the first patient dosing in a Phase 3 clinical trial, all of which was paid during the year ended May 31, 2016, as described above.

The Company has entered into project work orders, as amended, for each of its clinical trials with its clinical research organization (“CRO”) and related laboratory vendors. Under the terms of these agreements, the Company incurs execution fees for direct services costs, which are recorded as a current asset. In the event the Company were to terminate any trial, it may incur certain financial penalties which would become payable to the CRO. Conditioned upon the form of termination of any one trial, the financial penalties may range from an approximate low of \$0.1 million to an approximate high of \$0.5 million. In the remote circumstance that the Company would terminate all clinical trials, the collective financial penalties may range from an approximate low of \$0.5 million to an approximate high of \$1.8 million.

During the year ended May 31, 2017, the Company entered into agreements with commercial manufacturing companies. Under the terms of the agreements, the Company prepaid approximately \$2.1 million of execution fees for process validation and manufacturing activities, which is reflected as a current asset, as of May 31, 2017. In the event the Company were to terminate any of the agreements, it may incur certain financial penalties which would become payable to the manufacturers. Conditioned on the timing of termination, the financial penalties may range from an approximate low of \$1.2 million to an approximate high of \$3.6 million.

Note 10 - Private Securities Offerings

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

In June 2016, the Company conducted a private equity offering, in which accredited investors purchase unregistered common stock at \$1.00 per share with warrant coverage of 25%, based on the number of shares of common stock purchased. Pursuant to the offering, the Company sold a total of 729,500 shares of common stock for aggregate gross proceeds of \$729,500 and issued to the investors warrants with a five-year term covering 182,375 shares of common stock with an exercise price of \$1.35 per share.

[Table of Contents](#)

Note 11 - Registered Direct Equity Offerings

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

A summary of the cash proceeds of the offering is as follows:

Gross proceeds from sale of common stock	\$10,000,000
Placement agent fees and expenses	1,010,000
Total net proceeds	<u>\$ 8,990,000</u>

As fully described in Note 6 above, the investor warrants and the placement agent warrants issued in connection with the Registered Offering are required to be accounted for in accordance with ASC 480 and ASC 815.

A summary of the ASC 480 allocation of the proceeds of the offering is as follows:

Allocated to common stock and additional paid in capital	\$6,334,417
Allocated to warrant liabilities	2,655,583
Total net proceeds	<u>\$8,990,000</u>

Closing costs included 1,066,667 warrants valued at \$819,200 for placement agent fees. Based upon the estimated fair value of the stock and warrants in the units, the Company allocated \$241,986 to financing expense and \$577,214 as stock issuance costs.

On December 12, 2016, the Company entered into securities purchase agreements with certain investors for the sale of 4,000,000 shares of common stock at a purchase price of \$0.75 per share in a registered direct offering (the “December Offering”), pursuant to a registration statement on Form S-3. The investors in this December Offering also received warrants to purchase 2,000,000 shares of common stock with an exercise price of \$1.00 per share and a five-year term. The Company received net proceeds from the December Offering of \$3.0 million.

On January 31, 2017, the Company entered into subscription agreements with certain investors for the sale of 1,534,999 shares of common stock at a purchase price of \$0.75 per share in a registered direct offering (the “January Offering”), pursuant to a registration statement on Form S-3. The investors in the January Offering also received warrants to purchase 767,498 shares of common stock with an exercise price of \$1.00 per share and a five-year term. The Company received net proceeds from the January Offering of approximately \$1.0 million after placement fees of 9% of the gross proceeds and various expenses. In addition, the placement agent received warrants covering 122,799 shares (or 8% of total shares sold to investors) with a per share exercise price of \$0.825 and a five-year term.

On February 28, 2017, the Company entered into subscription agreements with certain investors for the sale of 5,670,661 shares of common stock at a purchase price of \$0.75 per share in a registered direct offering (the “February Offering”), pursuant to a registration statement on Form S-3. The investors in the February Offering also received warrants to purchase 2,835,323 shares of common stock with an exercise price of \$1.00 per share and a five-year term. The Company received net proceeds from the February Offering of approximately \$3.8 million after placement fees of 9% of the gross proceeds and various expenses. In addition, the placement agent received warrants covering 453,652 shares (or 8% of total shares sold to investors) with a per share exercise price of \$0.825 and a five-year term.

Note 12 – Employee Benefit Plan

The Company has an employee savings plan (the “Plan”) pursuant to Section 401(k) of the Internal Revenue Code (the “Code”), covering all of its employees. The Company makes a qualified non-elective contribution of 3%, which consequently vests immediately. In addition, participants in the Plan may contribute a percentage of their compensation, but not in excess of the maximum allowed under the Code. During the year ended May 31, 2017 and May 31, 2016, the Company incurred an expense of approximately \$40,300 and \$22,000, respectively, for qualified non-elective contributions.

[Table of Contents](#)

Note 13 – Income Taxes

Deferred taxes are recorded for all existing temporary differences in the Company's assets and liabilities for income tax and financial reporting purposes. Due to the valuation allowance for deferred tax assets, as noted below, there was no net deferred tax benefit or expense for the periods ended May 31, 2016 and 2017.

Reconciliation of the federal statutory income tax rate of 34% to the effective income tax rate is as follows for all periods presented:

	2017	2016
Income tax provision at statutory rate	34.0%	34.0%
State income taxes, net	—	—
Rate change	—	—
Derivative gain/loss	2.8	0.9
Loss on debt conversion	—	(0.8)
Inducement expense	(1.0)	(1.0)
Miscellaneous	(0.1)	(0.5)
Valuation allowance	(35.7)	(32.9)
	<u>0.0%</u>	<u>0.0%</u>

Net deferred tax assets and liabilities are comprised of the following as of May 31, 2017 and 2016:

	2017	2016
Deferred tax asset (liability) non-current:		
Net operating loss	\$ 32,530,436	\$ 23,510,608
SFAS 123r expense on non-qualified stock options	4,284,246	3,873,597
Charitable contributions	25,500	56,950
Accrued expenses	216,645	378,321
Fixed assets	1,300	(1,236)
Amortization	186,772	147,098
Capitalized debt issuance costs	157,992	—
Debt discount	(31,072)	—
Valuation allowance	(37,371,819)	(27,965,338)
	<u>\$ —</u>	<u>\$ —</u>

The income tax benefit for the period presented is offset by a valuation allowance established against deferred tax assets arising from operating losses and other temporary differences, the realization of which could not be considered more likely than not. In future periods, tax benefits and related tax deferred assets will be recognized when management considers realization of such amounts to be more likely than not.

At May 31, 2017, the Company had available net operating loss carry forwards of approximately \$95.6 million, which expire beginning in 2029.

The Company's income tax returns remain subject to examination by all tax jurisdictions for tax years May 31, 2014 through 2016.

Note 14 – Related Party Transactions

On September 26, 2014, the Company entered into a \$2 million convertible promissory note with AVCP, as more fully described in Note 4 above. In October of 2014, Mr. Carl C. Dockery, the principal of AVCP, was appointed a director of the Company. On February 6, 2015, the Company entered into a second convertible promissory note in the aggregate principal amount of \$1.5 million, as more fully described in Note 4 above. On June 23, 2015, these notes and accrued but unpaid interest were converted into shares of common stock. In connection with the Debt Conversion and Termination Agreement dated June 23, 2015, the Company issued to AVCP a warrant covering 1,000,000 shares of common stock, as more fully described in Note 4.

Table of Contents

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

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

On May 31, 2017, Anthony D. Caracciolo, Executive Chairman of the Company, participated in the private placement of 2017 Notes, as fully described in Note 4 above. Mr. Caracciolo purchased a promissory note, bearing interest of 7%, for \$1,000,000 and received a warrant covering 333,333 shares of common stock at an exercise price of \$1.35. The terms and conditions of Mr. Caracciolo's investment was identical to those offered to all other investors in the offering and his investment was approved by the Audit Committee of the Board of Directors.

Only independent directors approve related party transactions. The above terms and amounts are not necessarily indicative of the terms and amounts that would have been incurred had comparable transactions been entered into with independent parties.

Note 15 – Subsequent Events

On June 1, 2017, the Company issued to directors, in connection with their annual compensation, options covering 450,000 shares of common stock. The options have an exercise price of \$0.57, a ten-year term and vest quarterly over one year. These awards reflect an increase in the annual non-employee director stock option awards from 50,000 to 75,000 shares per year effective for fiscal year 2018. Additionally, in conjunction with annual incentive compensation, the Company issued options covering 800,000 shares of common stock to management and employees. The options have an exercise price of \$0.57, a ten-year term and vest annually over three years.

On June 1, 2017, the Company issued to a director and non-executive Chief Science Officer, an option covering 600,000 shares of common stock. The options have an exercise price of \$0.57, a ten-year term and vest one-third at month six, eighteen and thirty following the grant date.

On June 14, 2017, the Company's Board of Directors approved a modification in the warrant terms issued in connection with the 2017 Short-Term Convertible Notes, as fully described in Note 4 above. The warrant coverage was increased from 25% to 50% and the exercise price of the warrant was reduced to \$1.00 per share from \$1.35 per share. On June 19, 2017, in connection with new terms, the Company issued an incremental 383,333 warrant shares to previous investors.

Between June 19, 2017 and July 10, 2017, the Company sold approximately \$3.9 million in aggregate principal amount of 2017 Notes. These notes are fully described in Note 4 above and reflect the modified warrant terms approved on June 14, 2017, as fully outlined above. The 2017 Notes are convertible into an underlying 5,184,661 shares of Common Stock. In connection with the sale, the Company issued warrants covering 2,592,326 shares of Common Stock at an exercise price of \$1.00 per share. The Warrants are currently exercisable in full and will expire five years from issuance. In connection with the sale of notes, the Company paid placement agent fees of \$262,000, which includes a nonaccountable expense fee of \$20,000, and became liable for a placement agent warrant covering 286,767 shares of Common Stock with an exercise price of \$0.825 per share. The warrant will be fully exercisable upon issuance with a five-year term.

On June 21, 2017, the Company issued a warrant covering 200,000 shares of Common Stock to a third-party consultant, as consideration for services. The warrant is exercisable at \$0.64 per share and has a five-year term. The warrant vests 25% on the date of issuance, 25% on December 31, 2017 and 50% upon the completion of certain strategic milestones.

On June 30, 2017, the Company issued an aggregate of 3,295,000 shares of Common Stock, upon the exercise by investors of certain outstanding warrants at \$0.50 per share, for aggregate gross proceeds of approximately \$1.6 million. The warrants previously had an exercise price of \$1.00 and were scheduled to expire on May 31, 2017. As an inducement to exercise the warrants prior to their expiration, and in exchange for the release by such investors of certain claims, the Company entered into agreements with such investors to reduce the exercise price to \$0.50 per share and to extend the expiration date to June 30, 2017.

Table of Contents

Item 9. Changes In and Disagreements with Accountants on Accounting and Financial Disclosure.

None.

Item 9A. Controls and Procedures.

Disclosure Controls and Procedures

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

Under the supervision and with the participation of our management, including our Chief Executive Officer and our Chief Financial Officer, we have evaluated the effectiveness of our disclosure controls and procedures as of May 31, 2017. Based on that evaluation, our Chief Executive Officer and our Chief Financial Officer concluded that our disclosure controls and procedures were effective as of May 31, 2017.

Internal Control Over Financial Reporting

Management's Annual Report on Internal Control over Financial Reporting

Our management is responsible for establishing and maintaining adequate internal control over financial reporting. Internal control over financial reporting is a process designed by, or under the supervision of, our Chief Executive Officer and our Chief Financial Officer and effected by our board of directors, management and other personnel, 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. Internal control over financial reporting includes policies and procedures that (i) pertain to the maintenance of records that in reasonable detail accurately and fairly reflect our transactions and dispositions of our assets; (ii) provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with generally accepted accounting principles, and that our receipts and expenditures of the are being made only in accordance with authorizations of our management and directors; and (iii) provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use or disposition of our assets that could have a material effect on the financial statements.

Under the supervision and with the participation of our management, including our Chief Executive Officer and our Chief Financial Officer, we conducted an evaluation of the effectiveness of our internal control over financial reporting as of May 31, 2017. This evaluation was based on the framework established in Internal Control—Integrated Framework (2013) issued by the Committee of Sponsoring Organizations of the Treadway Commission (the "2013 COSO Framework"). Based upon that evaluation, our management concluded that our internal control over financial reporting was effective as of May 31, 2017.

Attestation Report of Independent Registered Public Accounting Firm

Warren Averett, LLC, the independent registered public accounting firm that audited our financial statements included in this Form 10-K, has issued an attestation report on our internal control over financial reporting, which appears with such financial statements and is incorporated herein by reference.

