

TAIWAN SEMICONDUCTOR MANUFACTURING CO LTD

Form 6-K

November 15, 2016

**1934 Act Registration No. 1-14700**

**SECURITIES AND EXCHANGE COMMISSION**

**Washington, DC 20549**

**FORM 6-K**

**REPORT OF FOREIGN PRIVATE ISSUER**

**PURSUANT TO RULE 13a-16 OR 15d-16 OF**

**THE SECURITIES EXCHANGE ACT OF 1934**

**For the month of November 2016**

**Taiwan Semiconductor Manufacturing Company Ltd.**

**(Translation of Registrant's Name Into English)**

**No. 8, Li-Hsin Rd. 6,**

**Hsinchu Science Park,**

**Taiwan**

**(Address of Principal Executive Offices)**

(Indicate by check mark whether the registrant files or will file annual reports under cover of Form 20-F or Form 40-F.)

Form 20-F ☒ Form 40-F ☐

(Indicate by check mark whether the registrant by furnishing the information contained in this form is also thereby furnishing the information to the Commission pursuant to Rule 12g3-2(b) under the Securities Exchange Act of 1934.)

Yes ☐ No ☒

(If ☒ Yes is marked, indicated below the file number assigned to the registrant in connection with Rule 12g3-2(b): 82: .)

**SIGNATURES**

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

Taiwan Semiconductor Manufacturing Company Ltd.

Date: November 15, 2016

By /s/ Lora Ho

Lora Ho

Senior Vice President & Chief Financial Officer

**Taiwan Semiconductor Manufacturing**

**Company Limited and Subsidiaries**

**Consolidated Financial Statements for the**

**Nine Months Ended September 30, 2016 and 2015  
and**

**Independent Accountants' Review Report**

## INDEPENDENT ACCOUNTANTS' REVIEW REPORT

The Board of Directors and Shareholders

Taiwan Semiconductor Manufacturing Company Limited

We have reviewed the accompanying consolidated balance sheets of Taiwan Semiconductor Manufacturing Company Limited and subsidiaries (the "Company") as of September 30, 2016 and 2015 and the related consolidated statements of comprehensive income for the three months ended September 30, 2016 and 2015 and for the nine months ended September 30, 2016 and 2015, as well as the consolidated statements of changes in equity and cash flows for the nine months ended September 30, 2016 and 2015. These consolidated financial statements are the responsibility of the Company's management. Our responsibility is to issue a report on these consolidated financial statements based on our reviews.

We conducted our reviews in accordance with Statement on Auditing Standards No. 36, "Review of Financial Statements," issued by the Auditing Standards Committee of the Accounting Research and Development Foundation of the Republic of China. A review consists principally of applying analytical procedures to financial data and making inquiries of persons responsible for financial and accounting matters. It is substantially less in scope than an audit conducted in accordance with auditing standards generally accepted in the Republic of China, the objective of which is the expression of an opinion regarding the consolidated financial statements taken as a whole. Accordingly, we do not express such an opinion.

Based on our reviews, we are not aware of any material modifications that should be made to the consolidated financial statements referred to above for them to be in conformity with the Regulations Governing the Preparation of Financial Reports by Securities Issuers and International Accounting Standard 34, "Interim Financial Reporting," endorsed by the Financial Supervisory Commission of the Republic of China.

November 8, 2016

### Notice to Readers

*The accompanying consolidated financial statements are intended only to present the consolidated financial position, results of operations and cash flows in accordance with accounting principles and practices generally accepted in the Republic of China and not those of any other jurisdictions. The standards, procedures and practices to review such consolidated financial statements are those generally accepted and applied in the Republic of China.*

*For the convenience of readers, the accountants' review report and the accompanying consolidated financial statements have been translated into English from the original Chinese version prepared and used in the Republic of China. If there is any conflict between the English version and the original Chinese version or any difference in the interpretation of the two versions, the Chinese-language accountants' review report and consolidated financial statements shall prevail.*

## Taiwan Semiconductor Manufacturing Company Limited and Subsidiaries

## CONSOLIDATED BALANCE SHEETS

(In Thousands of New Taiwan Dollars)

|                                                                       | September 30, 2016<br>(Reviewed) |    | December 31, 2015<br>(Audited) |    | September 30, 2015<br>(Reviewed) |    |
|-----------------------------------------------------------------------|----------------------------------|----|--------------------------------|----|----------------------------------|----|
|                                                                       | Amount                           | %  | Amount                         | %  | Amount                           | %  |
| <b>ASSETS</b>                                                         |                                  |    |                                |    |                                  |    |
| <b>CURRENT ASSETS</b>                                                 |                                  |    |                                |    |                                  |    |
| Cash and cash equivalents (Note 6)                                    | \$ 463,971,657                   | 27 | \$ 562,688,930                 | 34 | \$ 515,731,398                   | 33 |
| Financial assets at fair value through profit or loss (Notes 4 and 7) | 1,848,317                        |    | 6,026                          |    | 98,835                           |    |
| Available-for-sale financial assets (Notes 8 and 14)                  | 45,815,003                       | 3  | 14,299,361                     | 1  | 1,597,602                        |    |
| Held-to-maturity financial assets (Note 9)                            | 5,320,041                        |    | 9,166,523                      | 1  | 7,362,003                        | 1  |
| Hedging derivative financial assets (Note 10)                         |                                  |    | 1,739                          |    | 96,153                           |    |
| Notes and accounts receivable, net (Note 11)                          | 129,118,058                      | 8  | 85,059,675                     | 5  | 96,611,632                       | 6  |
| Receivables from related parties (Note 32)                            | 170,704                          |    | 505,722                        |    | 511,008                          |    |
| Other receivables from related parties (Note 32)                      | 149,684                          |    | 125,018                        |    | 128,490                          |    |
| Inventories (Notes 12 and 36)                                         | 53,882,144                       | 3  | 67,052,270                     | 4  | 65,066,214                       | 4  |
| Other financial assets (Notes 4, 33 and 36)                           | 5,866,961                        |    | 4,305,358                      |    | 3,613,680                        |    |
| Other current assets (Note 17)                                        | 3,448,916                        |    | 3,533,369                      |    | 2,844,481                        |    |
| Total current assets                                                  | 709,591,485                      | 41 | 746,743,991                    | 45 | 693,661,496                      | 44 |
| <b>NONCURRENT ASSETS</b>                                              |                                  |    |                                |    |                                  |    |
| Held-to-maturity financial assets (Note 9)                            | 27,430,893                       | 2  | 6,910,873                      |    | 2,571,357                        |    |
| Financial assets carried at cost (Note 13)                            | 3,788,041                        |    | 3,990,882                      |    | 1,507,749                        |    |
| Investments accounted for using equity method (Note 14)               | 18,691,554                       | 1  | 24,091,828                     | 2  | 26,935,985                       | 2  |
| Property, plant and equipment (Note 15)                               | 934,928,493                      | 54 | 853,470,392                    | 52 | 830,825,109                      | 53 |
| Intangible assets (Note 16)                                           | 14,630,613                       | 1  | 14,065,880                     | 1  | 13,196,292                       | 1  |
| Deferred income tax assets (Note 4)                                   | 7,506,051                        | 1  | 6,384,974                      |    | 5,743,803                        |    |
| Refundable deposits                                                   | 509,564                          |    | 430,802                        |    | 400,263                          |    |
| Other noncurrent assets (Note 17)                                     | 1,610,069                        |    | 1,428,676                      |    | 1,376,756                        |    |

|                         |                         |            |                         |            |                         |            |
|-------------------------|-------------------------|------------|-------------------------|------------|-------------------------|------------|
| Total noncurrent assets | 1,009,095,278           | 59         | 910,774,307             | 55         | 882,557,314             | 56         |
| <b>TOTAL</b>            | <b>\$ 1,718,686,763</b> | <b>100</b> | <b>\$ 1,657,518,298</b> | <b>100</b> | <b>\$ 1,576,218,810</b> | <b>100</b> |

**LIABILITIES AND EQUITY****CURRENT LIABILITIES**

|                                                                                                           |                    |           |                    |           |                    |           |
|-----------------------------------------------------------------------------------------------------------|--------------------|-----------|--------------------|-----------|--------------------|-----------|
| Short-term loans (Note 18)                                                                                | \$ 37,648,800      | 2         | \$ 39,474,000      | 2         | \$ 33,564,120      | 2         |
| Financial liabilities at fair value through profit or loss (Notes 4 and 7)                                | 224,525            |           | 72,610             |           | 179,363            |           |
| Hedging derivative financial liabilities (Note 10)                                                        | 1,039              |           |                    |           |                    |           |
| Accounts payable                                                                                          | 24,936,790         | 1         | 18,575,286         | 1         | 18,057,750         | 1         |
| Payables to related parties (Note 32)                                                                     | 1,039,778          |           | 1,149,988          |           | 1,128,121          |           |
| Salary and bonus payable                                                                                  | 12,183,218         | 1         | 11,702,042         | 1         | 10,428,126         | 1         |
| Accrued profit sharing bonus to employees and compensation to directors and supervisors (Notes 22 and 28) | 16,252,681         | 1         | 20,958,893         | 1         | 16,105,423         | 1         |
| Payables to contractors and equipment suppliers                                                           | 58,789,579         | 3         | 26,012,192         | 2         | 34,338,079         | 2         |
| Income tax payable (Note 4)                                                                               | 27,970,532         | 2         | 32,901,106         | 2         | 24,464,158         | 2         |
| Provisions (Note 19)                                                                                      | 11,512,994         | 1         | 10,163,536         | 1         | 9,898,270          | 1         |
| Long-term liabilities - current portion (Note 20)                                                         | 38,109,680         | 2         | 23,517,612         | 1         | 23,515,931         | 1         |
| Accrued expenses and other current liabilities (Note 21)                                                  | 28,885,496         | 2         | 27,701,329         | 2         | 30,010,029         | 2         |
| <b>Total current liabilities</b>                                                                          | <b>257,555,112</b> | <b>15</b> | <b>212,228,594</b> | <b>13</b> | <b>201,689,370</b> | <b>13</b> |

**NONCURRENT LIABILITIES**

|                                          |             |   |             |    |             |    |
|------------------------------------------|-------------|---|-------------|----|-------------|----|
| Bonds payable (Note 20)                  | 152,138,965 | 9 | 191,965,082 | 12 | 191,970,754 | 12 |
| Long-term bank loans                     | 24,200      |   | 32,500      |    | 35,000      |    |
| Deferred income tax liabilities (Note 4) | 37,510      |   | 31,271      |    | 153,932     |    |
| Net defined benefit liability (Note 4)   | 7,475,381   |   | 7,448,026   |    | 6,611,531   |    |
| Guarantee deposits (Note 21)             | 15,872,972  | 1 | 21,564,801  | 1  | 23,208,034  | 2  |
| Others (Note 19)                         | 1,689,974   |   | 1,613,545   |    | 1,555,245   |    |

|                                     |                    |           |                    |           |                    |           |
|-------------------------------------|--------------------|-----------|--------------------|-----------|--------------------|-----------|
| <b>Total noncurrent liabilities</b> | <b>177,239,002</b> | <b>10</b> | <b>222,655,225</b> | <b>13</b> | <b>223,534,496</b> | <b>14</b> |
|-------------------------------------|--------------------|-----------|--------------------|-----------|--------------------|-----------|

|                          |                    |           |                    |           |                    |           |
|--------------------------|--------------------|-----------|--------------------|-----------|--------------------|-----------|
| <b>Total liabilities</b> | <b>434,794,114</b> | <b>25</b> | <b>434,883,819</b> | <b>26</b> | <b>425,223,866</b> | <b>27</b> |
|--------------------------|--------------------|-----------|--------------------|-----------|--------------------|-----------|