Changes in Internal Control Over Financial Reporting

As previously reported, we have over time been implementing improvements to our control system with the goal of remediating certain material weaknesses in internal control over financial reporting by May 31, 2017. During the fiscal quarter ended May 31, 2017, we completed our remediation plan. As a result, management has now determined that, as of May 31, 2017, there are no longer any material weaknesses in our internal control over financial reporting. Among the aggregate improvements we have made, we have:

- expanded the risk assessments of our financial statements by account in accordance with the 2013 COSO Framework;
- expanded our entity level controls in accordance with the 2013 COSO Framework;
- developed a scope of controls to be tested by evaluating the critical internal control processes supporting the financial reporting function;
- created or updated key process narratives and flowcharts, including documentation of key and secondary controls;
- assessed the effectiveness of our control design;
- planned and executed tests of controls to validate control operating effectiveness;
- identified control gaps and weaknesses in the design and operating effectiveness of controls;

Table of Contents

- implemented additional controls and procedures to remediate identified control gaps and weaknesses in the design and operating effectiveness of controls, which included:
 - establishing a Disclosure Committee comprised of management and certain external advisors, which meets not less frequently than once per fiscal quarter;
 - developing detailed controls and review procedures surrounding the financial accounting for prepaid service fees;
 - eliminating the lack of segregation of duties for cash disbursements by hiring an additional employee, which further ensures the consistent review and documented approval on all cash disbursements by a designated individual not involved in the disbursements accounting cycle, and by adopting new vendor control procedures, which are reviewed and approved by internal personnel not involved in the cash disbursements process;
 - designing a detailed, structured process to evidence and document internal review procedures for internal monthly financial reporting by designated personnel ; and
 - placing additional limitations on management’s ability to access to certain financial modules within our financial system.

As a result of the aggregate effect of the foregoing improvements, management has determined that, as of May 31, 2017, our previously reported material weaknesses in internal control over financial reporting have been remediated.

Inherent Limitations on Effectiveness of Controls

Our management, including our Chief Executive Officer and our Chief Financial Officer, does not expect that our disclosure controls and procedures or our internal control over financial reporting will prevent or detect all error and all fraud. A control system, no matter how well designed and operated, can provide only reasonable, not absolute, assurance that the control system’s objectives are being met. The design of any system of controls must reflect the fact that there are resource constraints, and the benefits of controls must be considered relative to their costs. Due to the inherent limitations in all control systems, no evaluation of controls can provide absolute assurance that misstatements due to error or fraud will not occur or that all control issues and instances of fraud, if any, have been detected. These inherent limitations include the realities that judgments in decision making can be faulty and that breakdowns can occur because of simple errors or mistakes. Controls can also be circumvented by the individual acts of some persons, by collusion of two or more people, or by management override of the controls. The design of any system of controls is based in part on certain assumptions about the likelihood of future events, and a design may not succeed in achieving its stated goals under all potential future conditions. Over time, controls may become inadequate because of changes in conditions or deterioration in the degree of compliance with policies or procedures.

[Table of Contents](#)

Item 9B. Other Information.

None.

PART III

Item 10. Directors, Executive Officers and Corporate Governance.

The information required by Item 10 relating to our directors, executive officers and corporate governance is incorporated herein by reference to our definitive proxy statement for the 2017 Annual Meeting of Stockholders, to be filed with the SEC within 120 days of the end of the Company's fiscal year, May 31, 2017 (the "2017 Proxy Statement").

We have adopted a Code of Ethics for our Senior Executive Officers (the Chief Executive Officer, Chief Financial Officer, Treasurer, and Secretary), as well as an Insider Trading Policy for the Company. Copies are available on our website at www.cytodyn.com.

Item 11. Executive Compensation.

The information required by Item 11 relating to executive compensation is incorporated herein by reference to our 2017 Proxy Statement.

Item 12. Security Ownership of Certain Beneficial Owners and Management and Related Stockholder Matters.

The information required by Item 12 relating to security ownership of certain beneficial owners and management and related stockholders matters is incorporated herein by reference to our 2017 Proxy Statement.

Item 13. Certain Relationships and Related Transactions and Director Independence.

The information required by Item 13 relating to certain relationships and related transactions and director independence is incorporated herein by reference to our 2017 Proxy Statement.

Item 14. Principal Accountant Fees and Services.

The information required by Item 14 relating to principal accountant fees and services is incorporated herein by reference to our 2017 Proxy Statement.

PART IV

Item 15. Exhibits and Financial Statement Schedules.

The following are filed as part of this Annual Report on Form 10-K:

Consolidated Financial Statements

The Consolidated Financial Statements for the years ended May 31, 2017 and 2016 are included under Item 8 of this report.

Exhibits

Exhibits are listed in the Exhibit Index which appears immediately following the signature page of this report.

[Table of Contents](#)

SIGNATURES

Pursuant to the requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized.

Date: July 19, 2017

CYTODYN INC.
(Registrant)

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

Pursuant to the requirements of the Securities Exchange Act of 1934, this report has been signed below by the following persons on behalf of the registrant and in the capacities indicated on July 19, 2017.

Principal Executive Officer and Director:

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

Principal Financial and Accounting Officer:

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

Remaining Directors:

*
Denise R. Burger, Ph.D.

*
Anthony D. Caracciolo

*
Carl C. Dockery

*
Gregory A. Gould

*
A. Bruce Montgomery, M.D.

*
Jordan G. Naydenov

*
Scott A. Kelly, M.D.

* By /s/ Michael D. Mulholland
Michael D. Mulholland
Attorney-In-Fact

Table of Contents

EXHIBIT INDEX

<u>Exhibit Number</u>	<u>Description</u>
	<u>Plan of Acquisition</u>
2.1	Asset Purchase Agreement, dated as of July 25, 2012, between CytoDyn Inc. and Progenics Pharmaceuticals, Inc. (incorporated by reference to Exhibit 10.1 to the Registrant's Current Report on Form 8-K filed July 30, 2012).
	<u>Articles of Incorporation and Bylaws</u>
3.1	Certificate of Incorporation (incorporated by reference to Exhibit 3.1 to the Registrant's Current Report on Form 8-K12G3 filed September 1, 2015).
3.2	Certificate of Amendment to Certificate of Incorporation (incorporated by reference to Exhibit 3.1 to the Registrant's Current Report on Form 8-K filed March 21, 2016).
3.3	Certificate of Amendment to Certificate of Incorporation (incorporated by reference to Exhibit 3. to the Registrant's Current Report on Form 8-K filed August 24, 2017).
3.3	Bylaws (incorporated by reference to Exhibit 3.2 to the Registrant's Current Report on Form 8-K12G3 filed September 1, 2015).
	<u>Instruments Defining Rights of Security Holders</u>
4.1	Form of Convertible Promissory Note (incorporated by reference to Exhibit 4.1 to the Registrant's Current Report on Form 8-K filed June 22, 2017).
4.2	Form of Common Stock Certificate (incorporated by reference to Exhibit 4.1 to the Registrant's Current Report on Form 8-K12G3 filed September 1, 2015).
4.3	Form of Investor Warrant (incorporated by reference to Exhibit 4.3 to the Registrant's Registration Statement on Form S-1 filed September 11, 2015).
4.4	Form of Investor Warrant (September 2016) (incorporated by reference to Exhibit 4.1 to the Registrant's Current Report on Form 8-K filed September 12, 2016).
4.5	Form of Investor Warrant (December 2016) (incorporated by reference to Exhibit 4.1 to the Registrant's Current Report on Form 8-K filed December 12, 2016).
4.6	Form of Investor Warrant (January/February 2017) (incorporated by reference to Exhibit 4.1 to the Registrant's Current Report on Form 8-K filed January 31, 2017).
4.7	Form of Convertible Promissory Note Warrant (incorporated by reference to Exhibit 4.2 to the Registrant's Current Report on Form 8-K filed June 22, 2017).
4.8	Form of Placement Agent Warrant (incorporated by reference to Exhibit 4.4 to the Registrant's Registration Statement on Form S-1 filed September 11, 2015).
4.9	Form of Inducement Warrant (incorporated by reference to Exhibit 10.2 to the Registrant's Current Report on Form 8-K filed June 25, 2015).
4.10	Form of Placement Agent Warrant (September 2016).
4.11	Form of Placement Agent Warrant (January/February 2017).
4.12	Form of Consultant Warrant (incorporated by reference to Exhibit 4.4 to the Registrant's Registration Statement on Form S-1 filed February 3, 2016).
4.13	Form of Consultant Warrant (incorporated by reference to Exhibit 4.4 to the Registrant's Current Report on Form 8-K filed June 22, 2017).
	<u>Material Contracts</u>
10.1	Patent License Agreement between Allen D. Allen and CytoDyn of New Mexico Inc. (incorporated by reference to Exhibit 10.2 to the Registrant's Annual Report on Form 10-KSB filed September 14, 2004).
10.2	Amendment to Patent License Agreement (incorporated by reference to Exhibit 10.6.1 to the Registrant's Form SB-2/A filed March 21, 2005).

Table of Contents

<u>Exhibit Number</u>	<u>Description</u>
10.3*	CytoDyn Inc. 401(k) Profit Sharing Plan (incorporated by reference to Exhibit 10.11 to the Registrant's Amendment No. 1 to Annual Report on Form 10-K filed August 5, 2011).
10.4*	CytoDyn Inc. 2004 Stock Incentive Plan (the "2004 Plan") (incorporated by reference to Exhibit 10.10 to the Registrant's Amendment No. 1 to Annual Report on Form 10-K filed August 5, 2011).
10.5*	Form of Stock Option Award for Employees under the 2004 Plan (incorporated by reference to Exhibit 10.5 to the Registrant's Annual Report on Form 10-K filed August 29, 2013).
10.6*	Form of Stock Option Award for Non-Employee Directors under the 2004 Plan (incorporated by reference to Exhibit 10.6 to the Registrant's Annual Report on Form 10-K filed August 29, 2013).
10.7*	CytoDyn Inc. 2012 Equity Incentive Plan, as amended through March 18, 2016 (the "2012 Plan").
10.8*	Amendments to the CytoDyn Inc. 2012 Equity Incentive Plan, dated February 12, 2017 (incorporated by reference to Exhibit 10.1 to the Registrant's Current Report on Form 8-K filed February 13, 2017).
10.9*	Form of Stock Option Award Agreement for Employees under the 2012 Plan (incorporated by reference to Exhibit 10.8 to the Registrant's Annual Report on Form 10-K filed August 29, 2013).
10.10*	Form of Stock Option Award Agreement for Non-Employee Directors under the 2012 Plan (incorporated by reference to Exhibit 10.9 to the Registrant's Annual Report on Form 10-K filed August 29, 2013).
10.11*	Form of Stock Option Award Agreement for Employees granted under an arrangement not approved by the Registrant's shareholders (incorporated by reference to Exhibit 10.10 to the Registrant's Annual Report on Form 10-K filed August 29, 2013).
10.12*	Form of Stock Option Award Agreement for Non-Employee Directors granted under an arrangement not approved by the Registrant's shareholders (incorporated by reference to Exhibit 10.11 to the Registrant's Annual Report on Form 10-K filed August 29, 2013).
10.13*	Form of Indemnification Agreement with directors and officers of the Registrant (incorporated by reference to Exhibit 10.2 to the Registrant's Quarterly Report on Form 10-Q filed January 14, 2013).
10.14	Development and License Agreement between Protein Design Labs, Inc. (to which AbbVie Biotherapeutics Inc. is successor in interest) and Progenics Pharmaceuticals, Inc. (to which CytoDyn Inc. is successor in interest) effective as of April 30, 1999, as amended by letter agreement dated November 24, 2003 (incorporated by reference to Exhibit 10.21 to the Registrant's Annual Report on Form 10-K filed August 29, 2013).
10.15*	Consulting Agreement between CytoDyn Inc. and Denis R. Burger dated February 21, 2014. (incorporated by reference to Exhibit 10.25 to the Registrant's Annual Report on Form 10-K filed July 10, 2014)
10.16*	Amendment to Consulting Agreement between CytoDyn Inc. and Denis R. Burger dated November 3, 2014 (incorporated by reference to Exhibit 10.25 to the Registrant's Annual Report on Form 10-K filed July 10, 2015).
10.17*	Amendment to Consulting Agreement between CytoDyn Inc. and Denis R. Burger dated January 19, 2016 (incorporated by reference to Exhibit 10.1 to the Registrant's Current Report on Form 8-K filed January 22, 2016).
10.18*	Amended and Restated Employment Agreement by and between CytoDyn Inc. and Nader Pourhassan dated January 6, 2015 (incorporated by reference to Exhibit 10.1 to the Registrant's Current Report on Form 8-K filed January 7, 2015).
10.19*	Employment Agreement by and between CytoDyn Inc. and Michael D. Mulholland dated January 6, 2015 (incorporated by reference to Exhibit 10.2 to the Registrant's Current Report on Form 8-K filed January 7, 2015).
10.20	License Agreement between CytoDyn Inc. and Lonza Sales AG dated July 29, 2015 (incorporated by reference to Exhibit 10.1 to the Registrant's Current Report on Form 8-K filed August 4, 2015, as amended on August 19, 2015).
10.21	Form of Subscription Agreement (July 2015) (incorporated by reference to Exhibit 10.35 to the Registrant's Registration Statement on Form S-1 filed September 11, 2015).
10.22	Form of Subscription Agreement (August 2015) (incorporated by reference to Exhibit 10.36 to the Registrant's Registration Statement on Form S-1 filed September 11, 2015).
10.23	Form of Registration Rights Agreement (July 2015 and August 2015) (incorporated by reference to Exhibit 10.37 to the Registrant's Registration Statement on Form S-1 filed September 11, 2015).

Table of Contents

<u>Exhibit Number</u>	<u>Description</u>
10.24	Form of Subscription Agreement (January 2016) (incorporated by reference to Exhibit 10.39 to the Registrant's Registration Statement on Form S-1 filed February 3, 2016).
10.25	Form of Registration Rights Agreement (January 2016) (incorporated by reference to Exhibit 10.40 to the Registrant's Registration Statement on Form S-1 filed February 3, 2016).
10.26	Form of Subscription Agreement (May 2016) (incorporated by reference to Exhibit 10.1 to the Registrant's Current Report on Form 8-K filed May 11, 2016).
10.27	Form of Securities Purchase Agreement (September 2016) (incorporated by reference to Exhibit 10.1 to the Registrant's Current Report on Form 8-K filed September 12, 2016).
10.28	Engagement Letter, dated as of March 29, 2016, between CytoDyn Inc. and Rodman & Renshaw, a unit of H.C. Wainwright & Co., LLC, as amended (incorporated by reference to Exhibit 10.2 to the Registrant's Current Report on Form 8-K filed September 12, 2016).
10.29	Development and Manufacturing Services Agreement, dated as of November 9, 2016, by and between CytoDyn Inc. and CMC ICOS Biologics, Inc. (incorporated by reference to Exhibit 10.4 to the Registrant's Periodic Report on Form 10-Q filed April 13, 2017).
10.30	Work Statement No. 01, dated as of November 9, 2016, by and between CytoDyn Inc. and CMC ICOS Biologics, Inc. (incorporated by reference to Exhibit 10.5 to the Registrant's Periodic Report on Form 10-Q filed April 13, 2017).
10.31	Form of Securities Purchase Agreement (December 2016) (incorporated by reference to Exhibit 10.1 to the Registrant's Current Report on Form 8-K filed December 12, 2016).
10.32	Form of Subscription Agreement (January/February 2017) (incorporated by reference to Exhibit 10.1 to the Registrant's Current Report on Form 8-K filed January 31, 2017).
10.33	Placement Agent Agreement, dated as of January 11, 2017, between CytoDyn Inc. and Paulson Investment Company, LLC (incorporated by reference to Exhibit 10.2 to the Registrant's Current Report on Form 8-K filed January 31, 2017).
10.34	First Amendment to Placement Agent Agreement, dated as of January 30, 2017, between CytoDyn Inc. and Paulson Investment Company, LLC (incorporated by reference to Exhibit 10.3 to the Registrant's Current Report on Form 8-K filed January 31, 2017).
10.35	Form of Subscription Agreement (Convertible Notes) (incorporated by reference to Exhibit 10.1 to the Registrant's Current Report on Form 8-K filed June 22, 2017).
	<u>Other</u>
21	Subsidiaries of the Registrant (incorporated by reference to Exhibit 21 to the Registrant's Annual Report on Form 10-K filed August 29, 2013).
23	Consent of Warren Averett, LLP.
24	Power of Attorney of executive officers and directors.
	<u>Certifications</u>
31.1	Certification of Chief Executive Officer under Rule 13a-14(a).
31.2	Certification of Chief Financial Officer under Rule 13a-14(a).
32	Certification of Chief Executive Officer and Chief Financial Officer pursuant to 18 U.S.C. Section 1350.
	<u>XBRL</u>
101.INS	XBRL Instance Document.
101.SCH	XBRL Taxonomy Extension Schema Document.
101.CAL	XBRL Taxonomy Extension Calculation Linkbase Document.

Table of Contents

<u>Exhibit Number</u>	<u>Description</u>
101.DEF	XBRL Taxonomy Extension Definition Linkbase Document.
101.LAB	XBRL Taxonomy Extension Label Linkbase Document.
101.PRE	XBRL Taxonomy Extension Presentation Linkbase Document.

* Management contract or compensatory plan or arrangement.

Note: All exhibits incorporated by reference to filings other than registration statements are incorporated by reference to filings that have SEC File No. 000-49908.

NEITHER THIS SECURITY NOR THE SECURITIES FOR WHICH THIS SECURITY IS EXERCISABLE HAVE BEEN REGISTERED WITH THE SECURITIES AND EXCHANGE COMMISSION OR THE SECURITIES COMMISSION OF ANY STATE IN RELIANCE UPON AN EXEMPTION FROM REGISTRATION UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), AND, ACCORDINGLY, MAY NOT BE OFFERED OR SOLD EXCEPT PURSUANT TO AN EFFECTIVE REGISTRATION STATEMENT UNDER THE SECURITIES ACT OR PURSUANT TO AN AVAILABLE EXEMPTION FROM, OR IN A TRANSACTION NOT SUBJECT TO, THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT AND IN ACCORDANCE WITH APPLICABLE STATE SECURITIES LAWS. THIS SECURITY AND THE SECURITIES ISSUABLE UPON EXERCISE OF THIS SECURITY MAY BE PLEDGED IN CONNECTION WITH A BONA FIDE MARGIN ACCOUNT OR OTHER LOAN SECURED BY SUCH SECURITIES.

COMMON STOCK PURCHASE WARRANT

CYTODYN INC.

Warrant Shares: []

Initial Exercise Date: September 15, 2016

THIS COMMON STOCK PURCHASE WARRANT (the "Warrant") certifies that, for value received, [] or its assigns (the "Holder") is entitled, upon the terms and subject to the limitations on exercise and the conditions hereinafter set forth, at any time on or after September 15, 2016 (the "Initial Exercise Date") and on or prior to the close of business on September 13, 2021 (the "Termination Date") but not thereafter, to subscribe for and purchase from CytoDyn Inc., a Delaware corporation (the "Company"), up to [] shares (as subject to adjustment hereunder, the "Warrant Shares") of Common Stock. The purchase price of one share of Common Stock under this Warrant shall be equal to the Exercise Price, as defined in Section 2(b). This Warrant is issued by the Company as of the date hereof pursuant to Section A.2 of the Engagement Agreement, dated as of March 29, 2016, between the Company and Rodman and Renshaw, a unit of H.C. Wainwright & Co., LLC.

Section 1. Definitions. Capitalized terms used and not otherwise defined herein shall have the meanings set forth in that certain Securities Purchase Agreement (the "Purchase Agreement"), dated September 12, 2016, among the Company and the purchasers signatory thereto.

Section 2. Exercise.

a) Exercise of the purchase rights represented by this Warrant may be made, in whole or in part, at any time or times on or after the Initial Exercise Date and on or before the Termination Date by delivery to the Company (or such other office or agency of the Company as it may designate by notice in writing to the registered Holder at the address of the Holder appearing on the books of the Company) of a duly executed facsimile copy (or e-mail attachment) of the Notice of Exercise in the form annexed

hereto. Within the earlier of (i) three (3) Trading Days and (ii) the number of Trading Days comprising the Standard Settlement Period (as defined in Section 2(d)(i) herein), in each case following the date of exercise as aforesaid, the Holder shall deliver the aggregate Exercise Price for the shares specified in the applicable Notice of Exercise by wire transfer or cashier's check drawn on a United States bank unless the cashless exercise procedure specified in Section 2(c) below is specified in the applicable Notice of Exercise. No ink-original Notice of Exercise shall be required, nor shall any medallion guarantee (or other type of guarantee or notarization) of any Notice of Exercise form be required. Notwithstanding anything herein to the contrary, the Holder shall not be required to physically surrender this Warrant to the Company until the Holder has purchased all of the Warrant Shares available hereunder and the Warrant has been exercised in full, in which case, the Holder shall surrender this Warrant to the Company for cancellation within the earlier of (i) three (3) Trading Days and (ii) the number of Trading Days comprising the Standard Settlement Period (as defined in Section 2(d)(i) herein) following the date the final Notice of Exercise is delivered to the Company (for clarity and avoidance of doubt, surrender of this Warrant shall not be a condition to honoring the final Notice of Exercise in accordance with terms hereof). Partial exercises of this Warrant resulting in purchases of a portion of the total number of Warrant Shares available hereunder shall have the effect of lowering the outstanding number of Warrant Shares purchasable hereunder in an amount equal to the applicable number of Warrant Shares purchased. The Holder and the Company shall maintain records showing the number of Warrant Shares purchased and the date of such purchases. The Company shall deliver any objection to any Notice of Exercise within one (1) Business Day of receipt of such notice. **The Holder and any assignee, by acceptance of this Warrant, acknowledge and agree that, by reason of the provisions of this paragraph, following the purchase of a portion of the Warrant Shares hereunder, the number of Warrant Shares available for purchase hereunder at any given time may be less than the amount stated on the face hereof.**

b) Exercise Price. The exercise price per share of the Common Stock under this Warrant shall be **\$0.825**, subject to adjustment hereunder (the "Exercise Price").

c) Cashless Exercise. If at any time after the six-month anniversary of the Initial Exercise Date, there is no effective registration statement registering, or the prospectus contained therein is not available for the issuance of the Warrant Shares to the Holder, then this Warrant may also be exercised, in whole or in part, at such time by means of a "cashless exercise" in which the Holder shall be entitled to receive a number of Warrant Shares equal to the quotient obtained by dividing [(A-B) (X)] by (A), where:

- (A) = the last VWAP immediately preceding the time of delivery of the Notice of Exercise giving rise to the applicable "cashless exercise", as set forth in the applicable Notice of Exercise (to clarify, the "last VWAP" will be the last VWAP as calculated over an entire Trading Day such that, in the event that this Warrant is exercised at a time that the Trading Market is open, the prior Trading Day's VWAP shall be used in this calculation);
- (B) = the Exercise Price of this Warrant, as adjusted hereunder; and

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- (X) = the number of Warrant Shares that would be issuable upon exercise of this Warrant in accordance with the terms of this Warrant if such exercise were by means of a cash exercise rather than a cashless exercise.

If Warrant Shares are issued in such a cashless exercise, the parties acknowledge and agree that in accordance with Section 3(a)(9) of the Securities Act, the Warrant Shares shall take on the characteristics of the Warrants being exercised, and the holding period of the Warrant Shares being issued may be tacked on to the holding period of this Warrant. The Company agrees not to take any position contrary to this Section 2(c).

“VWAP” means, for any date, the price determined by the first of the following clauses that applies: (a) if the Common Stock is then listed or quoted on a Trading Market, the daily volume weighted average price of the Common Stock for such date (or the nearest preceding date) on the Trading Market on which the Common Stock is then listed or quoted as reported by Bloomberg L.P. (based on a Trading Day from 9:30 a.m. (New York City time) to 4:02 p.m. (New York City time)), (b) if OTCQB or OTCQX is not a Trading Market, the volume weighted average price of the Common Stock for such date (or the nearest preceding date) on OTCQB or OTCQX as applicable, (c) if the Common Stock is not then listed or quoted for trading on OTCQB or OTCQX and if prices for the Common Stock are then reported in the “Pink Sheets” published by OTC Markets Group, Inc. (or a similar organization or agency succeeding to its functions of reporting prices), the most recent bid price per share of the Common Stock so reported, or (d) in all other cases, the fair market value of a share of Common Stock as determined by an independent appraiser selected in good faith by the Purchasers of a majority in interest of the Securities then outstanding and reasonably acceptable to the Company, the fees and expenses of which shall be paid by the Company.

d) Mechanics of Exercise.

i. Delivery of Warrant Shares Upon Exercise. The Company shall cause the Warrant Shares purchased hereunder to be transmitted by the Transfer Agent to the Holder by crediting the account of the Holder’s or its designee’s balance account with The Depository Trust Company through its Deposit or Withdrawal at Custodian system (“DWAC”) if the Company is then a participant in such system and either (A) there is an effective registration statement permitting the issuance of the Warrant Shares to or resale of the Warrant Shares by Holder or (B) the Warrant Shares are eligible for resale by the Holder without volume or manner-of-sale limitations pursuant to Rule 144, and otherwise by physical delivery of a certificate, registered in the Company’s share register in the name of the Holder or its designee, for the number of Warrant Shares to which the Holder is entitled pursuant to such exercise to the address specified by the Holder in the Notice of Exercise by the date that is the earlier of (i) two (2) Trading Days and (ii) the number of Trading Days comprising the Standard Settlement Period, in each case after the delivery to the Company of the Notice of Exercise (such earlier date, the “Warrant Share Delivery