**EQUITY ATTRIBUTABLE TO SHAREHOLDERS OF THE PARENT**

|                           |             |    |             |    |             |    |
|---------------------------|-------------|----|-------------|----|-------------|----|
| Capital stock (Note 22)   | 259,303,805 | 15 | 259,303,805 | 16 | 259,303,805 | 16 |
| Capital surplus (Note 22) | 56,269,958  | 3  | 56,300,215  | 3  | 56,298,728  | 4  |

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|                                                   |                  |     |                  |     |                  |     |
|---------------------------------------------------|------------------|-----|------------------|-----|------------------|-----|
| Retained earnings (Note 22)                       |                  |     |                  |     |                  |     |
| Appropriated as legal capital reserve             | 208,297,945      | 12  | 177,640,561      | 11  | 177,640,561      | 11  |
| Unappropriated earnings                           | 764,460,228      | 45  | 716,653,025      | 43  | 644,577,881      | 41  |
|                                                   | 972,758,173      | 57  | 894,293,586      | 54  | 822,218,442      | 52  |
| Others (Note 22)                                  | (5,218,902)      |     | 11,774,113       | 1   | 13,138,191       | 1   |
| Equity attributable to shareholders of the parent | 1,283,113,034    | 75  | 1,221,671,719    | 74  | 1,150,959,166    | 73  |
| NONCONTROLLING INTERESTS                          | 779,615          |     | 962,760          |     | 35,778           |     |
| Total equity                                      | 1,283,892,649    | 75  | 1,222,634,479    | 74  | 1,150,994,944    | 73  |
| TOTAL                                             | \$ 1,718,686,763 | 100 | \$ 1,657,518,298 | 100 | \$ 1,576,218,810 | 100 |

The accompanying notes are an integral part of the consolidated financial statements.

## Taiwan Semiconductor Manufacturing Company Limited and Subsidiaries

## CONSOLIDATED STATEMENTS OF COMPREHENSIVE INCOME

(In Thousands of New Taiwan Dollars, Except Earnings Per Share)

(Reviewed, Not Audited)

|                                      | For the Three Months Ended September 30                                                      |     |                |     | For the Nine Months Ended September 30                            |   |        |   |
|--------------------------------------|----------------------------------------------------------------------------------------------|-----|----------------|-----|-------------------------------------------------------------------|---|--------|---|
|                                      | 2016                                                                                         |     | 2015           |     | 2016                                                              |   | 2015   |   |
|                                      | Amount                                                                                       | %   | Amount         | %   | Amount                                                            | % | Amount | % |
| NET REVENUE<br>(Notes 24, 32 and 38) | \$ 260,405,885                                                                               | 100 | \$ 212,504,909 | 100 | \$ 685,711,092                                                    |   |        |   |
|                                      | <u>Management's Discussion and Analysis of Financial Condition and Results of Operations</u> |     |                |     | <u>Quantitative and Qualitative Disclosures About Market Risk</u> |   |        |   |
| Item 2.                              | <u>Controls and Procedures</u>                                                               |     |                |     | <u>Notes to Condensed Consolidated Financial Statements</u>       |   |        |   |
| Item 3.                              | <u>Risk Factors</u>                                                                          |     |                |     | <u>Item 1A.</u>                                                   |   |        |   |
| Item 4.                              | <u>Exhibits</u>                                                                              |     |                |     | <u>Signatures</u>                                                 |   |        |   |
| <b>PART II. OTHER INFORMATION</b>    |                                                                                              |     |                | 27  |                                                                   |   |        |   |
| Item 1A.                             | <u>Risk Factors</u>                                                                          |     |                |     | <u>27</u>                                                         |   |        |   |
| Item 6.                              | <u>Exhibits</u>                                                                              |     |                |     | <u>61</u>                                                         |   |        |   |
|                                      | <u>Signatures</u>                                                                            |     |                |     | <u>62</u>                                                         |   |        |   |

Table of Contents**PART I. FINANCIAL INFORMATION****Item 1. Financial Statements (Unaudited)****AGIOS PHARMACEUTICALS, INC.****Condensed Consolidated Balance Sheets****(in thousands, except share and per share data)****(Unaudited)**

|                                             | March 31,<br>2019 | December 31,<br>2018 |
|---------------------------------------------|-------------------|----------------------|
| <b>Assets</b>                               |                   |                      |
| Current assets:                             |                   |                      |
| Cash and cash equivalents                   | \$ 103,443        | \$ 70,502            |
| Marketable securities                       | 421,114           | 514,800              |
| Accounts receivable, net                    | 4,355             | 5,076                |
| Collaboration receivable – related party    | 2,319             | 2,462                |
| Collaboration receivable – other            | 1,640             | 670                  |
| Royalty receivable – related party          | 2,200             | 2,234                |
| Inventory                                   | 2,328             | 869                  |
| Prepaid expenses and other current assets   | 19,696            | 17,167               |
| Total current assets                        | 557,095           | 613,780              |
| Marketable securities                       | 183,234           | 220,119              |
| Operating lease assets                      | 57,768            | —                    |
| Property and equipment, net                 | 23,974            | 24,320               |
| Other non-current assets                    | 60                | 238                  |
| Total assets                                | \$ 822,131        | \$ 858,457           |
| <b>Liabilities and stockholders' equity</b> |                   |                      |
| Current liabilities:                        |                   |                      |

|                                                                                                                                                        |         |        |         |        |
|--------------------------------------------------------------------------------------------------------------------------------------------------------|---------|--------|---------|--------|
| Accounts payable                                                                                                                                       | \$      | 12,413 | \$      | 17,880 |
| Accrued expenses                                                                                                                                       | 37,199  |        | 42,147  |        |
| Deferred revenue – related party                                                                                                                       | 22,167  |        | 32,710  |        |
| Operating lease liabilities                                                                                                                            | 9,128   |        | —       |        |
| Deferred rent                                                                                                                                          | —       |        | 766     |        |
| Total current liabilities                                                                                                                              | 80,907  |        | 93,503  |        |
| Deferred revenue, net of current portion – related party                                                                                               | 54,961  |        | 59,809  |        |
| Operating lease liabilities, net of current portion                                                                                                    | 66,006  |        | —       |        |
| Deferred rent, net of current portion                                                                                                                  | —       |        | 17,608  |        |
| Total liabilities                                                                                                                                      | 201,874 |        | 170,920 |        |
| Stockholders' equity:                                                                                                                                  |         |        |         |        |
| Preferred stock, \$0.001 par value; 25,000,000 shares authorized; no shares issued or outstanding at March 31, 2019 and December 31, 2018              | —       |        | —       |        |
| Common stock, \$0.001 par value; 125,000,000 shares authorized; 58,659,821 and 58,218,653 shares issued and outstanding at March 31, 2019 and December | 59      |        | 58      |        |

31, 2018,  
respectively

|                                                     |             |    |             |
|-----------------------------------------------------|-------------|----|-------------|
| Additional<br>paid-in capital                       | 1,818,393   |    | 1,794,283   |
| Accumulated<br>other<br>comprehensive<br>loss       | (484)       |    | (2,171)     |
| Accumulated<br>deficit                              | (1,197,711) |    | (1,104,633) |
| Total<br>stockholders'<br>equity                    | 620,257     |    | 687,537     |
| Total liabilities<br>and stockholders' \$<br>equity | 822,131     | \$ | 858,457     |

*See accompanying Notes to Condensed Consolidated Financial Statements.*

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Table of Contents**AGIOS PHARMACEUTICALS, INC.****Condensed Consolidated Statements of Operations****(in thousands, except share and per share data)****(Unaudited)**

|                                                                                                   | Three Months Ended March 31, |             |
|---------------------------------------------------------------------------------------------------|------------------------------|-------------|
|                                                                                                   | 2019                         | 2018        |
| Revenues:                                                                                         |                              |             |
| Product revenue, net                                                                              | \$ 9,138                     | \$ —        |
| Collaboration revenue – related party                                                             | 17,919                       | 7,345       |
| Collaboration revenue – other                                                                     | 970                          | —           |
| Royalty revenue – related party                                                                   | 2,200                        | 1,417       |
| Total revenue                                                                                     | 30,227                       | 8,762       |
| Cost and expenses:                                                                                |                              |             |
| Cost of sales                                                                                     | 334                          | —           |
| Research and development                                                                          | 95,585                       | 78,224      |
| Selling, general and administrative                                                               | 31,791                       | 24,550      |
| Total cost and expenses                                                                           | 127,710                      | 102,774     |
| Loss from operations                                                                              | (97,483)                     | (94,012)    |
| Interest income                                                                                   | 4,405                        | 3,187       |
| Net loss                                                                                          | \$ (93,078)                  | \$ (90,825) |
| Net loss per share – basic and diluted                                                            | \$ (1.59)                    | \$ (1.63)   |
| Weighted-average number of common shares used in computing net loss per share – basic and diluted | 58,453,918                   | 55,694,603  |

*See accompanying Notes to Condensed Consolidated Financial Statements.*

Table of Contents

**AGIOS PHARMACEUTICALS, INC.**

**Condensed Consolidated Statements of Comprehensive Loss**

**(in thousands)**

***(Unaudited)***

|                                                         | <b>Three Months Ended March 31,</b> |             |
|---------------------------------------------------------|-------------------------------------|-------------|
|                                                         | <b>2019</b>                         | <b>2018</b> |
| Net loss                                                | \$ (93,078)                         | \$ (90,825) |
| Other comprehensive income (loss)                       |                                     |             |
| Unrealized gain (loss) on available-for-sale securities | 1,687                               | (1,254)     |
| Comprehensive loss                                      | \$ (91,391)                         | \$ (92,079) |

*See accompanying Notes to Condensed Consolidated Financial Statements.*

Table of Contents**AGIOS PHARMACEUTICALS, INC.****Condensed Consolidated Statements of Stockholders' Equity****(in thousands, except share amounts)****(Unaudited)**

|                    | Common Stock |        |    |           | Additional |         | Accumulated   |             | Accumulated | Total         |
|--------------------|--------------|--------|----|-----------|------------|---------|---------------|-------------|-------------|---------------|
|                    | Share        | Amount |    |           | Paid-In    |         | Other         |             | Deficit     | Stockholders' |
|                    |              |        |    |           | Capital    |         | Comprehensive |             |             | (Deficit)     |
|                    |              |        |    |           |            |         | Income (Loss) |             |             | Equity        |
| Balance at         |              |        |    |           |            |         |               |             |             |               |
| December 31, 2018  | 58,218,653   | 58     | \$ | 1,794,283 | \$         | (2,171) | \$            | (1,104,633) | \$          | 687,537       |
| Unrealized         |              |        |    |           |            |         |               |             |             |               |
| gain on            |              |        |    |           |            |         |               |             |             |               |
| available-for-sale | —            | —      |    |           | 1,687      |         | —             |             | 1,687       |               |
| securities         |              |        |    |           |            |         |               |             |             |               |
| Net loss           | —            | —      |    |           | —          |         | (93,078)      |             | (93,078)    |               |
| Stock-based        |              |        |    |           |            |         |               |             |             |               |
| compensation       | —            | —      |    | 18,108    | —          |         | —             |             | 18,108      |               |
| expense            |              |        |    |           |            |         |               |             |             |               |
| Issuance of        |              |        |    |           |            |         |               |             |             |               |
| common             |              |        |    |           |            |         |               |             |             |               |
| stock under        |              |        |    |           |            |         |               |             |             |               |
| stock              |              |        |    |           |            |         |               |             |             |               |
| incentive and      | 441,168      |        |    | 6,002     | —          |         | —             |             | 6,003       |               |
| employee           |              |        |    |           |            |         |               |             |             |               |
| stock              |              |        |    |           |            |         |               |             |             |               |
| purchase           |              |        |    |           |            |         |               |             |             |               |
| plans              |              |        |    |           |            |         |               |             |             |               |
| Balance at         |              |        |    |           |            |         |               |             |             |               |
| March 31, 2019     | 58,659,821   | 59     | \$ | 1,818,393 | \$         | (484)   | \$            | (1,197,711) | \$          | 620,257       |

|                    | Common Stock |        |    |           | Additional |         | Accumulated   |           | Accumulated | Total         |
|--------------------|--------------|--------|----|-----------|------------|---------|---------------|-----------|-------------|---------------|
|                    | Share        | Amount |    |           | Paid-In    |         | Other         |           | Deficit     | Stockholders' |
|                    |              |        |    |           | Capital    |         | Comprehensive |           |             | (Deficit)     |
|                    |              |        |    |           |            |         | Income (Loss) |           |             | Equity        |
| Balance at         |              |        |    |           |            |         |               |           |             |               |
| December 31, 2017  | 48,826,153   | 49     | \$ | 1,174,904 | \$         | (1,389) | \$            | (798,061) | \$          | 375,503       |
| Unrealized         |              |        |    |           |            |         |               |           |             |               |
| loss on            |              |        |    |           |            |         |               |           |             |               |
| available-for-sale | —            | —      |    |           | (1,254)    |         | —             |           | (1,254)     |               |
| securities         |              |        |    |           |            |         |               |           |             |               |
| Net loss           | —            | —      |    |           | —          |         | (90,825)      |           | (90,825)    |               |
| Adjustment to      |              |        |    |           |            |         |               |           |             |               |
| beginning          |              |        |    |           |            |         |               |           |             |               |
| accumulated        |              |        |    |           |            |         |               |           |             |               |
| deficit            | —            | —      |    |           | —          |         | 39,456        |           | 39,456      |               |
| resulting from     |              |        |    |           |            |         |               |           |             |               |
| adoption of        |              |        |    |           |            |         |               |           |             |               |
| ASC 606            |              |        |    |           |            |         |               |           |             |               |

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|                                                                                  |            |    |              |            |              |            |
|----------------------------------------------------------------------------------|------------|----|--------------|------------|--------------|------------|
| Stock-based compensation expense                                                 | —          | —  | 14,522       | —          | —            | 14,522     |
| Issuance of common stock under stock incentive and employee stock purchase plans | 562,474    |    | 12,331       | —          | —            | 12,332     |
| Issuance of common stock for follow-on offering                                  | 8,152,986  |    | 516,198      | —          | —            | 516,206    |
| Other                                                                            | —          | —  | (346)        | —          | —            | (346)      |
| Balance at March 31, 2018                                                        | 57,541,613 | 58 | \$ 1,717,609 | \$ (2,643) | \$ (849,430) | \$ 865,594 |

*See accompanying Notes to Condensed Consolidated Financial Statements.*

Table of Contents**AGIOS PHARMACEUTICALS, INC.****Condensed Consolidated Statements of Cash Flows****(in thousands)****(Unaudited)**

|                                                                             | Three Months Ended March 31, |             |
|-----------------------------------------------------------------------------|------------------------------|-------------|
|                                                                             | 2019                         | 2018        |
| <b>Operating activities</b>                                                 |                              |             |
| Net loss                                                                    | \$ (93,078)                  | \$ (90,825) |
| Adjustments to reconcile net loss to net cash used in operating activities: |                              |             |
| Depreciation                                                                | 2,005                        | 1,725       |
| Stock-based compensation expense                                            | 18,108                       | 14,522      |
| Net amortization of premium and discounts on investments                    | (1,131)                      | (406)       |
| Non-cash operating lease expense                                            | 2,085                        | —           |
| Changes in operating assets and liabilities:                                |                              |             |
| Accounts receivable, net                                                    | 721                          | —           |
| Collaboration receivable – related party                                    | 143                          | (1,064)     |
| Collaboration receivable – other                                            | (970)                        | —           |
| Royalty receivable – related party                                          | 34                           | (195)       |
| Inventory                                                                   | (1,459)                      | —           |
| Prepaid expenses and other current and non-current assets                   | (2,173)                      | 1,901       |
| Accounts payable                                                            | (4,939)                      | (4,469)     |
| Accrued expenses                                                            | (5,097)                      | (17,144)    |

|                                                                                       |           |           |
|---------------------------------------------------------------------------------------|-----------|-----------|
| Deferred revenue –<br>related party                                                   | (15,391)  | (3,141)   |
| Operating lease<br>liabilities                                                        | (2,129)   | —         |
| Deferred rent                                                                         | —         | 96        |
| Net cash used in<br>operating<br>activities                                           | (103,271) | (99,000)  |
| <b>Investing<br/>activities</b>                                                       |           |           |
| Purchases of<br>marketable<br>securities                                              | (77,421)  | (330,971) |
| Proceeds from<br>maturities and<br>sales of<br>marketable<br>securities               | 210,811   | 164,871   |
| Purchases of<br>property and<br>equipment                                             | (2,038)   | (1,432)   |
| Net cash provided<br>by (used in)<br>investing<br>activities                          | 131,352   | (167,532) |
| <b>Financing<br/>activities</b>                                                       |           |           |
| Payment of<br>public offering<br>costs, net of<br>reimbursements                      | —         | (188)     |
| Proceeds from<br>public offering of<br>common stock,<br>net of<br>commissions         | —         | 516,206   |
| Net proceeds<br>from stock option<br>exercises and<br>employee stock<br>purchase plan | 4,860     | 12,259    |
| Net cash provided<br>by financing<br>activities                                       | 4,860     | 528,277   |
| Net change in<br>cash and cash<br>equivalents                                         | 32,941    | 261,745   |

|                                                      |        |         |
|------------------------------------------------------|--------|---------|
| Cash and cash equivalents at beginning of the period | 70,502 | 102,724 |
|------------------------------------------------------|--------|---------|

|                                                |            |            |
|------------------------------------------------|------------|------------|
| Cash and cash equivalents at end of the period | \$ 103,443 | \$ 364,469 |
|------------------------------------------------|------------|------------|

**Supplemental disclosure of non-cash investing and financing transactions**

|                                                                              |        |        |
|------------------------------------------------------------------------------|--------|--------|
| Additions to property and equipment in accounts payable and accrued expenses | \$ 727 | \$ 605 |
|------------------------------------------------------------------------------|--------|--------|

|                                                              |          |       |
|--------------------------------------------------------------|----------|-------|
| Proceeds from stock option exercises in other current assets | \$ 1,149 | \$ 73 |
|--------------------------------------------------------------|----------|-------|

|                                                                                                        |      |        |
|--------------------------------------------------------------------------------------------------------|------|--------|
| Public offering costs in other current assets, net of amounts in accounts payable and accrued expenses | \$ — | \$ 158 |
|--------------------------------------------------------------------------------------------------------|------|--------|

*See accompanying Notes to Condensed Consolidated Financial Statements.*

Table of Contents

**AGIOS PHARMACEUTICALS, INC.**

**Notes to Condensed Consolidated Financial Statements**

*(Unaudited)*

**1. Overview and Basis of Presentation**

***References to Agios***

Throughout this Quarterly Report on Form 10-Q, “we,” “us,” and “our,” and similar expressions, except where the context requires otherwise, refer to Agios Pharmaceuticals, Inc. and its consolidated subsidiaries, and “our Board of Directors” refers to the board of directors of Agios Pharmaceuticals, Inc.

***Overview***

We are a biopharmaceutical company committed to the fundamental transformation of patients’ lives through scientific leadership in the field of cellular metabolism and adjacent areas of biology, with the goal of making transformative, first- or best-in-class medicines for the treatment of cancer and rare genetic diseases, or RGDs. To address both cancer and RGDs, we take a systems biology approach to deeply understand disease states, drive the discovery and validation of novel therapeutic targets, and define patient selection strategies, thereby increasing the probability that our experimental medicines will have the desired therapeutic effect. We are located in Cambridge, Massachusetts.

***Basis of presentation***

The condensed consolidated balance sheet as of March 31, 2019, the condensed consolidated statements of operations, comprehensive loss, stockholders' equity and cash flows for the three months ended March 31, 2019 and 2018 are unaudited. The unaudited condensed consolidated financial statements have been prepared on the same basis as the annual financial statements and, in the opinion of our management, reflect all adjustments, which include only normal recurring adjustments, necessary to fairly state our financial position as of March 31, 2019, our results of operations and stockholders' equity for the three months ended March 31, 2019 and 2018, and cash flows for the three months ended March 31, 2019 and 2018. The financial data and the other financial information disclosed in these notes to the condensed consolidated financial statements related to the three-month period are also unaudited. The results of operations for the three months ended March 31, 2019 are not necessarily indicative of the results to be expected for the year ending December 31, 2019 or for any other future annual or interim period. The year-end condensed consolidated balance sheet data was derived from our audited financial statements, but does not include all disclosures required by U.S. generally accepted accounting principles, or U.S. GAAP. Accordingly, the condensed consolidated interim financial statements should be read in conjunction with the audited consolidated financial statements and notes thereto included in our Annual Report on Form 10-K for the year ended December 31, 2018 that was filed with the Securities and Exchange Commission, or the SEC, on February 14, 2019.

Our condensed consolidated financial statements include our accounts and the accounts of our wholly owned subsidiaries, Agios Securities Corporation, Agios International Sarl, and Agios Limited. All intercompany transactions have been eliminated in consolidation. The condensed consolidated financial statements have been prepared in conformity with U.S. GAAP.

***Liquidity***

As of March 31, 2019, we had cash, cash equivalents and marketable securities of \$707.8 million. Although we have incurred recurring losses and expect to continue to incur losses for the foreseeable future, we expect our cash, cash equivalents and marketable securities will be sufficient to fund current operations for at least the next twelve months from the issuance date of these financial statements.

**2. Summary of Significant Accounting Policies**

***Leases***

In February 2016, the Financial Accounting Standards Board, or FASB, issued Accounting Standards Update, or ASU, 2016-02, *Leases (Topic 842)*, which was codified as Accounting Standards Codification, or ASC, 842, *Leases*, and amended through subsequent ASUs. We adopted ASC 842 effective January 1, 2019 using the modified retrospective transition approach and elected the package of practical expedients, both provided for under ASU 2018-11, *Leases (Topic 842): Targeted Improvements*. The package of practical expedients allows us not to reassess whether contracts are or contain leases, lease classification, and whether initial direct costs qualify for capitalization. Additionally, as an accounting policy, we chose not to separate the non-lease components from the lease components for our building leases and, instead, accounted for each non-lease component and lease component as a single

component.