Date”). Upon delivery of the Notice of Exercise the Holder shall be deemed for all corporate purposes to have become the holder of record of the Warrant Shares with respect to which this Warrant has been exercised, irrespective of the date of delivery of the Warrant Shares, provided that payment of the aggregate Exercise Price (other than in the case of a cashless exercise) is received on or prior to the Warrant Share Delivery Date. If the Company fails for any reason to deliver to the Holder the Warrant Shares subject to a Notice of Exercise by the Warrant Share Delivery Date, the Company shall pay to the Holder, in cash, as liquidated damages and not as a penalty, for each \$1,000 of Warrant Shares subject to such exercise (based on the VWAP of the Common Stock on the date of the applicable Notice of Exercise), \$10 per Trading Day (increasing to \$20 per Trading Day on the fifth Trading Day after such liquidated damages begin to accrue) for each Trading Day after such Warrant Share Delivery Date until such Warrant Shares are delivered or Holder rescinds such exercise. The Company agrees to maintain a transfer agent that is a participant in the FAST program so long as this Warrant remains outstanding and exercisable. As used herein, “Standard Settlement Period” means the standard settlement period, expressed in a number of Trading Days, on the Company’s primary Trading Market with respect to the Common Stock as in effect on the date of delivery of the Notice of Exercise.

ii. Delivery of New Warrants Upon Exercise. If this Warrant shall have been exercised in part, the Company shall, at the request of a Holder and upon surrender of this Warrant certificate, at the time of delivery of the Warrant Shares, deliver to the Holder a new Warrant evidencing the rights of the Holder to purchase the unpurchased Warrant Shares called for by this Warrant, which new Warrant shall in all other respects be identical with this Warrant.

iii. Rescission Rights. If the Company fails to cause the Transfer Agent to transmit to the Holder the Warrant Shares pursuant to Section 2(d)(i) by the Warrant Share Delivery Date, then the Holder will have the right to rescind such exercise.

iv. Compensation for Buy-In on Failure to Timely Deliver Warrant Shares Upon Exercise. In addition to any other rights available to the Holder, if the Company fails to cause the Transfer Agent to transmit to the Holder the Warrant Shares in accordance with the provisions of Section 2(d)(i) above pursuant to an exercise on or before the Warrant Share Delivery Date, and if after such date the Holder is required by its broker to purchase (in an open market transaction or otherwise) or the Holder’s brokerage firm otherwise purchases, shares of Common Stock to deliver in satisfaction of a sale by the Holder of the Warrant Shares which the Holder anticipated receiving upon such exercise (a “Buy-In”), then the Company shall (A) pay in cash to the Holder the amount, if any, by which

(x) the Holder's total purchase price (including brokerage commissions, if any) for the shares of Common Stock so purchased exceeds (y) the amount obtained by multiplying (1) the number of Warrant Shares that the Company was required to deliver to the Holder in connection with the exercise at issue times (2) the price at which the sell order giving rise to such purchase obligation was executed, and (B) at the option of the Holder, either reinstate the portion of the Warrant and equivalent number of Warrant Shares for which such exercise was not honored (in which case such exercise shall be deemed rescinded) or deliver to the Holder the number of shares of Common Stock that would have been issued had the Company timely complied with its exercise and delivery obligations hereunder. For example, if the Holder purchases Common Stock having a total purchase price of \$11,000 to cover a Buy-In with respect to an attempted exercise of shares of Common Stock with an aggregate sale price giving rise to such purchase obligation of \$10,000, under clause (A) of the immediately preceding sentence the Company shall be required to pay the Holder \$1,000. The Holder shall provide the Company written notice indicating the amounts payable to the Holder in respect of the Buy-In and, upon request of the Company, evidence of the amount of such loss. Nothing herein shall limit a Holder's right to pursue any other remedies available to it hereunder, at law or in equity including, without limitation, a decree of specific performance and/or injunctive relief with respect to the Company's failure to timely deliver shares of Common Stock upon exercise of the Warrant as required pursuant to the terms hereof.

v. No Fractional Shares or Scrip. No fractional shares or scrip representing fractional shares shall be issued upon the exercise of this Warrant. As to any fraction of a share which the Holder would otherwise be entitled to purchase upon such exercise, the Company shall, at its election, either pay a cash adjustment in respect of such final fraction in an amount equal to such fraction multiplied by the Exercise Price or round up to the next whole share.

vi. Charges, Taxes and Expenses. Issuance of Warrant Shares shall be made without charge to the Holder for any issue or transfer tax or other incidental expense in respect of the issuance of such Warrant Shares, all of which taxes and expenses shall be paid by the Company, and such Warrant Shares shall be issued in the name of the Holder or in such name or names as may be directed by the Holder; provided, however, that in the event that Warrant Shares are to be issued in a name other than the name of the Holder, this Warrant when surrendered for exercise shall be accompanied by the Assignment Form attached hereto duly executed by the Holder and the Company may require, as a condition thereto, the payment of a sum sufficient to reimburse it for any transfer tax incidental thereto. The Company shall pay all Transfer Agent fees required for same-day processing of any Notice of Exercise and all fees to the Depository Trust Company (or another established clearing corporation performing similar functions) required for same-day electronic delivery of the Warrant Shares.

vii. Closing of Books. The Company will not close its stockholder books or records in any manner which prevents the timely exercise of this Warrant, pursuant to the terms hereof.

e) Holder's Exercise Limitations. The Company shall not effect any exercise of this Warrant, and a Holder shall not have the right to exercise any portion of this Warrant, pursuant to Section 2 or otherwise, to the extent that after giving effect to such issuance after exercise as set forth on the applicable Notice of Exercise, the Holder (together with the Holder's Affiliates, and any other Persons acting as a group together with the Holder or any of the Holder's Affiliates (such Persons, "Attribution Parties")), would beneficially own in excess of the Beneficial Ownership Limitation (as defined below). For purposes of the foregoing sentence, the number of shares of Common Stock beneficially owned by the Holder and its Affiliates and Attribution Parties shall include the number of shares of Common Stock issuable upon exercise of this Warrant with respect to which such determination is being made, but shall exclude the number of shares of Common Stock which would be issuable upon (i) exercise of the remaining, nonexercised portion of this Warrant beneficially owned by the Holder or any of its Affiliates or Attribution Parties and (ii) exercise or conversion of the unexercised or nonconverted portion of any other securities of the Company (including, without limitation, any other Common Stock Equivalents) subject to a limitation on conversion or exercise analogous to the limitation contained herein beneficially owned by the Holder or any of its Affiliates or Attribution Parties. Except as set forth in the preceding sentence, for purposes of this Section 2(e), beneficial ownership shall be calculated in accordance with Section 13(d) of the Exchange Act and the rules and regulations promulgated thereunder, it being acknowledged by the Holder that the Company is not representing to the Holder that such calculation is in compliance with Section 13(d) of the Exchange Act and the Holder is solely responsible for any schedules required to be filed in accordance therewith. To the extent that the limitation contained in this Section 2(e) applies, the determination of whether this Warrant is exercisable (in relation to other securities owned by the Holder together with any Affiliates and Attribution Parties) and of which portion of this Warrant is exercisable shall be in the sole discretion of the Holder, and the submission of a Notice of Exercise shall be deemed to be the Holder's determination of whether this Warrant is exercisable (in relation to other securities owned by the Holder together with any Affiliates and Attribution Parties) and of which portion of this Warrant is exercisable, in each case subject to the Beneficial Ownership Limitation, and the Company shall have no obligation to verify or confirm the accuracy of such determination. In addition, a determination as to any group status as contemplated above shall be determined in accordance with Section 13(d) of the Exchange Act and the rules and regulations promulgated thereunder. For purposes of this Section 2(e), in determining the number of outstanding shares of Common Stock, a Holder may rely on the number of outstanding shares of Common Stock as reflected in (A) the Company's most recent periodic or annual report filed with the Commission, as the case may be, (B) a more recent public announcement by the Company or (C) a more recent written notice by the Company or the Transfer Agent setting forth the number of

shares of Common Stock outstanding. Upon the written or oral request of a Holder, the Company shall within two Trading Days confirm orally and in writing to the Holder the number of shares of Common Stock then outstanding. In any case, the number of outstanding shares of Common Stock shall be determined after giving effect to the conversion or exercise of securities of the Company, including this Warrant, by the Holder or its Affiliates or Attribution Parties since the date as of which such number of outstanding shares of Common Stock was reported. The “Beneficial Ownership Limitation” shall be 4.99% of the number of shares of the Common Stock outstanding immediately after giving effect to the issuance of shares of Common Stock issuable upon exercise of this Warrant. The Holder, upon notice to the Company, may increase or decrease the Beneficial Ownership Limitation provisions of this Section 2(e), provided that the Beneficial Ownership Limitation in no event exceeds 9.99% of the number of shares of the Common Stock outstanding immediately after giving effect to the issuance of shares of Common Stock upon exercise of this Warrant held by the Holder and the provisions of this Section 2(e) shall continue to apply. Any increase in the Beneficial Ownership Limitation will not be effective until the 61st day after such notice is delivered to the Company. The provisions of this paragraph shall be construed and implemented in a manner otherwise than in strict conformity with the terms of this Section 2(e) to correct this paragraph (or any portion hereof) which may be defective or inconsistent with the intended Beneficial Ownership Limitation herein contained or to make changes or supplements necessary or desirable to properly give effect to such limitation. The limitations contained in this paragraph shall apply to a successor holder of this Warrant.

Section 3. Certain Adjustments.

a) Stock Dividends and Splits. If the Company, at any time while this Warrant is outstanding: (i) pays a stock dividend or otherwise makes a distribution or distributions on shares of its Common Stock or any other equity or equity equivalent securities payable in shares of Common Stock (which, for avoidance of doubt, shall not include any shares of Common Stock issued by the Company upon exercise of this Warrant), (ii) subdivides outstanding shares of Common Stock into a larger number of shares, (iii) combines (including by way of reverse stock split) outstanding shares of Common Stock into a smaller number of shares, or (iv) issues by reclassification of shares of the Common Stock any shares of capital stock of the Company, then in each case the Exercise Price shall be multiplied by a fraction of which the numerator shall be the number of shares of Common Stock (excluding treasury shares, if any) outstanding immediately before such event and of which the denominator shall be the number of shares of Common Stock outstanding immediately after such event, and the number of shares issuable upon exercise of this Warrant shall be proportionately adjusted such that the aggregate Exercise Price of this Warrant shall remain unchanged. Any adjustment made pursuant to this Section 3(a) shall become effective immediately after the record date for the determination of stockholders entitled to receive such dividend or distribution and shall become effective immediately after the effective date in the case of a subdivision, combination or re-classification.

b) [RESERVED]

c) Subsequent Rights Offerings. In addition to any adjustments pursuant to Section 3(a) above, if at any time the Company grants, issues or sells any Common Stock Equivalents or rights to purchase stock, warrants, securities or other property pro rata to the record holders of any class of shares of Common Stock (the "Purchase Rights"), then the Holder will be entitled to acquire, upon the terms applicable to such Purchase Rights, the aggregate Purchase Rights which the Holder could have acquired if the Holder had held the number of shares of Common Stock acquirable upon complete exercise of this Warrant (without regard to any limitations on exercise hereof, including without limitation, the Beneficial Ownership Limitation) immediately before the date on which a record is taken for the grant, issuance or sale of such Purchase Rights, or, if no such record is taken, the date as of which the record holders of shares of Common Stock are to be determined for the grant, issue or sale of such Purchase Rights (provided, however, to the extent that the Holder's right to participate in any such Purchase Right would result in the Holder exceeding the Beneficial Ownership Limitation, then the Holder shall not be entitled to participate in such Purchase Right to such extent (or beneficial ownership of such shares of Common Stock as a result of such Purchase Right to such extent) and such Purchase Right to such extent shall be held in abeyance for the Holder until such time, if ever, as its right thereto would not result in the Holder exceeding the Beneficial Ownership Limitation).

d) Pro Rata Distributions. During such time as this Warrant is outstanding, if the Company shall declare or make any dividend or other distribution of its assets (or rights to acquire its assets) to holders of shares of Common Stock, by way of return of capital or otherwise (including, without limitation, any distribution of cash, stock or other securities, property or options by way of a dividend, spin off, reclassification, corporate rearrangement, scheme of arrangement or other similar transaction) (a "Distribution"), at any time after the issuance of this Warrant, then, in each such case, the Holder shall be entitled to participate in such Distribution to the same extent that the Holder would have participated therein if the Holder had held the number of shares of Common Stock acquirable upon complete exercise of this Warrant (without regard to any limitations on exercise hereof, including without limitation, the Beneficial Ownership Limitation) immediately before the date of which a record is taken for such Distribution, or, if no such record is taken, the date as of which the record holders of shares of Common Stock are to be determined for the participation in such Distribution (provided, however, to the extent that the Holder's right to participate in any such Distribution would result in the Holder exceeding the Beneficial Ownership Limitation, then the Holder shall not be entitled to participate in such Distribution to such extent (or in the beneficial ownership of any shares of Common Stock as a result of such Distribution to such extent) and the portion of such Distribution shall be held in abeyance for the benefit of the Holder until such time, if ever, as its right thereto would not result in the Holder exceeding the Beneficial Ownership Limitation).