6

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Table of Contents*Impact of Adoption of ASC 842*

Upon adoption of ASC 842 on January 1, 2019, we recorded operating lease assets of \$59.9 million and operating lease liabilities of \$77.3 million. The adoption of ASC 842 did not have a material impact on our condensed consolidated statements of operations. Prior periods are presented in accordance with ASC 840, *Leases*.

*Leases Accounting Policy*

We determine if an arrangement is a lease at inception. An arrangement is determined to contain a lease if the contract conveys the right to control the use of an identified property, plant, or equipment for a period of time in exchange for consideration. If we can benefit from the various underlying assets of a lease on their own or together with other resources that are readily available, or if the various underlying assets are neither highly dependent on nor highly interrelated with other underlying assets in the arrangement, they are considered to be a separate lease component. In the event multiple underlying assets are identified, the lease consideration is allocated to the various components based on each of the component's relative fair value.

Operating lease assets represent our right to use an underlying asset for the lease term and operating lease liabilities represent our obligation to make lease payments arising from the leasing arrangement. Operating lease assets and operating lease liabilities are recognized at commencement date based on the present value of lease payments over the lease term. As most of our leases do not provide an implicit rate, in determining the operating lease liabilities we use an estimate of our incremental borrowing rate. The incremental borrowing rate is determined using two alternative credit scoring models to estimate our credit rating, adjusted for collateralization. The calculation of the operating lease assets includes any lease payments made and excludes any lease incentives. Our lease terms may include options to extend or terminate the lease when it is reasonably certain that we will exercise that option.

For operating leases, we record operating lease assets and lease liabilities in our consolidated balance sheets. Lease expense for lease payments is recognized on a straight-line basis over the lease term. Short-term leases, or leases that have a lease term of 12 months or less at commencement date, are excluded from this treatment and are recognized on a straight-line basis over the term of the lease.

***Recent accounting pronouncements***

Other accounting standards that have been issued by the FASB or other standards-setting bodies that do not require adoption until a future date are not expected to have a material impact on our financial statements upon adoption.

**3. Fair Value Measurements**

We record cash equivalents and marketable securities at fair value. ASC 820, *Fair Value Measurements and Disclosures*, establishes a fair value hierarchy for those instruments measured at fair value that distinguishes between assumptions based on market data (observable inputs) and our own assumptions (unobservable inputs). The hierarchy consists of three levels:

*Level 1* – Unadjusted quoted prices in active markets for identical assets or liabilities.

*Level 2* – Quoted prices for similar assets and liabilities in active markets, quoted prices in markets that are not active, or inputs which are observable, directly or indirectly, for substantially the full term of the asset or liability.

*Level 3* – Unobservable inputs that reflect our own assumptions about the assumptions market participants would use in pricing the asset or liability in which there is little, if any, market activity for the asset or liability at the measurement date.

The following table summarizes our cash equivalents and marketable securities measured at fair value on a recurring basis as of March 31, 2019 (in thousands):

|                         | Level 1   | Level 2   | Level 3 | Total     |
|-------------------------|-----------|-----------|---------|-----------|
| Cash equivalents        | \$ 20,276 | \$ 38,170 | \$ —    | \$ 58,446 |
| Marketable securities:  |           |           |         |           |
| Certificates of deposit | —         | 479       | —       | 479       |
| U.S. Treasuries         | —         | 183,760   | —       | 183,760   |

|                                                  |           |            |      |            |
|--------------------------------------------------|-----------|------------|------|------------|
| Government securities                            | —         | 115,630    | —    | 115,630    |
| Corporate debt securities                        | —         | 304,479    | —    | 304,479    |
| Total cash equivalents and marketable securities | \$ 20,276 | \$ 642,518 | \$ — | \$ 662,794 |

Cash equivalents and marketable securities have been initially valued at the transaction price and subsequently, at the end of each reporting period, valued utilizing third-party pricing services or other market observable data. The pricing services utilize

7

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Table of Contents

industry standard valuation models, including both income and market based approaches, and observable market inputs to determine value. After completing our validation procedures, we did not adjust or override any fair value measurements provided by the pricing services as of March 31, 2019.

There have been no changes to the valuation methods during the three months ended March 31, 2019. We evaluate transfers between levels at the end of each reporting period. There were no transfers between Level 1 and Level 2 during the three months ended March 31, 2019. We have no financial assets or liabilities that were classified as Level 3 at any point during the three months ended March 31, 2019.

**4. Marketable Securities**

Our marketable securities are classified as available-for-sale pursuant to ASC 320, *Investments – Debt and Equity Securities*, and are recorded at fair value, with unrealized gains and losses included as a component of accumulated other comprehensive loss in stockholders' equity and a component of total comprehensive loss in the condensed consolidated statements of comprehensive loss, until realized. Realized gains and losses are included in investment income on a specific-identification basis. There were no material realized gains or losses on marketable securities for the three months ended March 31, 2019 and 2018.

Marketable securities at March 31, 2019 consisted of the following (in thousands):

|                             | Amortized<br>Cost | Unrealized<br>Gains | Unrealized<br>Losses | Fair<br>Value |
|-----------------------------|-------------------|---------------------|----------------------|---------------|
| Current:                    |                   |                     |                      |               |
| Certificates of deposit     | \$ 480            | \$ —                | \$ (1)               | \$ 479        |
| U.S. Treasuries             | 173,432           | 59                  | (125)                | 173,366       |
| Government securities       | 69,419            | 16                  | (65)                 | 69,370        |
| Corporate debt securities   | 178,047           | 53                  | (201)                | 177,899       |
| Non-current:                |                   |                     |                      |               |
| U.S. Treasuries             | 10,434            | 10                  | (50)                 | 10,394        |
| Government securities       | 46,377            | 7                   | (124)                | 46,260        |
| Corporate debt securities   | 126,641           | 185                 | (246)                | 126,580       |
| Total marketable securities | \$ 604,830        | \$ 330              | \$ (812)             | \$ 604,348    |

Marketable securities at December 31, 2018 consisted of the following (in thousands):

|                         | Amortized<br>Cost | Unrealized<br>Gains | Unrealized<br>Losses | Fair<br>Value |
|-------------------------|-------------------|---------------------|----------------------|---------------|
| Current:                |                   |                     |                      |               |
| Certificates of deposit | \$ 960            | \$ —                | \$ (4)               | \$ 956        |
| U.S. Treasuries         | 231,101           | 7                   | (228)                | 230,880       |
| Government securities   | 75,335            | —                   | (121)                | 75,214        |

|                             |            |       |            |            |
|-----------------------------|------------|-------|------------|------------|
| Corporate debt securities   | 208,233    | —     | (483)      | 207,750    |
| Non-current:                |            |       |            |            |
| U.S. Treasuries             | 12,202     | 4     | (125)      | 12,081     |
| Government securities       | 70,177     | 10    | (188)      | 69,999     |
| Corporate debt securities   | 139,082    | 12    | (1,055)    | 138,039    |
| Total marketable securities | \$ 737,090 | \$ 33 | \$ (2,204) | \$ 734,919 |

As of March 31, 2019 and December 31, 2018, we held both current and non-current investments. Investments classified as current have maturities of less than one year. Investments classified as non-current are those that: (i) have a maturity of greater than one year, and (ii) we do not intend to liquidate within the next twelve months, although these funds are available for use and, therefore, are classified as available-for-sale.

As of March 31, 2019 and December 31, 2018, we held 148 and 242 debt securities, respectively, that were in an unrealized loss position for less than one year. The aggregate fair value of debt securities in an unrealized loss position at March 31, 2019 and December 31, 2018 was \$362.6 million and \$639.3 million, respectively. There were no individual securities that were in a significant unrealized loss position as of March 31, 2019 and December 31, 2018.

Given our intent and ability to hold such

Table of Contents

securities until recovery, and the lack of material of change in the credit risk of these investments, we do not consider these marketable securities to be other-than-temporarily impaired as of March 31, 2019 and December 31, 2018.

**5. Inventory**

Inventory, which consists of commercial supply of TIBSOVO® (ivosidenib), consists of the following (in thousands):

|                 | March 31,<br>2019 | December 31,<br>2018 |
|-----------------|-------------------|----------------------|
| Raw materials   | \$ —              | \$ —                 |
| Work-in-process | 2,267             | 788                  |
| Finished goods  | 61                | 81                   |
| Total inventory | \$ 2,328          | \$ 869               |

**6. Leases**

Our building leases comprise of office and laboratory space under non-cancelable operating leases. These lease agreements have remaining lease terms of six years and contain various clauses for renewal at our option. The renewal options were not included in the calculation of the operating lease assets and the operating lease liabilities as the renewal is not reasonably certain. The lease agreements do not contain residual value guarantees. Operating lease costs for the three months ended March 31, 2019 were \$3.1 million and cash paid for amounts included in the measurement of operating lease liabilities for the three months ended March 31, 2019 were \$3.1 million.

We have not entered into any material short-term leases or financing leases as of March 31, 2019.

As of March 31, 2019, undiscounted minimum rental commitments under non-cancelable leases, for each of the next five years and total thereafter were as follows (in thousands):

|                |           |
|----------------|-----------|
| Remaining 2019 | \$ 8,576  |
| 2020           | 13,096    |
| 2021           | 13,434    |
| 2022           | 15,798    |
| 2023           | 17,040    |
| 2024           | 17,542    |
| Thereafter     | 2,951     |
|                | \$ 88,437 |

In arriving at the operating lease liabilities as of March 31, 2019, we applied the weighted-average incremental borrowing rate of 5.3% over a weighted-average remaining lease term of 5.9 years.

As of March 31, 2019, the following represents the difference between the remaining undiscounted minimum rental commitments under non-cancelable leases and the operating lease liabilities (in thousands):

|                                                           |           |
|-----------------------------------------------------------|-----------|
| Undiscounted minimum rental commitments                   | \$ 88,437 |
| Present value adjustment using incremental borrowing rate | (13,303)  |
| Operating lease liabilities                               | \$ 75,134 |



Table of Contents

As of December 31, 2018, minimum rental commitments under non-cancelable leases, for each of the next five years and total thereafter were as follows (in thousands):

|            |    |        |
|------------|----|--------|
| 2019       | \$ | 12,759 |
| 2020       |    | 13,135 |
| 2021       |    | 13,473 |
| 2022       |    | 15,552 |
| 2023       |    | 17,145 |
| Thereafter |    | 19,223 |
|            | \$ | 91,287 |

***New lease arrangements***

On April 11, 2019, we entered into an agreement to lease approximately 13,000 square feet of office space located at 38 Sidney Street, Cambridge, Massachusetts, or the 38 Sidney Lease, with Thirty-Eight Sidney Street, LLC. The initial term of the 38 Sidney Lease is expected to commence on May 1, 2019 and expire on February 29, 2028. At the end of the lease term, we have the option to extend the 38 Sidney Lease for two consecutive terms of five years at fair market rent at the time of the extension. The 38 Sidney Lease provides us with the right to lease additional space within the 38 Sidney Street building and also includes rent escalation clauses and a tenant improvement allowance of \$1.0 million.

In connection with the 38 Sidney Lease, we also amended our existing building leases at 88 Sidney Street, Cambridge, Massachusetts and at 64 Sidney Street, Cambridge, Massachusetts to extend the initial terms of those leases by approximately three years through February 29, 2028. The amendments also provide us with the right to lease additional space at the 64 Sidney Street building. Our existing extension options for the 88 Sidney Street building and 64 Sidney Street building will continue as set forth in the existing leases for those buildings.

**7. Accrued Expenses**

Accrued expenses consist of the following (in thousands):

|                                        | March 31,<br>2019 | December 31,<br>2018 |
|----------------------------------------|-------------------|----------------------|
| Accrued compensation                   | \$ 5,201          | \$ 20,843            |
| Accrued research and development costs | 23,588            | 14,777               |
| Accrued professional fees              | 6,774             | 5,441                |
| Accrued other                          | 1,636             | 1,086                |
| Total accrued expenses                 | \$ 37,199         | \$ 42,147            |

**8. Product Revenue**

Our wholly owned product, TIBSOVO®, received approval from the U.S. Food and Drug Administration, or FDA, on July 20, 2018 for the treatment of adult patients with relapsed and refractory, or R/R, acute myeloid leukemia, or AML, with a susceptible isocitrate dehydrogenase 1, or IDH1, mutation. Upon FDA approval of TIBSOVO® in the U.S., we began generating product revenue from sales of TIBSOVO®. We sell TIBSOVO® to a limited number of specialty distributors and specialty pharmacy providers in the U.S., or collectively, the Customers. The Customers subsequently resell TIBSOVO® to pharmacies or dispense directly to patients. In addition to distribution agreements with Customers, we enter into arrangements with healthcare providers and payors that provide for

government-mandated and/or privately-negotiated rebates, chargebacks and discounts with respect to the purchase of TIBSOVO®.

The performance obligation related to the sale of TIBSOVO® is satisfied and revenue is recognized when the Customer obtains control of the product, which occurs at a point in time, typically upon delivery to the Customer.

***Reserves for Variable Consideration***

Revenues from product sales are recorded at the net sales price, or transaction price, which includes estimates of variable consideration for which reserves are established and result from contractual adjustments, government rebates, returns and other allowances that are offered within the contracts with our Customers, healthcare providers, payors and other indirect customers relating to the sale of our products.

10

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Table of Contents*Contractual Adjustments*

We generally provide Customers with discounts, including prompt pay discounts, and allowances that are explicitly stated in the contracts and are recorded as a reduction of revenue in the period the related product revenue is recognized. In addition, we receive sales order management, data and distribution services from certain Customers. Chargebacks for fees and discounts represent the estimated obligations resulting from contractual commitments to sell products to qualified healthcare providers at prices lower than the list prices charged to Customers who directly purchase the product from us. Customers charge us for the difference between what they pay for the product and the ultimate selling price to the qualified healthcare providers. These reserves are estimated using the expected value method, based upon a range of possible outcomes that are probability-weighted for the estimated channel mix and are established in the same period that the related revenue is recognized, resulting in a reduction of product revenue.

*Government Rebates*

Government rebates consist of Medicare, TriCare, and Medicaid rebates, which we estimate using the expected value method, based upon a range of possible outcomes that are probability-weighted for the estimated payor mix. These reserves are recorded in the same period the related revenue is recognized, resulting in a reduction of product revenue. For Medicare, we also estimate the number of patients in the prescription drug coverage gap for whom we will owe an additional liability under the Medicare Part D program.

*Returns*

We estimate the amount of product sales that may be returned by Customers and record this estimate as a reduction of revenue in the period the related product revenue is recognized. We currently estimate product return liabilities using the expected value method, based on available industry data, including our visibility into the inventory remaining in the distribution channel.

Total net product revenue from U.S. sales of TIBSOVO®, which is our only source of product revenue, was \$9.1 million for the three months ended March 31, 2019. The following table summarizes balances and activity in each of the product revenue allowance and reserve categories for the three months ended March 31, 2019 (in thousands):

|                                                                | <b>Contractual<br/>Adjustments</b> | <b>Government<br/>Rebates</b> | <b>Returns</b> | <b>Total</b> |
|----------------------------------------------------------------|------------------------------------|-------------------------------|----------------|--------------|
| Balance at<br>December 31,<br>2018                             | \$ 592                             | \$ 325                        | \$ 334         | \$ 1,251     |
| Current provisions<br>relating to sales in<br>the current year | 1,265                              | 421                           | 215            | 1,901        |
| Adjustments<br>relating to prior<br>years                      | 8                                  | —                             | —              | 8            |
| Payments/returns<br>relating to sales in<br>the current year   | (756)                              | —                             | —              | (756)        |
| Payments/returns<br>relating to sales in<br>the prior years    | (598)                              | (150)                         | —              | (748)        |
| Balance at March<br>31, 2019                                   | \$ 511                             | \$ 596                        | \$ 549         | \$ 1,656     |

Total revenue-related reserves above, included in our condensed consolidated balance sheets, are summarized as follows (in thousands):

| <b>March 31,<br/>2019</b> | <b>December 31,<br/>2018</b> |
|---------------------------|------------------------------|
| \$ 303                    | \$ 326                       |

Reduction of  
accounts  
receivable

Component of  
accrued expenses 1,353 925

Total  
revenue-related \$ 1,656 \$ 1,251  
reserves

The following table presents changes in our contract assets during the three months ended March 31, 2019 (in thousands):

|                             | December 31,<br>2018 | Additions | Deductions  | March 31,<br>2019 |
|-----------------------------|----------------------|-----------|-------------|-------------------|
| Contract<br>assets (1)      |                      |           |             |                   |
| Accounts<br>receivable, net | \$ 5,076             | \$ 11,047 | \$ (11,768) | \$ 4,355          |

(1) Additions to contract assets relate to amounts billed to Customers for product sales during the reporting period. Deductions to contract assets primarily relate to collection of receivables during the reporting period.

Table of Contents

**9. Collaboration and License Agreements**

**Accounting analysis and revenue recognition**

Our collaboration and license agreements typically involve us granting licenses of our intellectual property and performing research and development services in exchange of upfront fees, milestone payments and royalty payments. Since December 31, 2018, there have been no material changes to the key terms of our collaboration or license agreements. For further information on the terms and conditions of our existing collaboration and license agreements, please see the notes to the consolidated financial statements included in our Annual Report on Form 10-K for the year ended December 31, 2018.

***Collaboration revenue***

On January 1, 2018 we adopted ASC 606, *Revenue from Contracts with Customers*, under the modified retrospective method. Prior to January 1, 2018, we accounted for collaboration agreements under ASC 605-25, *Multiple Element Arrangements*. In determining the appropriate amount of revenue to be recognized under ASC 606, we performed the following steps: (i) identified the promised goods or services in the contract; (ii) determined whether the promised goods or services are performance obligations including whether they are distinct in the context of the contract; (iii) measured the transaction price, including the constraint on variable consideration; (iv) allocated the transaction price to the performance obligations; and (v) recognized revenue when (or as) we satisfied each performance obligation.

***Royalty revenue***

For arrangements that include sales-based royalties and sales-based milestones and in which the license is deemed to be the predominant item to which the royalties relate, we recognize royalty revenue upon the later of (i) when the related sales occur, or (ii) when the performance obligation to which some or all of the royalty has been allocated has been satisfied (or partially satisfied).

***Milestone revenue***

At each reporting period we evaluate whether milestones are considered probable of being reached and, to the extent that a significant reversal would not occur in future periods, estimate the amount to be included in the transaction price using the most likely amount method. Milestone payments that are not within our control, such as regulatory approvals, are not considered probable of being achieved and are excluded from the transaction price until those approvals are received.

**Celgene Corporation**

We have entered into the following collaboration agreements, or collectively, the Collaboration Agreements, with Celgene Corporation, or Celgene, which is a related party through ownership of our common stock:

- In April 2010, we entered into a discovery and development collaboration and license agreement focused on cancer metabolism, or the 2010 Agreement. The 2010 Agreement was amended in October 2011 and July 2014. The discovery phase of the 2010 Agreement expired in April 2016. On August 15, 2016, we terminated the 2010 Agreement as to the program directed to the IDH1 target, for which ivosidenib is the lead development candidate. Accordingly, the sole program remaining under the 2010 Agreement is IDHIFA® (enasidenib), a co-commercialized licensed program for which Celgene leads and funds global development and commercialization activities. Under the remaining terms of the 2010 Agreement, we are eligible to receive up to \$80.0 million in potential milestone payments for the enasidenib program. The potential milestone payments are comprised of: (i) up to \$55.0 million in milestone payments upon achievement of specified ex-U.S. regulatory milestone events, and (ii) a \$25.0 million milestone payment upon achievement of a specified ex-U.S. commercial milestone event, as well as royalties at tiered, low-double digit to mid-teen percentage rates on net sales of IDHIFA®.
- In April 2015, we entered into a joint worldwide development and profit share collaboration and license agreement with Celgene, and our wholly owned subsidiary, Agios International Sarl, entered into a collaboration and license agreement with Celgene International II Sarl, or collectively, the AG-881 Agreements, to establish a worldwide collaboration focused on the development and commercialization of vorasidenib products. Under the AG-881 Agreements, we and Celgene split all worldwide development costs for vorasidenib, subject to specified exceptions. The AG-881 Agreements were terminated effective September 4, 2018, upon which we received sole global rights to vorasidenib. In connection with the termination of the AG-881 Agreements, Celgene will be eligible to receive royalties from us at a low single-digit percentage rate on worldwide net sales of products containing vorasidenib.



Table of Contents

•In May 2016, we entered into a master research and collaboration agreement with Celgene, or the 2016 Agreement, focused on metabolic immuno-oncology, or MIO. The initial four-year research term of the 2016 Agreement may be extended for up to two, or in specified cases, up to four additional one-year terms by paying a \$40.0 million per year extension fee. Celgene has designated AG-270, our methionine adenosyltransferase 2a, or MAT2A, inhibitor, as a development candidate under the 2016 Agreement, and has the option, upon payment of an option exercise fee of at least \$30.0 million, to participate in a worldwide 50/50 cost and profit share with us for AG-270, under which we are eligible for up to \$169.0 million in potential milestone payments for the program, comprised of: (i) a \$20.0 million milestone-based payment upon achievement of a specified clinical development event and (ii) up to \$149.0 million in milestone-based payments upon achievement of specified regulatory milestone events. We are also eligible to receive designation, option exercise and milestone and royalty payments for other programs that may be designated for further development under the 2016 Agreement.

**Collaboration revenue**

During the three months ended March 31, 2019 and 2018, we recognized the following collaboration revenue (in thousands):

|                                                                                                         | Three Months Ended March 31, |          |
|---------------------------------------------------------------------------------------------------------|------------------------------|----------|
|                                                                                                         | 2019                         | 2018     |
| <i>Services performed that were considered performance obligations as of the modification dates</i>     |                              |          |
| On-going research and development services                                                              | \$ 17,065                    | \$ 6,364 |
| <i>Services performed that were not considered performance obligations as of the modification dates</i> |                              |          |
| Development activities                                                                                  | 854                          | 981      |
| Total collaboration revenue - related party                                                             | \$ 17,919                    | \$ 7,345 |

The following table presents changes in our contract assets and liabilities during the three months ended March 31, 2019 (in thousands):

| December 31,<br>2018 | Additions | Deductions | March 31,<br>2019 |
|----------------------|-----------|------------|-------------------|
|----------------------|-----------|------------|-------------------|

## Contract assets

(1)

## Collaboration

|                            |    |       |    |       |    |         |    |       |
|----------------------------|----|-------|----|-------|----|---------|----|-------|
| receivable – related party | \$ | 2,462 | \$ | 2,531 | \$ | (2,674) | \$ | 2,319 |
|----------------------------|----|-------|----|-------|----|---------|----|-------|

## Royalty

|                            |       |       |         |       |
|----------------------------|-------|-------|---------|-------|
| receivable – related party | 2,234 | 2,200 | (2,234) | 2,200 |
|----------------------------|-------|-------|---------|-------|

## Contract

liabilities (2)

## Deferred

revenue –

|                                                    |        |       |          |        |
|----------------------------------------------------|--------|-------|----------|--------|
| related party, current and net of current portions | 92,519 | 2,528 | (17,919) | 77,128 |
|----------------------------------------------------|--------|-------|----------|--------|

(1) Additions to contract assets relate to amounts billed to Celgene during the reporting period. Deductions to contract assets relate to collection of receivables during the reporting period.