e) Fundamental Transaction. If, at any time while this Warrant is outstanding, (i) the Company, directly or indirectly, in one or more related transactions effects any merger or consolidation of the Company with or into another Person, (ii) the Company, directly or indirectly, effects any sale, lease, license, assignment, transfer, conveyance or other disposition of all or substantially all of its assets in one or a series of

related transactions, (iii) any, direct or indirect, purchase offer, tender offer or exchange offer (whether by the Company or another Person) is completed pursuant to which holders of Common Stock are permitted to sell, tender or exchange their shares for other securities, cash or property and has been accepted by the holders of 50% or more of the outstanding Common Stock, (iv) the Company, directly or indirectly, in one or more related transactions effects any reclassification, reorganization or recapitalization of the Common Stock or any compulsory share exchange pursuant to which the Common Stock is effectively converted into or exchanged for other securities, cash or property, or (v) the Company, directly or indirectly, in one or more related transactions consummates a stock or share purchase agreement or other business combination (including, without limitation, a reorganization, recapitalization, spin-off or scheme of arrangement) with another Person or group of Persons whereby such other Person or group acquires more than 50% of the outstanding shares of Common Stock (not including any shares of Common Stock held by the other Person or other Persons making or party to, or associated or affiliated with the other Persons making or party to, such stock or share purchase agreement or other business combination) (each a “Fundamental Transaction”), then, upon any subsequent exercise of this Warrant, the Holder shall have the right to receive, for each Warrant Share that would have been issuable upon such exercise immediately prior to the occurrence of such Fundamental Transaction, at the option of the Holder (without regard to any limitation in Section 2(e) on the exercise of this Warrant), the number of shares of Common Stock of the successor or acquiring corporation or of the Company, if it is the surviving corporation, and any additional consideration (the “Alternate Consideration”) receivable as a result of such Fundamental Transaction by a holder of the number of shares of Common Stock for which this Warrant is exercisable immediately prior to such Fundamental Transaction (without regard to any limitation in Section 2(e) on the exercise of this Warrant). For purposes of any such exercise, the determination of the Exercise Price shall be appropriately adjusted to apply to such Alternate Consideration based on the amount of Alternate Consideration issuable in respect of one share of Common Stock in such Fundamental Transaction, and the Company shall apportion the Exercise Price among the Alternate Consideration in a reasonable manner reflecting the relative value of any different components of the Alternate Consideration. If holders of Common Stock are given any choice as to the securities, cash or property to be received in a Fundamental Transaction, then the Holder shall be given the same choice as to the Alternate Consideration it receives upon any exercise of this Warrant following such Fundamental Transaction. Notwithstanding anything to the contrary, in the event of a Fundamental Transaction, the Company or any Successor Entity (as defined below) shall, at the Holder’s option, exercisable at any time concurrently with, or within 30 days after, the consummation of the Fundamental Transaction, purchase this Warrant from the Holder by paying to the Holder an amount of cash equal to the Black Scholes Value of the remaining unexercised portion of this Warrant on the date of the consummation of such Fundamental Transaction. “Black Scholes Value” means the value of this Warrant based on the Black and Scholes Option Pricing Model obtained from the “OV” function on Bloomberg, L.P. (“Bloomberg”) determined as of the day of consummation of the applicable Fundamental Transaction for pricing purposes and reflecting (A) a risk-free interest rate corresponding to the U.S. Treasury rate for a period equal to the time between the date of the public announcement of the applicable Fundamental Transaction

and the Termination Date, (B) an expected volatility equal to the greater of 100% and the 100 day volatility obtained from the HVT function on Bloomberg as of the Trading Day immediately following the public announcement of the applicable Fundamental Transaction, (C) the underlying price per share used in such calculation shall be the sum of the price per share being offered in cash, if any, plus the value of any non-cash consideration, if any, being offered in such Fundamental Transaction and (D) a remaining option time equal to the time between the date of the public announcement of the applicable Fundamental Transaction and the Termination Date. The payment of the Black Scholes Value will be made by wire transfer of immediately available funds within five Business Days of the Holder's election (or, if later, on the effective date of the Fundamental Transaction). The Company shall cause any successor entity in a Fundamental Transaction in which the Company is not the survivor (the "Successor Entity") to assume in writing all of the obligations of the Company under this Warrant and the other Transaction Documents in accordance with the provisions of this Section 3(e) pursuant to written agreements in form and substance reasonably satisfactory to the Holder and approved by the Holder (without unreasonable delay) prior to such Fundamental Transaction and shall, at the option of the Holder, deliver to the Holder in exchange for this Warrant a security of the Successor Entity evidenced by a written instrument substantially similar in form and substance to this Warrant which is exercisable for a corresponding number of shares of capital stock of such Successor Entity (or its parent entity) equivalent to the shares of Common Stock acquirable and receivable upon exercise of this Warrant (without regard to any limitations on the exercise of this Warrant) prior to such Fundamental Transaction, and with an exercise price which applies the exercise price hereunder to such shares of capital stock (but taking into account the relative value of the shares of Common Stock pursuant to such Fundamental Transaction and the value of such shares of capital stock, such number of shares of capital stock and such exercise price being for the purpose of protecting the economic value of this Warrant immediately prior to the consummation of such Fundamental Transaction), and which is reasonably satisfactory in form and substance to the Holder. Upon the occurrence of any such Fundamental Transaction, the Successor Entity shall succeed to, and be substituted for (so that from and after the date of such Fundamental Transaction, the provisions of this Warrant and the other Transaction Documents referring to the "Company" shall refer instead to the Successor Entity), and may exercise every right and power of the Company and shall assume all of the obligations of the Company under this Warrant and the other Transaction Documents with the same effect as if such Successor Entity had been named as the Company herein.

f) Calculations. All calculations under this Section 3 shall be made to the nearest cent or the nearest 1/100th of a share, as the case may be. For purposes of this Section 3, the number of shares of Common Stock deemed to be issued and outstanding as of a given date shall be the sum of the number of shares of Common Stock (excluding treasury shares, if any) issued and outstanding.

g) Notice to Holder.

i. Adjustment to Exercise Price. Whenever the Exercise Price is adjusted pursuant to any provision of this Section 3, the Company shall promptly deliver to the Holder by facsimile or email a notice setting forth the Exercise Price after such adjustment and any resulting adjustment to the number of Warrant Shares and setting forth a brief statement of the facts requiring such adjustment.

ii. Notice to Allow Exercise by Holder. If (A) the Company shall declare a dividend (or any other distribution in whatever form) on the Common Stock, (B) the Company shall declare a special nonrecurring cash dividend on or a redemption of the Common Stock, (C) the Company shall authorize the granting to all holders of the Common Stock rights or warrants to subscribe for or purchase any shares of capital stock of any class or of any rights, (D) the approval of any stockholders of the Company shall be required in connection with any reclassification of the Common Stock, any consolidation or merger to which the Company is a party, any sale or transfer of all or substantially all of the assets of the Company, or any compulsory share exchange whereby the Common Stock is converted into other securities, cash or property, or (E) the Company shall authorize the voluntary or involuntary dissolution, liquidation or winding up of the affairs of the Company, then, in each case, the Company shall cause to be delivered by facsimile or email to the Holder at its last facsimile number or email address as it shall appear upon the Warrant Register of the Company, at least 20 calendar days prior to the applicable record or effective date hereinafter specified, a notice stating (x) the date on which a record is to be taken for the purpose of such dividend, distribution, redemption, rights or warrants, or if a record is not to be taken, the date as of which the holders of the Common Stock of record to be entitled to such dividend, distributions, redemption, rights or warrants are to be determined or (y) the date on which such reclassification, consolidation, merger, sale, transfer or share exchange is expected to become effective or close, and the date as of which it is expected that holders of the Common Stock of record shall be entitled to exchange their shares of the Common Stock for securities, cash or other property deliverable upon such reclassification, consolidation, merger, sale, transfer or share exchange; provided that the failure to deliver such notice or any defect therein or in the delivery thereof shall not affect the validity of the corporate action required to be specified in such notice. To the extent that any notice provided in this Warrant constitutes, or contains, material, non-public information regarding the Company or any of the Subsidiaries, the Company shall simultaneously file such notice with the Commission pursuant to a Current Report on Form 8-K. The Holder shall remain entitled to exercise this Warrant during the period commencing on the date of such notice to the effective date of the event triggering such notice except as may otherwise be expressly set forth herein.

Section 4. Transfer of Warrant.

a) Transferability. Neither this Warrant nor any Warrant Shares issued upon exercise of this Warrant shall be sold, transferred, assigned, pledged or hypothecated, or be the subject of any hedging, short sale, derivative, put or call transaction that would result in the effective economic disposition of the securities by any person for a period of 180 days immediately following the date of effectiveness or commencement of sales of the offering pursuant to which this Warrant is being issued, except the transfer of any security:

- (i) by operation of law or by reason of reorganization of the Company;
- (ii) to any FINRA member firm participating in the offering and the officers and partners thereof, if all securities so transferred remain subject to the lock-up restriction in this Section 4(a) for the remainder of the time period;
- (iii) that is beneficially owned on a pro-rata basis by all equity owners of an investment fund, provided that no participating member manages or otherwise directs investments by the fund, and participating members in the aggregate do not own more than 10% of the equity in the fund; or
- (iv) the exercise or conversion of any security, if all securities received remain subject to the lock-up restriction in this Section 4(a) for the remainder of the time period.

Subject to the foregoing restriction, this Warrant and all rights hereunder (including, without limitation, any registration rights) are transferable, in whole or in part, upon surrender of this Warrant at the principal office of the Company or its designated agent, together with a written assignment of this Warrant substantially in the form attached hereto duly executed by the Holder or its agent or attorney and funds sufficient to pay any transfer taxes payable upon the making of such transfer. Upon such surrender and, if required, such payment, the Company shall execute and deliver a new Warrant or Warrants in the name of the assignee or assignees, as applicable, and in the denomination or denominations specified in such instrument of assignment, and shall issue to the assignor a new Warrant evidencing the portion of this Warrant not so assigned, and this Warrant shall promptly be cancelled. Notwithstanding anything herein to the contrary, the Holder shall not be required to physically surrender this Warrant to the Company unless the Holder has assigned this Warrant in full, in which case, the Holder shall surrender this Warrant to the Company within three (3) Trading Days of the date the Holder delivers an assignment form to the Company assigning this Warrant full. The Warrant, if properly assigned in accordance herewith, may be exercised by a new holder for the purchase of Warrant Shares without having a new Warrant issued.

b) New Warrants. This Warrant may be divided or combined with other Warrants upon presentation hereof at the aforesaid office of the Company, together with a written notice specifying the names and denominations in which new Warrants are to

be issued, signed by the Holder or its agent or attorney. Subject to compliance with Section 4(a), as to any transfer which may be involved in such division or combination, the Company shall execute and deliver a new Warrant or Warrants in exchange for the Warrant or Warrants to be divided or combined in accordance with such notice. All Warrants issued on transfers or exchanges shall be dated the initial issuance date of this Warrant and shall be identical with this Warrant except as to the number of Warrant Shares issuable pursuant thereto.

c) Warrant Register. The Company shall register this Warrant, upon records to be maintained by the Company for that purpose (the “Warrant Register”), in the name of the record Holder hereof from time to time. The Company may deem and treat the registered Holder of this Warrant as the absolute owner hereof for the purpose of any exercise hereof or any distribution to the Holder, and for all other purposes, absent actual notice to the contrary.

d) Transfer Restrictions. If, at the time of the surrender of this Warrant in connection with any transfer of this Warrant, the transfer of this Warrant shall not be either (i) registered pursuant to an effective registration statement under the Securities Act and under applicable state securities or blue sky laws or (ii) eligible for resale without volume or manner-of-sale restrictions or current public information requirements pursuant to Rule 144, the Company may require, as a condition of allowing such transfer, that the Holder or transferee of this Warrant, as the case may be, comply with the transfer restrictions provided by the Purchase Agreement, including those set forth in Section 5.7 thereof.

e) Representation by the Holder. The Holder, by the acceptance hereof, represents and warrants that (i) it is acquiring this Warrant and, upon any exercise hereof, will acquire the Warrant Shares issuable upon such exercise, for its own account and not with a view to or for distributing or reselling such Warrant Shares or any part thereof in violation of the Securities Act or any applicable state securities law, except pursuant to sales registered or exempted under the Securities Act; and (ii) it is an “accredited investor” as defined in Regulation D promulgated under the Securities Act of 1933, as amended.