(2) Additions to contract liabilities relate to consideration from Celgene during the reporting period. Deductions to contract liabilities relate to deferred revenue recognized as revenue during the reporting period.

During the three months ended March 31, 2019, we recognized the following as revenue due to changes in the contract liability balances (in thousands):

| Three Months Ended March 31, |      |
|------------------------------|------|
| 2019                         | 2018 |

## Amounts

included in

the contract

|                                          |    |        |    |       |
|------------------------------------------|----|--------|----|-------|
| liability at the beginning of the period | \$ | 16,410 | \$ | 5,984 |
|------------------------------------------|----|--------|----|-------|

## Performance

obligations

|                               |    |     |
|-------------------------------|----|-----|
| satisfied in previous periods | 21 | 323 |
|-------------------------------|----|-----|

As of March 31, 2019, the aggregate amount of the transaction price allocated to performance obligations that are partially unsatisfied was \$83.8 million. This amount is expected to be recognized as performance obligations are satisfied through March 2023.

**Royalty revenue**

As the underlying performance obligation, or delivery of the enasidenib license, had been satisfied as of June 2014, royalty revenue is recognized as the related sales occur. During the three months ended March 31, 2019 and 2018, we recognized the following as royalty revenue (in thousands):

| Three Months Ended March 31, |      |
|------------------------------|------|
| 2019                         | 2018 |

## Royalty

|                         |    |       |    |       |
|-------------------------|----|-------|----|-------|
| revenue – related party | \$ | 2,200 | \$ | 1,417 |
|-------------------------|----|-------|----|-------|

13



Table of Contents**Milestone revenue**

No milestones were achieved during the three months ended March 31, 2019 or 2018. The next potential milestone expected to be achieved under our Collaboration Agreements is the first regulatory approval in any of China, Japan or a major European country. Achievement of this event would result in milestone payment of \$35.0 million under the 2010 Agreement.

**CStone Pharmaceuticals**

In June 2018, we and CStone Pharmaceuticals, or CStone, entered into an exclusive license agreement, or the CStone Agreement, to grant CStone specified intellectual property licenses to enable CStone to develop and commercialize certain products containing ivosidenib in mainland China, Hong Kong, Macau, and Taiwan, or the CStone Territory. We retain development and commercialization rights for the rest of the world. Pursuant to the CStone Agreement, CStone will initially be responsible for the development and commercialization of ivosidenib in AML, cholangiocarcinoma, and, at our discretion, brain cancer indications. CStone is responsible for all costs it incurs in developing, obtaining regulatory approval of, and commercializing ivosidenib in the CStone Territory, as well as certain costs incurred by us. Pursuant to the CStone Agreement, we received an initial upfront payment in the amount of \$12.0 million and are entitled to receive up to an additional \$412.0 million in milestone payments upon the achievement of certain development, regulatory and sales milestone events. We will also be entitled to receive tiered royalties, ranging from 15% to 19% percent, on annual net sales, if any, of ivosidenib in the CStone Territory.

**Collaboration revenue**

During the three months ended March 31, 2019, we recognized \$1.0 million as collaboration revenue - other for certain other services provided by us to CStone, that were not considered performance obligations as of the inception date of the CStone Agreement.

The following table presents changes in our contract assets during the three months ended March 31, 2019 (in thousands):

|                 | December 31,<br>2018 | Additions | Deductions | March 31,<br>2019 |
|-----------------|----------------------|-----------|------------|-------------------|
| Contract assets |                      |           |            |                   |
| (1)             |                      |           |            |                   |
| Collaboration   |                      |           |            |                   |
| receivable -    | \$ 670               | \$ 970    | \$ —       | \$ 1,640          |
| other           |                      |           |            |                   |

(1) Additions to contract assets relate to amounts receivable from CStone. Deductions to contract assets relate to collection of receivables during the reporting period.

As of March 31, 2019, the aggregate amount of the transaction price allocated to performance obligations that are partially unsatisfied was \$0.7 million.

**Royalty revenue**

The license was determined to be the predominant item to which sales-based royalties and sales-based milestones relate. As the license was delivered in June 2018, we will recognize royalty revenue when the related sales occur. To date, no royalties have been received under the CStone Agreement.

**Milestone revenue**

No milestones were earned during the three months ended March 31, 2019. The next potential milestone expected to be achieved under the CStone Agreement is the dosing of the first patient in a local study in a hematological indication in mainland China. Achievement of this event will result in milestone payments of \$5.0 million.

**10. Share-Based Payments****2013 Stock Incentive Plan**

In June 2013, our Board of Directors adopted and, in July 2013 our stockholders approved, the 2013 Stock Incentive Plan, or the 2013 Plan. The 2013 Plan became effective upon the closing of our initial public offering and provides for the grant of incentive stock options, non-qualified stock options, stock appreciation rights, restricted stock awards, restricted stock units, or RSUs, performance-based stock units, or PSUs, market-based stock units, or MSUs, and other stock-based awards. Following the adoption of the 2013 Plan, we granted no further stock options or other awards under the 2007 Stock Incentive Plan, or the 2007 Plan. Any options or awards outstanding under the 2007 Plan

at the time of adoption of the 2013 Plan remained outstanding and effective. As of March 31, 2019, the total number of shares reserved under the 2007 Plan and the 2013 Plan are 9,564,967, and we had 2,328,237 shares available for future issuance under the 2013 Plan.

14

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Table of Contents*Stock options*

The following table presents stock option activity for the three months ended March 31, 2019:

|                                                     | Number of<br>Stock Options | Weighted-Average<br>Exercise Price |
|-----------------------------------------------------|----------------------------|------------------------------------|
| Outstanding at<br>December 31,<br>2018              | 5,416,069                  | \$ 60.10                           |
| Granted                                             | 1,357,189                  | 57.47                              |
| Exercised                                           | (106,859)                  | 39.45                              |
| Forfeited/Expired                                   | (183,526)                  | 64.12                              |
| Outstanding at<br>March 31, 2019                    | 6,482,873                  | \$ 59.77                           |
| Exercisable at<br>March 31, 2019                    | 3,269,079                  | \$ 57.85                           |
| Vested and<br>expected to vest at<br>March 31, 2019 | 6,482,873                  | \$ 59.77                           |

At March 31, 2019, the total unrecognized compensation expense related to unvested stock option awards was \$128.9 million, which we expect to recognize over a weighted-average period of approximately 3.0 years.

*Restricted stock units*

The following table presents RSU activity for the three months ended March 31, 2019:

|                                               | Number of<br>Stock Units | Weighted-Average<br>Grant Date Fair<br>Value |
|-----------------------------------------------|--------------------------|----------------------------------------------|
| Unvested<br>shares at<br>December<br>31, 2018 | 532,144                  | \$ 75.45                                     |
| Granted                                       | 334,827                  | 58.76                                        |
| Vested                                        | (134,868)                | 66.98                                        |
| Forfeited                                     | (22,941)                 | 74.33                                        |
| Unvested<br>shares at<br>March 31,<br>2019    | 709,162                  | \$ 69.22                                     |

As of March 31, 2019, there was approximately \$40.6 million of total unrecognized compensation expense related to RSUs, which we expect to recognize over a weighted-average period of approximately 2.1 years.

*Performance-based stock units*

The following table presents PSU activity for the three months ended March 31, 2019:

|                                               | Number of<br>Stock Units | Weighted-Average<br>Grant Date Fair<br>Value |
|-----------------------------------------------|--------------------------|----------------------------------------------|
| Unvested<br>shares at<br>December<br>31, 2018 | 169,031                  | \$ 52.67                                     |
| Vested                                        | (167,031)                | 52.36                                        |

|                                            |       |    |       |
|--------------------------------------------|-------|----|-------|
| Unvested<br>shares at<br>March 31,<br>2019 | 2,000 | \$ | 79.05 |
|--------------------------------------------|-------|----|-------|

Stock-based compensation expense associated with these PSUs is recognized if the underlying performance condition is considered probable of achievement using our management's best estimates. Performance-based vesting criteria primarily relate to events specific to our corporate goals.

As of March 31, 2019, there was approximately \$0.2 million of total unrecognized compensation expense related to PSUs with performance-based vesting criteria that are not considered probable of achievement.

*Market-based stock units*

The following table presents MSU activity for the three months ended March 31, 2019:

|                                               | Number of<br>Stock Units | Weighted-Average<br>Grant Date Fair<br>Value |
|-----------------------------------------------|--------------------------|----------------------------------------------|
| Unvested<br>shares at<br>December<br>31, 2018 | —                        | \$ —                                         |
| Granted                                       | 42,695                   | 41.50                                        |
| Unvested<br>shares at<br>March 31,<br>2019    | 42,695                   | \$ 41.50                                     |

Table of Contents

The fair value of MSUs are estimated using a Monte Carlo simulation model. Assumptions and estimates utilized in the model include the risk-free interest rate, dividend yield, expected stock volatility and the estimated period to achievement of the market condition. Based on the simulation model, the aggregate grant date fair value of the share units was \$1.8 million, which will be recognized over the remaining derived service period of 1.5 years.

**2013 Employee Stock Purchase Plan**

In June 2013, our Board of Directors adopted, and in July 2013 our stockholders approved, the 2013 Employee Stock Purchase Plan, or the 2013 ESPP. We issued 32,410 shares and 27,377 shares during the three months ended March 31, 2019 and 2018, respectively, under the 2013 ESPP. The 2013 ESPP provides participating employees with the opportunity to purchase up to an aggregate of 327,272 shares of our common stock. As of March 31, 2019, we had 199,146 shares available for future issuance under the 2013 ESPP.

**Stock-based compensation expense**

Stock-based compensation expense by award type included within the condensed consolidated statements of operations is as follows (in thousands):

|                                        | Three Months Ended March 31, |           |
|----------------------------------------|------------------------------|-----------|
|                                        | 2019                         | 2018      |
| Stock options                          | \$ 13,046                    | \$ 12,472 |
| Restricted stock units                 | 4,548                        | 1,797     |
| Employee stock purchase plan           | 328                          | 253       |
| Other stock awards                     | 186                          | —         |
| Total stock-based compensation expense | \$ 18,108                    | \$ 14,522 |

Expenses related to equity-based awards were allocated as follows in the condensed consolidated statements of operations (in thousands):

|                                             | Three Months Ended March 31, |           |
|---------------------------------------------|------------------------------|-----------|
|                                             | 2019                         | 2018      |
| Research and development expense            | \$ 10,042                    | \$ 8,640  |
| Selling, general and administrative expense | 8,066                        | 5,882     |
| Total stock-based compensation expense      | \$ 18,108                    | \$ 14,522 |

**11. Loss per Share**

Basic net loss per share is calculated by dividing net loss by the weighted-average shares outstanding during the period, without consideration for common stock equivalents. Diluted net loss per share is calculated by adjusting the weighted average shares outstanding for the dilutive effect of common stock equivalents outstanding for the period, determined using the treasury stock method. For purposes of the dilutive net loss per share calculation, stock options, RSUs, PSUs and MSUs for which the performance and market vesting conditions, respectively, have been met,

and ESPP options are considered to be common stock equivalents, while PSUs and MSUs with performance and market vesting conditions, respectively, that were not met as of March 31, 2019 are not considered to be common stock equivalents.