Section 5. Miscellaneous.

a) No Rights as Stockholder Until Exercise. This Warrant does not entitle the Holder to any voting rights, dividends or other rights as a stockholder of the Company prior to the exercise hereof as set forth in Section 2(d)(i), except as expressly set forth in Section 3.

b) Loss, Theft, Destruction or Mutilation of Warrant. The Company covenants that upon receipt by the Company of evidence reasonably satisfactory to it of the loss, theft, destruction or mutilation of this Warrant or any stock certificate relating to the Warrant Shares, and in case of loss, theft or destruction, of indemnity or security reasonably satisfactory to it (which, in the case of the Warrant, shall not include the posting of any bond), and upon surrender and cancellation of such Warrant or stock

certificate, if mutilated, the Company will make and deliver a new Warrant or stock certificate of like tenor and dated as of such cancellation, in lieu of such Warrant or stock certificate.

c) Saturdays, Sundays, Holidays, etc. If the last or appointed day for the taking of any action or the expiration of any right required or granted herein shall not be a Business Day, then, such action may be taken or such right may be exercised on the next succeeding Business Day.

d) Authorized Shares.

The Company covenants that, during the period the Warrant is outstanding, it will reserve from its authorized and unissued Common Stock a sufficient number of shares to provide for the issuance of the Warrant Shares upon the exercise of any purchase rights under this Warrant. The Company further covenants that its issuance of this Warrant shall constitute full authority to its officers who are charged with the duty of issuing the necessary Warrant Shares upon the exercise of the purchase rights under this Warrant. The Company will take all such reasonable action as may be necessary to assure that such Warrant Shares may be issued as provided herein without violation of any applicable law or regulation, or of any requirements of the Trading Market upon which the Common Stock may be listed. The Company covenants that all Warrant Shares which may be issued upon the exercise of the purchase rights represented by this Warrant will, upon exercise of the purchase rights represented by this Warrant and payment for such Warrant Shares in accordance herewith, be duly authorized, validly issued, fully paid and nonassessable and free from all taxes, liens and charges created by the Company in respect of the issue thereof (other than taxes in respect of any transfer occurring contemporaneously with such issue).

Except and to the extent as waived or consented to by the Holder, the Company shall not by any action, including, without limitation, amending its certificate of incorporation or through any reorganization, transfer of assets, consolidation, merger, dissolution, issue or sale of securities or any other voluntary action, avoid or seek to avoid the observance or performance of any of the terms of this Warrant, but will at all times in good faith assist in the carrying out of all such terms and in the taking of all such actions as may be necessary or appropriate to protect the rights of Holder as set forth in this Warrant against impairment. Without limiting the generality of the foregoing, the Company will (i) not increase the par value of any Warrant Shares above the amount payable therefor upon such exercise immediately prior to such increase in par value, (ii) take all such action as may be necessary or appropriate in order that the Company may validly and legally issue fully paid and nonassessable Warrant Shares upon the exercise of this Warrant and (iii) use commercially reasonable efforts to obtain all such authorizations, exemptions or consents from any public regulatory body having jurisdiction thereof, as may be, necessary to enable the Company to perform its obligations under this Warrant.

Before taking any action which would result in an adjustment in the number of Warrant Shares for which this Warrant is exercisable or in the Exercise Price, the Company shall obtain all such authorizations or exemptions thereof, or consents thereto, as may be necessary from any public regulatory body or bodies having jurisdiction thereof.

e) Jurisdiction. All questions concerning the construction, validity, enforcement and interpretation of this Warrant shall be determined in accordance with the provisions of the Purchase Agreement.

f) Restrictions. The Holder acknowledges that the Warrant Shares acquired upon the exercise of this Warrant, if not registered, and the Holder does not utilize cashless exercise, will have restrictions upon resale imposed by state and federal securities laws.

g) Nonwaiver and Expenses. No course of dealing or any delay or failure to exercise any right hereunder on the part of Holder shall operate as a waiver of such right or otherwise prejudice the Holder's rights, powers or remedies. Without limiting any other provision of this Warrant or the Purchase Agreement, if the Company willfully and knowingly fails to comply with any provision of this Warrant, which results in any material damages to the Holder, the Company shall pay to the Holder such amounts as shall be sufficient to cover any costs and expenses including, but not limited to, reasonable attorneys' fees, including those of appellate proceedings, incurred by the Holder in collecting any amounts due pursuant hereto or in otherwise enforcing any of its rights, powers or remedies hereunder.

h) Notices. Any notice, request or other document required or permitted to be given or delivered to the Holder by the Company shall be delivered in accordance with the notice provisions of the Purchase Agreement.

i) Limitation of Liability. No provision hereof, in the absence of any affirmative action by the Holder to exercise this Warrant to purchase Warrant Shares, and no enumeration herein of the rights or privileges of the Holder, shall give rise to any liability of the Holder for the purchase price of any Common Stock or as a stockholder of the Company, whether such liability is asserted by the Company or by creditors of the Company.

j) Remedies. The Holder, in addition to being entitled to exercise all rights granted by law, including recovery of damages, will be entitled to specific performance of its rights under this Warrant. The Company agrees that monetary damages would not be adequate compensation for any loss incurred by reason of a breach by it of the provisions of this Warrant and hereby agrees to waive and not to assert the defense in any action for specific performance that a remedy at law would be adequate.

k) Successors and Assigns. Subject to applicable securities laws, this Warrant and the rights and obligations evidenced hereby shall inure to the benefit of and be binding upon the successors and permitted assigns of the Company and the successors

and permitted assigns of Holder. The provisions of this Warrant are intended to be for the benefit of any Holder from time to time of this Warrant and shall be enforceable by the Holder or holder of Warrant Shares.

l) Amendment. This Warrant may be modified or amended or the provisions hereof waived with the written consent of the Company and the Holder.

m) Severability. Wherever possible, each provision of this Warrant shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Warrant shall be prohibited by or invalid under applicable law, such provision shall be ineffective to the extent of such prohibition or invalidity, without invalidating the remainder of such provisions or the remaining provisions of this Warrant.

n) Headings. The headings used in this Warrant are for the convenience of reference only and shall not, for any purpose, be deemed a part of this Warrant.

(Signature Page Follows)

IN WITNESS WHEREOF, the Company has caused this Warrant to be executed by its officer thereunto duly authorized as of the date first above indicated.

CYTODYN INC.

By: _____
Name: Michael D. Mulholland
Title: Chief Financial Officer

[Signature Page to Common Stock Purchase Warrant]

NOTICE OF EXERCISE

TO: CYTODYN INC.

(1) The undersigned hereby elects to purchase _____ Warrant Shares of the Company pursuant to the terms of the attached Warrant (only if exercised in full), and tenders herewith payment of the exercise price in full, together with all applicable transfer taxes, if any.

(2) Payment shall take the form of (check applicable box):

in lawful money of the United States; or

[if permitted the cancellation of such number of Warrant Shares as is necessary, in accordance with the formula set forth in subsection 2(c), to exercise this Warrant with respect to the maximum number of Warrant Shares purchasable pursuant to the cashless exercise procedure set forth in subsection 2(c).

(3) Please issue said Warrant Shares in the name of the undersigned or in such other name as is specified below:

The Warrant Shares shall be delivered to the following DWAC Account Number:

(4) Accredited Investor. The undersigned is an “accredited investor” as defined in Regulation D promulgated under the Securities Act of 1933, as amended.

[SIGNATURE OF HOLDER]

Name of Investing Entity: _____

Signature of Authorized Signatory of Investing Entity: _____

Name of Authorized Signatory: _____

Title of Authorized Signatory: _____

Date: _____

ASSIGNMENT FORM

(To assign the foregoing Warrant, execute this form and supply required information. Do not use this form to purchase shares.)

FOR VALUE RECEIVED, the foregoing Warrant and all rights evidenced thereby are hereby assigned to

Name: _____
(Please Print)

Address: _____
(Please Print)

Phone Number: _____

Email Address: _____

Dated: _____, _____

Holder's Signature: _____

Holder's Address: _____

PURCHASE WARRANT

Issued to:

[]

Exercisable to Purchase

[] Shares of Common Stock

of

CYTODYN INC.

Warrant No. P - []

Void after [], 20[]

THE WARRANT REPRESENTED BY THIS WARRANT CERTIFICATE AND THE SHARES ISSUABLE UPON EXERCISE THEREOF HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), OR THE SECURITIES LAWS OF ANY STATE OR OTHER JURISDICTION. THE SECURITIES MAY NOT BE OFFERED, SOLD, PLEDGED OR OTHERWISE TRANSFERRED, EXCEPT (1) PURSUANT TO AN EXEMPTION FROM REGISTRATION UNDER THE SECURITIES ACT OR (2) PURSUANT TO AN EFFECTIVE REGISTRATION STATEMENT UNDER THE SECURITIES ACT, IN EACH CASE IN ACCORDANCE WITH ALL APPLICABLE STATE SECURITIES LAWS AND THE SECURITIES LAWS OF OTHER JURISDICTIONS, AND, IN THE CASE OF A TRANSACTION EXEMPT FROM REGISTRATION, UNLESS THE COMPANY HAS RECEIVED AN OPINION OF COUNSEL REASONABLY SATISFACTORY TO IT THAT SUCH TRANSACTION DOES NOT REQUIRE REGISTRATION UNDER THE SECURITIES ACT AND SUCH OTHER APPLICABLE LAWS.

This is to certify that, for value received and subject to the terms and conditions set forth below, the Warrantholder is entitled to purchase, and the Company promises and agrees to sell and issue to the Warrantholder, at any time on or after the Initial Exercise Date and on or before the Expiration Date, up to [] shares of Common Stock at the per share Exercise Price.

This Warrant Certificate is issued by the Company pursuant to Section 2(b) of the Placement Agent Agreement, subject to the following terms and conditions:

1. Definitions of Certain Terms. Except as may be otherwise clearly required by the context, the following terms have the following meanings:

(a) "Cashless Exercise" means an exercise of a Warrant in which, in lieu of payment of the Exercise Price in cash, the Warrantholder elects to receive a lesser number of Securities in payment of the Exercise Price, as determined in accordance with Section 2(b).

(b) "Closing Date" means [January 31]/[February 28], 2017, the date on which the closing under the Offering occurred.

(c) "Commission" means the Securities and Exchange Commission.

(d) "Common Stock" means the common stock, \$0.001 par value, of the Company.

(e) "Company" means CytoDyn Inc., a Delaware corporation.

(f) "Exercise Price" means the price at which the Warrantholder may purchase one share of Common Stock or other Securities upon exercise of a Warrant as determined from time to time pursuant to the provisions hereof, multiplied by the number of Securities as to which the Warrant is being exercised. The initial Exercise Price is \$0.825 per share of Common Stock.

(g) "Expiration Date" has the meaning set forth in Section 2(a).

(h) "Initial Exercise Date" has the meaning set forth in Section 2(a).

(i) "Offering Prospectus" means the prospectus filed with the Securities and Exchange Commission on [January 31]/[February 28], 2017 (including the base prospectus dated September 9, 2017, the prospectus supplement dated [January 31]/[February 28], 2017, and the other information incorporated therein by reference).

(j) "Offering" means the offering of shares of Common Stock and warrants made pursuant to the Offering Prospectus and the Placement Agent Agreement.

(k) "Placement Agent Agreement" means that certain Placement Agent Agreement, dated as of January 11, 2017, as amended as of January 30, 2017, between the Company, Paulson Investment Company, LLC.

(l) "Rules and Regulations" means the rules and regulations of the Commission adopted under the Securities Act.

(m) “Securities” means the securities obtained or obtainable upon exercise of the Warrant or securities obtained or obtainable upon exercise, exchange, or conversion of such securities.

(n) “Securities Act” means the Securities Act of 1933, as amended.

(o) “Warrant” means the warrant evidenced by this certificate, any similar certificate issued in connection with the Offering, or any certificate obtained upon transfer or partial exercise of the Warrant evidenced by any such certificate.

(p) “Warrant Certificate” means a certificate evidencing the Warrant.

(q) “Warrantholder” means a record holder of the Warrant or Securities.

2. Exercise of Warrant.

(a) All or any part of the Warrant represented by this Warrant Certificate may be exercised commencing on the Closing Date (the “Initial Exercise Date”) and ending at 5:00 p.m. Pacific Time on the five-year anniversary of the Closing Date (the “Expiration Date”) by surrendering this Warrant Certificate, together with the Exercise Price and appropriate instructions, duly executed by the Warrantholder or by its duly authorized attorney, at the office of the Company, 1111 Main Street, Suite 660, Vancouver, Washington, 98660; or at such other office or agency as the Company may designate. The date on which such instructions are received by the Company shall be the date of exercise. If the Warrantholder has elected a Cashless Exercise, such instructions shall so state.

(b) If at any time after 180 days following the date of the Offering Prospectus the Warrantholder elects a Cashless Exercise, the Warrantholder may surrender in payment of the Exercise Price, shares of Common Stock equal in value to the Exercise Price by surrender of this Warrant at the principal office of the Company together with notice of such election, in which event the Company shall issue to the Warrantholder a number of shares of Common Stock computed using the following formula:

$$X = \frac{Y(A - B)}{A}$$

Where: X = The number of shares of Common Stock to be issued to the Warrantholder pursuant to this Cashless Exercise

Y = The number of shares of Common Stock in respect of which the Cashless Exercise election is made

A = The fair market value of one share of Common Stock at the time the Cashless Exercise election is made

B = The Exercise Price (as adjusted to the date of the Cashless Exercise)

For purposes of this Section 2(b), the fair market value of one share of Common Stock as of a particular date shall be determined as follows: (i) if traded on a securities exchange, the value shall be deemed to be the average of the closing prices of the Common Stock on such exchange over the thirty (30) day period ending one (1) day prior to the Cashless Exercise; (ii) if traded over-the-counter, the value shall be deemed to be the average of the closing bid or sale prices (whichever is applicable) of the Common Stock over the thirty (30) day period ending one (1) day prior to the Cashless Exercise; and (iii) if there is no active public market, the value shall be the fair market value thereof, as determined in good faith by the Board of Directors of the Company.

(c) Subject to the provisions below, upon receipt of notice of exercise, the Company shall promptly prepare or cause the preparation of certificates for the Securities to be received by the Warrantholder upon completion of the Warrant exercise. After such certificates are prepared, the Company shall notify the Warrantholder and, upon payment in full by the Warrantholder, in lawful money of the United States, of the Exercise Price payable with respect to the Securities being purchased, or, in the case of a Cashless Exercise, upon deemed surrender of Securities equal in value to the Exercise Price, deliver such certificates to the Warrantholder, or as per the Warrantholder's instructions, promptly after such funds are available, if applicable, and otherwise promptly thereafter. The Securities to be obtained on exercise of the Warrant will be deemed to have been issued, and any person exercising the Warrant will be deemed to have become a holder of record of those Securities, as of the date of receipt by the Company of (a) available funds in cash in payment of the Exercise Price, or (b) notice of Cashless Exercise.

(d) If fewer than all the Securities purchasable under the Warrant are purchased, the Company will, upon such partial exercise, execute and deliver to the Warrantholder a new Warrant Certificate (dated the date hereof), in form and tenor similar to this Warrant Certificate, evidencing that portion of the Warrant not exercised.

(e) Notwithstanding the foregoing, in no event shall such Securities be issued, and the Company is authorized to refuse to honor the exercise of the Warrant, if such exercise would result in the opinion of the Company's Board of Directors, upon advice of counsel, in the violation of any law.

3. Adjustments in Certain Events. The number, class, and price of Securities for which this Warrant Certificate may be exercised are subject to adjustment from time to time upon the happening of certain events as follows:

(a) If the outstanding shares of the Company's Common Stock are divided into a greater number of shares or a dividend in stock is paid on the Common Stock, the number of shares of Common Stock for which the Warrant is then exercisable will be proportionately increased and the Exercise Price will be proportionately reduced; and, conversely, if the outstanding shares of Common Stock are combined into a smaller number of shares of Common Stock, the number of shares of Common Stock for which the Warrant is then exercisable will be proportionately reduced and the Exercise Price will be proportionately increased. The increases and reductions provided for in this Section 3(a) will be made with the intent and, as nearly as practicable, the effect that neither the percentage of the total equity of the Company obtainable on exercise of the Warrants nor the price payable for such percentage upon such exercise will be affected by any event described in this Section 3(a).

(b) In case of any change in the Common Stock through merger, consolidation, reclassification, reorganization, partial or complete liquidation, purchase of substantially all the assets of the Company, or other change in the capital structure of the Company, then, as a condition of such change, lawful and adequate provision will be made so that the Warrantholder will have the right thereafter to receive upon the exercise of the Warrant the kind and amount of shares of stock or other securities or property to which the Warrantholder would have been entitled if, immediately prior to such event, the Warrantholder had held the number of shares of Common Stock obtainable upon the exercise of the Warrant. In any such case, appropriate adjustment will be made in the application of the provisions set forth herein with respect to the rights and interest thereafter of the Warrantholder, to the end that the provisions set forth herein will thereafter be applicable, as nearly as reasonably may be, in relation to any shares of stock or other securities or property thereafter deliverable upon the exercise of the Warrant. The Company will not permit any change in its capital structure to occur unless the issuer of the shares of stock or other securities to be received by the holder of this Warrant Certificate, if not the Company, agrees to be bound by and comply with the provisions of this Warrant Certificate.

(c) When any adjustment is required to be made in the number of shares of Common Stock, other securities, or the property purchasable upon exercise of the Warrant, the Company will promptly determine the new number of such shares or other securities or property purchasable upon exercise of the Warrant and (i) prepare and retain on file a statement describing in reasonable detail the method used in arriving at the new number of such shares or other securities or property purchasable upon exercise of the Warrant and (ii) cause a copy of such statement to be mailed to the Warrantholder within thirty (30) days after the date of the event giving rise to the adjustment.

(d) No fractional shares of Common Stock or other Securities will be issued in connection with the exercise of the Warrant, and the number of shares of Common Stock to be issued shall be rounded to the nearest whole number.

(e) If securities of the Company or securities of any subsidiary of the Company are distributed pro rata to holders of Common Stock, such number of securities will be distributed to the Warrantholder or its assignee upon exercise of its rights hereunder as such Warrantholder or assignee would have been entitled to if this Warrant had been exercised prior to the record date for such distribution. The provisions with respect to adjustment of the Common Stock provided in this Section 3 will also apply to the securities to which the Warrantholder or its assignee is entitled under this Section 3(e).

(f) Notwithstanding anything herein to the contrary, there will be no adjustment made hereunder on account of the sale by the Company of the Common Stock or any other Securities purchasable upon exercise of the Warrant.

4. Reservation of Securities. The Company agrees that the number of shares of Common Stock or other Securities sufficient to provide for the exercise of the Warrant upon the basis set forth above will, at all times during the term of the Warrant, be reserved for issuance.

5. Validity of Securities. All Securities delivered upon the exercise of the Warrant will be duly and validly issued in accordance with their terms and, upon payment of the Exercise Price, will be fully paid and non-assessable. The Company will pay all documentary and transfer taxes, if any, in respect of the original issuance thereof upon exercise of the Warrant.

6. Transferability.

(a) Neither the Warrant nor any Securities shall be sold, transferred, assigned, pledged or hypothecated, or be the subject of any hedging, short sale, derivative, put or call transaction that would result in the effective economic disposition of the securities by any person for a period of 180 days immediately following the date of the Offering Prospectus, except the transfer of any security:

(i) by operation of law or by reason of reorganization of the Company;

(ii) to any FINRA member firm participating in the offering and the officers and partners thereof, if all securities so transferred remain subject to the lock-up restriction in this Section 4(a) for the remainder of the time period;

(iii) if the aggregate amount of Common Stock beneficially owned by Paulson Investment Company, LLC or its related persons does not exceed 1% of the shares of Common Stock offered in the Offering;

(iv) that is beneficially owned on a pro-rata basis by all equity owners of an investment fund, provided that no participating member manages or otherwise directs investments by the fund, and participating members in the aggregate do not own more than 9.9% of the equity in the fund; or

(v) the exercise or conversion of any security, if all securities received remain subject to the lock-up restriction in this Section 6(a) for the remainder of the time period.

(b) Subject to the restrictions in Section (6)(a) and to compliance with any applicable securities laws, the Warrant may be transferred to individuals who are a partner, officer or other representative of Paulson Investment Company, LLC. The Warrant may be divided or combined, upon request to the Company by the Warrantholder, into additional Warrants evidencing the same aggregate number of Warrants. Any such transfer shall be effected upon surrender of this Warrant Certificate at the principal office of the Company or its designated agent, together with a written assignment of the Warrant substantially in the form attached hereto duly executed by the Holder or its agent or attorney and funds sufficient to pay any transfer taxes payable upon the making of such transfer. Upon such surrender and, if required, such payment, the Company shall execute and deliver a new Warrant Certificate or Warrant Certificates in the name of the assignee or assignees, as applicable, and in the denomination or denominations specified in such instrument of assignment, and shall issue to the assignor a new Warrant Certificate evidencing the portion of the Warrant not so assigned, and this Warrant Certificate shall promptly be cancelled.

7. Securities Act Compliance. The Warrantholder hereby represents: (a) that this Warrant and any Securities will be acquired for investment for the Warrantholder's own account and not with a view to the resale or distribution of any part thereof, and (b) that the Warrantholder is an accredited investor as defined in Rule 501(a) of Regulation D promulgated under the Securities Act. In addition, as a condition of its delivery of certificates for the Common Stock, the Company will require the Warrantholder to deliver to the Company representations regarding the Warrantholder's sophistication, investor status, investment intent, acquisition for its own account and such other matters as are reasonable and customary for purchasers of securities in an unregistered private offering as set forth in the attached Exercise Form. The Company may place conspicuously upon each certificate representing the Securities a legend substantially in the following form, the terms of which are agreed to by the Warrantholder:

“THE SECURITIES EVIDENCED BY THIS CERTIFICATE HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE “SECURITIES ACT”), OR THE SECURITIES LAWS OF ANY STATE OR OTHER JURISDICTION. THE SECURITIES MAY NOT BE OFFERED, SOLD, PLEDGED OR OTHERWISE TRANSFERRED EXCEPT (1) PURSUANT TO AN EXEMPTION FROM REGISTRATION UNDER THE SECURITIES ACT OR (2) PURSUANT TO AN EFFECTIVE REGISTRATION STATEMENT UNDER THE SECURITIES ACT, IN EACH CASE IN ACCORDANCE WITH ALL APPLICABLE STATE SECURITIES LAWS AND THE SECURITIES LAWS OF OTHER JURISDICTIONS AND, IN THE CASE OF A TRANSACTION EXEMPT FROM REGISTRATION, UNLESS THE COMPANY HAS RECEIVED AN OPINION OF COUNSEL REASONABLY SATISFACTORY TO IT THAT SUCH TRANSACTION DOES NOT REQUIRE REGISTRATION UNDER THE SECURITIES ACT AND SUCH OTHER APPLICABLE LAWS.”

8. No Rights as a Shareholder. Except as otherwise provided herein, the Warrantholder will not, by virtue of ownership of the Warrant, be entitled to any rights of a shareholder of the Company but will, upon written request to the Company, be entitled to receive such quarterly or annual reports as the Company distributes to its shareholders.

9. Notice. Any notices required or permitted to be given hereunder will be in writing and may be served personally or by mail, including by e-mail; and if served will be addressed as follows:

If to the Company:

CytoDyn Inc.
Attn: Michael D. Mulholland
1111 Main Street, Suite 660
Vancouver, Washington 98660
Email: mmulholland@cytodyn.com

with a copy to:

Lowenstein Sandler LLP
Attn: Steven M. Skolnick
65 Livingston Avenue & 6 Becker Farm Road
Roseland, New Jersey 07068
Email: sskolnick@lowenstein.com

If to the Warrantholder:

c/o Paulson Investment Company, LLC
566 W. Adams, Suite 750
Chicago, Illinois 60661

Any notice so given by mail will be deemed effectively given 48 hours after mailing when deposited in the United States mail, registered or certified mail, return receipt requested, postage prepaid and addressed as specified above. Any notice given by e-mail must be accompanied by confirmation of receipt, and will be deemed effectively given upon confirmation of such receipt. Any party may by written notice to the other specify a different address for notice purposes.

10. Applicable Law. This Warrant Certificate will be governed by and construed in accordance with the laws of the State of New York, without reference to conflict of laws principles thereunder.

[Signature page follows.]

IN WITNESS WHEREOF, the Company has caused this Warrant Certificate to be executed by its officer thereunto duly authorized as of the date first above indicated.

Dated as of [], 20[]

CYTODYN INC.

By: _____
Name: Michael D. Mulholland
Title: Chief Financial Officer

[Placement Agent Warrant]

EXERCISE FORM

(To Be Executed by the Warrantholder
to Exercise the Warrant)

TO: CYTODYN INC.

1. The undersigned hereby irrevocably elects to exercise the right to purchase _____ shares of Common Stock, represented by Warrant No. P-[] as follows:

[] Exercise for Cash. Pursuant to Section 2(a) of the Warrant, the Holder hereby elects to exercise the Warrant for cash and tenders payment herewith (or has made a wire transfer) to the order of CytoDyn Inc. in the amount of \$ _____.

[] Cashless Exercise. Pursuant to Section 2(b) of the Warrant, the Holder hereby elects to exercise the Warrant on a cashless basis.

2. The undersigned requests that the applicable number of shares of Common Stock be issued and delivered to the following address:

Name: _____

Address: _____

Email: _____

SSN: _____

3. The undersigned understands, agrees and recognizes that:

(a) No federal or state agency has made any finding or determination as to the fairness of the investment or any recommendation or endorsement of the securities.

(b) All certificates evidencing the shares of Common Stock, if any, may bear a legend substantially similar to the legend set forth in Section 7 of the Warrant Certificate regarding resale restrictions.

Representations of the undersigned.

5. The undersigned acknowledges that the undersigned has received, read and understood the Warrant and agrees to abide by and be bound by its terms and conditions.

6. (i) The undersigned has such knowledge and experience in business and financial matters that the undersigned is capable of evaluating the Company and the proposed activities thereof, and the risks and merits of this prospective investment.