Since we had a net loss for all periods presented, the effect of all potentially dilutive securities is anti-dilutive. Accordingly, basic and diluted net loss per share was the same for all periods presented.

16

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Table of Contents

The following common stock equivalents were excluded from the calculation of diluted net loss per share applicable to common stockholders for the periods indicated because including them would have had an anti-dilutive effect:

|                                         | Three Months Ended March<br>31, |           |
|-----------------------------------------|---------------------------------|-----------|
|                                         | 2019                            | 2018      |
| Stock<br>options                        | 6,482,873                       | 6,104,808 |
| Restricted<br>stock units               | 709,162                         | 405,646   |
| Employee<br>stock<br>purchase<br>plan   | 6,778                           | 5,289     |
| Total<br>common<br>stock<br>equivalents | 7,198,813                       | 6,515,743 |

Table of Contents

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

**Forward-looking Information**

The following discussion of our financial condition and results of operations should be read with our unaudited condensed consolidated financial statements as of March 31, 2019 and for the three months ended March 31, 2019 and 2018, and related notes included in Part I. Item 1. of this Quarterly Report on Form 10-Q, as well as the audited consolidated financial statements and notes and Management’s Discussion and Analysis of Financial Condition and Results of Operations, included in our Annual Report on Form 10-K for the year ended December 31, 2018 filed with the SEC on February 14, 2019. This Management’s Discussion and Analysis of Financial Condition and Results of Operations contains forward-looking statements within the meaning of the Private Securities Litigation Reform Act of 1995. These forward-looking statements are based on current expectations, estimates, forecasts and projections, and the beliefs and assumptions of our management, and include, without limitation, statements with respect to our expectations regarding our research, development and commercialization plans and prospects, results of operations, selling, general and administrative expenses, research and development expenses, and the sufficiency of our cash for future operations. Words such as “anticipate,” “believe,” “estimate,” “expect,” “intend,” “may,” “plan,” “predict,” “project,” “potential,” “will,” “would,” “could,” “should,” “continue,” and similar statements or variation of these terms or the negative of those terms and similar expressions are intended to identify these forward-looking statements. Readers are cautioned that these forward-looking statements are predictions and are subject to risks, uncertainties and assumptions that are difficult to predict. Therefore, actual results may differ materially and adversely from those expressed in any forward-looking statements. Among the important factors that could cause actual results to differ materially from those indicated by our forward-looking statements are those discussed under the heading “Risk Factors” in Part II, Item 1A. and elsewhere in this report, and in our Annual Report on Form 10-K for the year ended December 31, 2018. We undertake no obligation to revise the forward-looking statements contained herein to reflect events or circumstances after the date hereof or to reflect the occurrence of unanticipated events, except as required by law.

**Overview**

We are a biopharmaceutical company committed to the fundamental transformation of patients’ lives through scientific leadership in the field of cellular metabolism and adjacent areas of biology, with the goal of making transformative, first- or best-in-class medicines for the treatment of cancer and RGDs. To address both cancer and RGDs, we take a systems biology approach to deeply understand disease states, drive the discovery and validation of novel therapeutic targets, and define patient selection strategies, thereby increasing the probability that our experimental medicines will have the desired therapeutic effect.

**Cancer**

We are developing ivosidenib for the treatment of IDH1 mutant-positive cancers. Ivosidenib is an orally available, selective, potent inhibitor of the mutated IDH1 protein, making it a highly targeted therapy for the treatment of patients with cancers that harbor IDH1 mutations, including those with AML or cholangiocarcinoma. We hold worldwide development and commercial rights to ivosidenib and have licensed certain development and commercialization rights to ivosidenib in the CStone Territory to CStone, pursuant to the CStone Agreement. We will fund the future development and commercialization costs related to this program with the exception of development and commercialization activities of CStone under the CStone Agreement. In July 2018, the FDA granted us approval of TIBSOVO® for the treatment of adult patients with R/R AML with a susceptible IDH1 mutation as detected by an FDA-approved test. In December 2018, we submitted an MAA to the EMA for TIBSOVO® for the treatment of adult patients with R/R AML. Also in December 2018, we submitted a supplemental new drug application, or sNDA, to the FDA for TIBSOVO® for the treatment of patients with newly diagnosed AML with an IDH1 mutation who are not eligible for standard treatment, which was accepted by the FDA and given a Prescription Drug User Fee Act action date of June 21, 2019. The FDA granted us fast track designation for ivosidenib for treatment of patients with previously treated, unresectable or metastatic cholangiocarcinoma with an IDH1 mutation, granted orphan drug designation for ivosidenib for the treatment of cholangiocarcinoma, and granted Breakthrough Therapy designation for ivosidenib in combination with azacitidine for the treatment of newly diagnosed AML with an IDH1 mutation in adult patients who are at least 75 years old or who have comorbidities that preclude use of intensive induction chemotherapy.

We are developing enasidenib, in collaboration with Celgene, for the treatment of IDH2, mutant-positive hematologic cancers. Enasidenib is an orally available, selective, potent inhibitor of the mutated IDH2 protein, making it a highly targeted therapy for the treatment of patients with cancers that harbor IDH2 mutations, including those with AML. In August 2017, the FDA granted Celgene approval of IDHIFA® for the treatment of adult patients with R/R AML and an IDH2 mutation. In June 2018, Celgene submitted an MAA to the EMA for IDHIFA® for IDH2 mutant-positive AML. Celgene has worldwide development and commercialization rights for IDHIFA®, and we are eligible to receive royalties at tiered low-double digit to mid-teen percentage rates on any net sales of IDHIFA® and have exercised our rights to provide up to one-third of the field-based commercialization efforts in the United States.

Our pre-commercial clinical cancer product candidates are vorasidenib, AG-270, and AG-636.

18

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## Table of Contents

We are developing vorasidenib for the treatment of IDH mutant-positive glioma. Vorasidenib is an orally available, selective, brain-penetrant, pan-IDH mutant inhibitor. These mutations are found in a wide range of hematological malignancies and solid tumors.

We are developing AG-270 for the treatment of cancers carrying a methylthioadenosine phosphorylase, or MTAP, deletion, which is present in approximately 15% of all cancers. AG-270 is an orally available selective potent inhibitor of MAT2A. Celgene has designated AG-270 as a development candidate under the 2016 Agreement, and has the option to participate in a worldwide 50/50 cost and profit share with us for the program, under which we are eligible for clinical and regulatory milestone payments.

We are developing AG-636 for the treatment of hematologic malignancies, including lymphoma. AG-636 is an inhibitor of the metabolic enzyme dihydroorotate dehydrogenase, or DHODH, licensed by us from Aurigene Discovery Technologies Limited, or Aurigene. In October 2018, we submitted an IND for AG-636 for the treatment of hematologic malignancies, which was accepted by the FDA in December 2018.

## **RGDs**

The lead product candidate in our RGD portfolio, mitapivat, targets pyruvate kinase-R, or PKR, for the treatment of pyruvate kinase, or PK, deficiency. PK deficiency is a rare genetic disorder that often results in severe hemolytic anemia, jaundice and lifelong conditions associated with chronic anemia and secondary complications due to inherited mutations in the pyruvate kinase enzyme within red blood cells. Mitapivat is a potent activator of the wild-type (normal) and mutated PKR enzymes, which has resulted in restoration of adenosine triphosphate levels and a decrease in 2,3-diphosphoglycerate levels in blood sampled from patients with PK deficiency and treated ex-vivo with mitapivat. We are also developing mitapivat for the treatment of patients with thalassemia. We have worldwide development and commercial rights to mitapivat and expect to fund the future development and commercialization costs related to this program.

In addition to the aforementioned development programs, we are seeking to advance a number of early-stage discovery programs in the areas of cancer metabolism, RGDs and MIO, a developing field which aims to modulate the activity of relevant immune cells by targeting critical metabolic nodes, thereby enhancing the immune mediated anti-tumor response.

## ***Collaboration and license agreements***

Refer to Note 9, *Collaboration and License Agreements*, of the notes to our condensed consolidated financial statements included in this Quarterly Report on Form 10-Q for a description of the key terms of our arrangements with Celgene and CStone.

## **Critical Accounting Policies and Estimates**

Our critical accounting policies are those policies which require the most significant judgments and estimates in the preparation of our condensed consolidated financial statements. We have determined that our most critical accounting policies are those relating to revenue recognition, accrued research and development expenses, and stock-based compensation. Except those that have been disclosed in Note 2, *Summary of Significant Accounting Policies*, of the notes to our condensed consolidated financial statements included in this Quarterly Report on Form 10-Q, there have been no significant changes to our existing critical accounting policies discussed in the Annual Report on Form 10-K for the year ended December 31, 2018.

## **Financial Operations Overview**

### ***General***

Since inception, our operations have primarily focused on organizing and staffing our company, business planning, raising capital, assembling our core capabilities in cellular metabolism, identifying potential product candidates, undertaking preclinical studies and conducting clinical trials. Beginning in 2018, we also began to increase our commercial activities in connection with the FDA approval of TIBSOVO® and we will continue to build out our commercial capabilities to support potential approvals of our other product candidates. To date, we have financed our operations primarily through funding received from our various collaboration agreements, private placements of our preferred stock, our initial public offering of our common stock and concurrent private placement of common stock to an affiliate of Celgene, and our follow-on public offerings.

Additionally, since inception, we have incurred significant operating losses. Our net losses were \$93.1 million and \$90.8 million for the three months ended March 31, 2019 and 2018, respectively. As of March 31, 2019, we had an

accumulated deficit of \$1.2 billion. We expect to continue to incur significant expenses and operating losses over the next several years. Our net losses may fluctuate significantly from year to year. We anticipate that our expenses will increase significantly as we continue to advance and expand clinical development activities for our lead programs:

ivosidenib, vorasidenib, mitapivat,

19

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## Table of Contents

AG-270, AG-636; continue to discover and validate novel targets and drug product candidates; expand and protect our intellectual property portfolio; and hire additional commercial, development and scientific personnel.

### ***Revenue***

Upon FDA approval of TIBSOVO® in the U.S., we began generating product revenue from sales of TIBSOVO®. We sell TIBSOVO® to a limited number of specialty distributors and specialty pharmacy providers in the U.S. and these Customers subsequently resell TIBSOVO® to pharmacies or dispense directly to patients. In addition to distribution agreements with these Customers, we enter into arrangements with healthcare providers and payors that provide for government-mandated and/or privately-negotiated rebates, chargebacks and discounts with respect to the purchase of TIBSOVO®.

We also recognize revenue from our collaborations with Celgene and CStone, and royalty revenue on sales of IDHIFA®.