[] YES [] NO

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

[] YES [] NO

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

[] YES [] NO

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

- The undersigned is a natural person whose present net worth (or whose joint net worth with his or her spouse), excluding the value of the undersigned’s primary residence, exceeds \$1,000,000. For purposes of calculating the undersigned’s present net worth, the undersigned has included the following as liabilities: (i) any indebtedness that is secured by the undersigned’s primary residence in excess of the estimated fair market value of the undersigned’s primary residence at the time of the sale of the shares, and (ii) any incremental debt secured by the undersigned’s primary residence that was incurred in the 60 days before the sale of the shares, other than as a result of the acquisition of the undersigned’s primary residence.
- The undersigned is a natural person who had individual income in excess of \$200,000 in each of the last two years or joint income with the undersigned’s spouse in excess of \$300,000 during such two years, and the undersigned reasonably expects to have the same income level in the current year.
- The undersigned is an officer or director of the Company.
- The undersigned is a corporation or partnership not formed for the specific purpose of acquiring the securities offered, with total assets in excess of \$5,000,000.
- The undersigned is a trust with total assets in excess of \$5,000,000 whose purchase is directed by a person with such knowledge and experience in financial and business matters that such person is capable of evaluating the merits and risks of the prospective investment.
- The undersigned is an entity, all of whose equity owners are accredited investors under one or more of the categories above.

-
8. The undersigned understands that the shares purchased hereunder have not been registered under the Securities Act, in reliance upon the exemption from the registration requirements under the Securities Act pursuant to Section 4(2) of the Securities Act and Rule 506 promulgated thereunder; and, therefore, that the undersigned must bear the economic risk of the investment for an indefinite period of time since the securities cannot be sold, transferred or assigned to any person or entity without compliance with the provisions of the Securities Act

Dated: _____, 20 ____ .

By: _____
Name: _____
Print: _____

Note: Signature must correspond with the name as written upon the face of the Warrant in all respects, without alteration or enlargement or any change whatsoever.

CYTODYN INC.

2012 EQUITY INCENTIVE PLAN

TABLE OF CONTENTS

	Page
ARTICLE 1 ESTABLISHMENT AND PURPOSE	1
1.1 Establishment	1
1.2 Purpose	1
ARTICLE 2 DEFINITIONS	1
2.1 Defined Terms	1
2.2 Gender and Number	5
ARTICLE 3 ADMINISTRATION	5
3.1 Administration by Board	5
3.2 Delegation to Committee	5
3.3 Authority of the Committee	5
3.4 Action by the Committee	6
3.5 Further Delegation	6
ARTICLE 4 DURATION; SHARES SUBJECT TO THE PLAN; ELIGIBILITY	6
4.1 Duration of the Plan	6
4.3 Shares Subject to the Plan	6
4.5 Eligibility	7
ARTICLE 5 AWARDS	7
5.1 Types of Awards	7
5.2 General	7
5.3 Nonuniform Determinations	7
5.4 Award Agreements	7
5.5 Provisions Governing All Awards	7
ARTICLE 6 OPTIONS	11
6.1 Types of Options	11
6.2 General	11
6.3 Option Price	11
6.4 Option Term	11
6.5 Time of Exercise	12
6.6 Special Rules for Incentive Stock Options	12
6.7 Restricted Shares	12

TABLE OF CONTENTS
(continued)

	Page	
6.8	Limitation on Number of Shares Subject to Options	12
ARTICLE 7	STOCK APPRECIATION RIGHTS	12
7.1	General	12
7.2	Nature of Stock Appreciation Right	12
7.3	Exercise	13
7.4	Form of Payment	13
7.5	Limitation on Number of Stock Appreciation Rights	13
ARTICLE 8	RESTRICTED AWARDS	13
8.1	Types of Restricted Awards	13
8.2	General	14
8.3	Restriction Period	14
8.4	Forfeiture	14
8.5	Settlement of Restricted Awards	14
8.6	Rights as a Shareholder	15
8.7	Limitation in Number of Restricted Awards	15
ARTICLE 9	OTHER STOCK-BASED AND COMBINATION AWARDS	15
9.1	Other Stock-Based Awards	15
9.2	Combination Awards	15
ARTICLE 11	ADJUSTMENTS UPON CHANGES IN CAPITALIZATION, ETC.	15
11.1	Plan Does Not Restrict the Corporation	15
11.2	Mandatory Adjustment	16
11.3	Adjustments by the Committee	16
ARTICLE 12	AMENDMENT AND TERMINATION	16
ARTICLE 13	MISCELLANEOUS	16
13.1	Tax Withholding	16
13.2	Unfunded Plan	17
13.3	Fractional Shares	17
13.4	Annulment of Awards	17
13.5	Engaging in Competition With the Corporation	17
13.6	Other Corporation Benefit and Compensation Programs	17

TABLE OF CONTENTS
(continued)

	Page
13.7 Securities Law Restrictions	18
13.8 Continuing Restriction Agreement	18
13.9 Governing Law	18

2012 EQUITY INCENTIVE PLAN

ARTICLE 1 ESTABLISHMENT AND PURPOSE

1.1 **Establishment.** CytoDyn Inc., a Colorado corporation (the “Corporation”), hereby establishes the CytoDyn Inc. 2012 Equity Incentive Plan (the “Plan”), effective as of December 12, 2012 (the “Effective Date”).

1.2 **Purpose.** The purpose of the Plan is to promote and advance the interests of the Corporation and its shareholders 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 shareholders. 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 Regulation Section 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 Colorado 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. 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

2012 Equity Incentive Plan

(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 maximum number of Shares for which Awards may be granted under the Plan is 7,000,000, and the maximum aggregate number of Shares that may be issued under the Plan through Incentive Stock Options is 6,500,000. If an Award under the Plan is canceled or expires for any reason prior to having been fully Vested or exercised by a Participant, is settled in cash in lieu of Shares or is exchanged for other Awards, or is otherwise forfeited or terminated, all Shares covered by such Awards will be added back into the number of Shares available for future Awards under the Plan. In addition, if the exercise price of any Option granted under the Plan is satisfied by tendering Shares to the Corporation, only the number of Shares issued net of Shares tendered to the Corporation shall be deemed delivered for purposes of determining the maximum number of Shares available under the Plan.

4.4 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.

2012 Equity Incentive Plan

4.5 Eligibility. Employees of the Corporation and any subsidiary (including employees who may also be directors of the Corporation or a subsidiary), 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.

2012 Equity Incentive Plan

(b) Rights as Shareholders. No Participant will have any rights of a shareholder 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. 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 reinstated, 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 shareholders 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 Restricted Shares, whether or not Vested);

(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 shareholders 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.

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.

2012 Equity Incentive Plan

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 date specified in Section 1.1, 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.

6.8 Limitation on Number of Shares Subject to Options. In no event may Options for more than 1,000,000 Shares be granted to any individual under the Plan during any calendar year. To the extent required by Section 162(m) of the Code, if any Option is canceled, the canceled Option shall continue to be counted against the maximum number of Shares for which Options may be granted to an individual under the Plan.

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

2012 Equity Incentive Plan

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.

7.5 Limitation on Number of Stock Appreciation Rights. The maximum number of Shares with respect to which Stock Appreciation Rights may be granted to any individual under the Plan during any calendar year is 1,000,000. To the extent required by Section 162(m) of the Code, if any SAR is canceled, the canceled SAR shall continue to be counted against the maximum number of Shares for which SARs may be granted to an individual under the Plan.

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. 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 Shareholder. A Participant has, with respect to unforfeited Shares received under a grant of Restricted Shares, all the rights of a shareholder 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 shareholder with respect to a Restricted Unit Award until Shares are issued to the Participant in settlement of the Award.

8.7 Limitation in Number of Restricted Awards. The aggregate number of Shares subject to Restricted Share Awards and Restricted Unit Awards that may be granted under the Plan may not exceed 2,500,000 Shares.

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 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

2012 Equity Incentive Plan

Board or the shareholders 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 shareholders.

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 shareholder 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 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.

2012 Equity Incentive Plan

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

2012 Equity Incentive Plan

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 Oregon, without regard to principles of conflict of laws.

As approved by the shareholders of CytoDyn Inc. on December 12, 2012; and amended upon approval of the shareholders of CytoDyn Inc. on February 27, 2015; and further amended upon approval of the shareholders of CytoDyn Inc. on March 18, 2016

2012 Equity Incentive Plan

CONSENT OF WARREN AVERETT, LLC
Independent Registered Certified Public Accountants

We hereby consent to the incorporation by reference in the Registration Statement on Form S-8 (No. 333-206813) and Registration Statements on Form S-3 (Nos. 333-213349 and 333-213866) of our report dated July 19, 2017 and July 19, 2016, with respect to the consolidated financial statements of CytoDyn Inc. (the "Company") appearing in this Annual Report on Form 10-K for the years ended May 31, 2017 and 2016.

/s/ Warren Averett, LLC
Warren Averett, LLC
Tampa, Florida
July 19, 2017

POWER OF ATTORNEY

WHEREAS, the undersigned officers and directors of CytoDyn Inc. desire to authorize Nader Z. Pourhassan and Michael D. Mulholland to act as their attorneys-in-fact and agents, for the purpose of executing and filing the registrant's Annual Report on Form 10-K for the year ended May 31, 2017, including all amendments and supplements thereto,

NOW, THEREFORE,

KNOW ALL MEN BY THESE PRESENTS, that each person whose signature appears below constitutes and appoints Nader Z. Pourhassan and Michael D. Mulholland, and each of them, his or her true and lawful attorney-in-fact and agent, with full power of substitution and resubstitution, to sign the registrant's Annual Report on Form 10-K for the year ended May 31, 2017, including any and all amendments and supplements thereto, and to file the same, with all exhibits thereto, and other documents in connection therewith, with the Securities and Exchange Commission, granting unto said attorneys-in-fact and agents, and each of them, full power and authority to do and perform each and every act and thing requisite and necessary to be done in and about the premises, as fully and to all intents and purposes as he might or could do in person, hereby ratifying and confirming all that said attorneys-in-fact and agents, or any of them, or their or his substitute or substitutes, may lawfully do or cause to be done by virtue hereof.

IN WITNESS WHEREOF, the undersigned have executed this power of attorney in the following capacities as of July 19, 2017.

<u>Signatures</u>	<u>Title</u>
<u>/s/ Denis R. Burger, Ph.D.</u> Denis R. Burger, Ph.D.	Director
<u>/s/ Anthony D. Caracciolo</u> Anthony D. Caracciolo	Director
<u>/s/ Carl C. Dockery</u> Carl C. Dockery	Director
<u>/s/ Gregory A. Gould</u> Gregory A. Gould	Director
<u>/s/ Scott A. Kelly, M.D.</u> Scott A. Kelly, M.D.	Director
<u>/s/ A. Bruce Montgomery, M.D.</u> A. Bruce Montgomery, M.D.	Director
<u>/s/ Jordan G. Naydenov</u> Jordan G. Naydenov	Director
<u>/s/ Nader Z. Pourhassan, Ph.D.</u> Nader Z. Pourhassan, Ph.D.	Director, President and Chief Executive Officer (Principal Executive Officer)
<u>/s/ Michael D. Mulholland</u> Michael D. Mulholland	Chief Financial Officer, Treasurer and Corporate Secretary (Principal Financial Officer and Principal Accounting Officer)

Certification of Chief Executive Officer

I, Nader Z. Pourhassan, certify that:

1. I have reviewed this Annual Report on Form 10-K of CytoDyn Inc.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the Registrant as of, and for, the periods presented in this report;
4. The Registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the Registrant and have:
 - a. designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the Registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this annual report is being prepared;
 - b. designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
 - c. evaluated the effectiveness of the Registrant's disclosure controls and procedures and presented in this annual 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: July 19, 2017

/s/ Nader Z. Pourhassan

Nader Z. Pourhassan, Ph.D.

President and Chief Executive Officer

Certification of Chief Financial Officer

I, Michael D. Mulholland, certify that:

1. I have reviewed this Annual Report on Form 10-K of CytoDyn Inc.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the Registrant as of, and for, the periods presented in this report;
4. The Registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the Registrant and have:
 - a. designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the Registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this annual report is being prepared;
 - b. designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
 - c. evaluated the effectiveness of the Registrant's disclosure controls and procedures and presented in this annual 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: July 19, 2017

/s/ Michael D. Mulholland
Michael D. Mulholland
Chief Financial Officer

**CERTIFICATION PURSUANT TO
18 U.S.C. SECTION 1350**

In connection with the Annual Report of CytoDyn Inc. (the "Company") on Form 10-K for the year ended May 31, 2017 as filed with the Securities and Exchange Commission on the date hereof (the "Report"), the undersigned certify, pursuant to 18 U.S.C. § 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/ Nader Z. Pourhassan
Nader Z. Pourhassan, Ph. D.
President and Chief Executive Officer
July 19, 2017

/s/ Michael D. Mulholland
Michael D. Mulholland
Chief Financial Officer
July 19, 2017

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.