In the future, we expect to continue to generate revenue from a combination of product sales, royalties on product sales, cost reimbursements, milestone payments, and upfront payments to the extent we enter into future collaborations or licensing agreements.

### ***Cost of sales***

Cost of sales consists primarily of manufacturing costs for sales of TIBSOVO®.

### ***Research and development expenses***

Research and development activities are central to our business model. Product candidates in later stages of clinical development generally have higher development costs than those in earlier stages of clinical development, primarily due to the increased size and duration of later-stage clinical trials. We expect research and development costs to increase significantly for the foreseeable future as our product candidate development programs progress. However, the successful development of our product candidates is highly uncertain. As such, at this time, we cannot reasonably estimate or know the nature, timing and estimated costs of the efforts that will be necessary to complete the remainder of the development and commercialize these product candidates.

We are also unable to predict when, if ever, material net cash inflows will commence from TIBSOVO® (ivosidenib), IDHIFA® (enasidenib), vorasidenib, mitapivat, AG-270, AG-636, or any of our other product candidates. This is due to the numerous risks and uncertainties associated with developing medicines, including the uncertainty of:

- establishing an appropriate safety profile in enabling toxicology and clinical studies to support IND, and/or new drug application, or NDA;
- the successful enrollment in, and completion of, clinical trials;
- the receipt of marketing approvals from applicable regulatory authorities;
- establishing compliant commercial manufacturing capabilities or making arrangements with third-party manufacturers;
- obtaining and maintaining patent and trade secret protection and regulatory exclusivity for our product candidates;
- launching commercial sales of the products, if and when approved, whether alone or in collaboration with others; and
- maintaining an acceptable safety profile of the products following approval.

A change in the outcome of any of these variables with respect to the development of any of our product candidates would significantly change the costs and timing associated with the development of that product candidate.

Research and development expenses consist primarily of costs incurred for our research activities, including our drug discovery efforts, and the development of our product candidates, which include:

- employee-related expenses, including salaries, benefits and stock-based compensation expense;
- expenses incurred under agreements with third parties, including contract research organizations, or CROs, that conduct research and development and both preclinical and clinical activities on our behalf, and the cost of consultants;
- the cost of lab supplies and acquiring, developing and manufacturing preclinical and clinical study materials; and
- facilities, depreciation, and other expenses, which include direct and allocated expenses for rent and the maintenance of facilities, insurance and other operating costs.

## Table of Contents

The following summarizes the clinical development activities related to our most advanced programs:

### *Ivosidenib*

- A phase 1b, multicenter, international, open-label clinical trial to evaluate safety and clinical activity of ivosidenib or enasidenib in combination with induction and consolidation therapy in patients with newly diagnosed AML with an IDH1 or IDH2 mutation who are eligible for intensive chemotherapy.
- A phase 1/2 frontline combination clinical trial of either ivosidenib or enasidenib in combination with VIDAZA® (azacitidine) in newly diagnosed AML patients not eligible for intensive chemotherapy.
- AGILE, a global, registration-enabling phase 3 clinical trial, combining ivosidenib and VIDAZA® (azacitidine) in newly diagnosed AML patients with an IDH1 mutation who are ineligible for intensive chemotherapy.
- An intergroup sponsored, global, registration-enabling phase 3 trial, supported in collaboration with Celgene, combining ivosidenib or enasidenib with standard induction and consolidation chemotherapy in frontline AML patients with an IDH1 or IDH2 mutation, which initiated sites and is currently screening patients.
- A phase 1 multicenter, open-label, dose-escalation and expansion clinical trial, designed to assess its safety, clinical activity and tolerability as a single agent in patients with advanced solid tumors with an IDH1 mutation, including glioma, cholangiocarcinoma, and chondrosarcoma.
- ClarIDHy, a registration-enabling phase 3, multicenter, randomized, double-blind, placebo-controlled clinical trial of ivosidenib in previously-treated patients with nonresectable or metastatic cholangiocarcinoma with an IDH1 mutation. This trial is fully enrolled and we expect top-line results in the second quarter of 2019. If the data is supportive, we plan to submit a sNDA to the FDA for TIBSOVO® for second line or later IDH1 mutant-positive cholangiocarcinoma by the end of 2019.

### *Enasidenib*

- In addition to the clinical trials discussed above, enasidenib is also being evaluated by Celgene in IDHENTIFY, an international phase 3, multi-center, open-label, randomized clinical trial designed to compare the efficacy and safety of enasidenib versus conventional care regimens in patients 60 years or older with IDH2 mutant-positive AML that is refractory to or relapsed after second- or third-line therapy.

### *Vorasidenib*

- A phase 1 multi-center, open-label clinical trial of vorasidenib in patients with advanced IDH1 or IDH2 mutant-positive solid tumors, including glioma.
- A perioperative study with ivosidenib and vorasidenib in low grade glioma to further investigate their effects on brain tumor tissue. As agreed with Celgene in connection with the termination of the AG-881 Agreements, Celgene continued to co-fund certain costs associated with the ongoing phase 1 clinical development of vorasidenib through December 31, 2018 and we funded the perioperative study ourselves as previously agreed with Celgene.
- A registration-enabling phase 3 study of vorasidenib in low-grade glioma with an IDH1 mutation is expected to initiate by the end of 2019.

### *Mitapivat*

- DRIVE PK, a global phase 2, first-in-patient, open-label safety and efficacy clinical trial of mitapivat in adult, transfusion-independent patients with PK deficiency.
- ACTIVATE-T, a single arm, global, pivotal trial of mitapivat in approximately 40 regularly-transfused patients with PK deficiency.
- ACTIVATE, a 1:1 randomized, placebo-controlled, global, pivotal trial of mitapivat in approximately 80 patients with PK deficiency who do not receive regular transfusions.
- A phase 2, open-label safety and efficacy clinical trial of mitapivat in approximately 20 adult patients with non-transfusion-dependent thalassemia.

### *AG-270*

Table of Contents

•A phase 1 trial in multiple tumor types carrying an MTAP deletion. The first part of the trial is a dose-escalation phase in which cohorts of patients will receive ascending doses of AG-270 to determine the pharmacokinetics, pharmacodynamics and optimal dose and schedule. The second part of the trial is a dose expansion phase where additional patients will receive AG-270 at the optimal dose to further evaluate its safety, tolerability and clinical activity as a potential dose for future studies. We expect to complete dose escalation and initiate three dose expansion arms of this trial by the third quarter of 2019; one as a single agent in a variety of MTAP-deleted cancers and two in solid tumors in combination with standard of care.

**AG-636**

•We have initiated sites for the phase 1 lymphoma study of AG-636 and are currently screening patients. Upon first patient dosing within the phase 1 trial, we expect to make a milestone payment of \$2.0 million to Aurigene.

***Other research and platform programs***

Other research and platform programs include activities related to exploratory efforts, target validation and lead optimization for our discovery and follow-on programs, and our proprietary metabolomics platform.

***Selling, general and administrative expenses***

Selling, general and administrative expenses consist primarily of salaries and other related costs, including stock-based compensation, for personnel in executive, finance, business development, commercial, legal and human resources functions. Other significant costs include facility related costs not otherwise included in research and development expenses, legal fees relating to patent and corporate matters, and fees for accounting and consulting services.

We anticipate that our selling, general and administrative expenses will increase in the future to support continued research and development, and commercialization activities, including activities related to the commercialization of TIBSOVO®, the potential commercialization of our product candidates, and the build-out of a limited commercial infrastructure in the European Union, or EU. These increases will likely include increased costs related to the hiring of additional personnel and fees to outside consultants, lawyers and accountants, among other expenses.

**Results of Operations*****Comparison of the three months ended March 31, 2019 and 2018***

The following table summarizes our results of operations for the three months ended March 31, 2019 and 2018 (\$ in thousands):

| (\$ in thousands)                     | Three Months Ended March 31, |        | \$ Change | % Change |
|---------------------------------------|------------------------------|--------|-----------|----------|
|                                       | 2019                         | 2018   |           |          |
| Product revenue, net                  | \$ 9,138                     | \$ —   | \$ 9,138  | N/A      |
| Collaboration revenue – related party | 17,919                       | 7,345  | 10,574    | 144%     |
| Collaboration revenue – other         | 970                          | —      | 970       | N/A      |
| Royalty revenue – related party       | 2,200                        | 1,417  | 783       | 55%      |
| Total revenue                         | 30,227                       | 8,762  | 21,465    | 245%     |
| Cost and expenses:                    |                              |        |           |          |
| Cost of sales                         | 334                          | —      | 334       | N/A      |
| Research and development              | 95,585                       | 78,224 | 17,361    | 22%      |
| Selling, general and                  | 31,791                       | 24,550 | 7,241     | 29%      |

administrative

|                      |             |             |            |     |
|----------------------|-------------|-------------|------------|-----|
| Loss from operations | (97,483)    | (94,012)    | (3,471)    | 4%  |
| Interest income      | 4,405       | 3,187       | 1,218      | 38% |
| Net loss             | \$ (93,078) | \$ (90,825) | \$ (2,253) | 2%  |

*Product Revenue.* Product revenue for the three months ended March 31, 2019 was due to the recognition of \$9.1 million of net product revenue from the sale of our first commercial product, TIBSOVO®, which was approved for sale in the U.S. on July 20, 2018.

*Collaboration Revenue.* For the three months ended March 31, 2019, we recognized \$17.9 million in collaboration revenue from our agreements with Celgene and \$1.0 million from our agreement with CStone, which was entered into in June 2018.

For the three months ended March 31, 2018, we recognized \$7.3 million in revenue under our collaboration agreements with Celgene.

*Royalty Revenue.* In addition to product revenue and collaboration revenue, we also recognized \$2.2 million and \$1.4 million in royalty revenue for the three months ended March 31, 2019 and 2018, respectively, on Celgene's net sales of IDHIFA® under the 2010 Agreement.

Table of Contents

**Cost of Sales.** Cost of sales for the three months ended March 31, 2019 of \$0.3 million relates to manufacturing costs associated with TIBSOVO® sales. Based on our policy to expense costs associated with the manufacture of our products prior to regulatory approval, certain of the TIBSOVO® costs during the three months ended March 31, 2019 were expensed prior to July 20, 2018 and, therefore, are not included in costs of sales during the current period.

**Research and Development Expense.** We use our employee and infrastructure resources across multiple research and development programs, and we allocate internal employee-related and infrastructure costs, including stock-based compensation and facilities costs, as well as certain third-party costs, net of reimbursements from Celgene, to our research and development programs based on the personnel resources allocated to such program.

Our allocated research and development expenses, by major program, are outlined in the table below (\$ in thousands):

|                                              | Three Months Ended March 31, |           |           |          |
|----------------------------------------------|------------------------------|-----------|-----------|----------|
|                                              | 2019                         | 2018      | \$ Change | % Change |
| Ivosidenib (IDH1m inhibitor)                 | \$ 36,072                    | \$ 30,507 | \$ 5,565  | 18%      |
| Enasidenib (IDH2m inhibitor)                 | 1,785                        | 2,539     | (754)     | (30)     |
| Vorasidenib (Brain-penetrant IDHm inhibitor) | 5,347                        | 3,681     | 1,666     | 45%      |
| Mitapivat (PKR activator)                    | 19,356                       | 13,115    | 6,241     | 48%      |
| AG-270 (MAT2A inhibitor)                     | 5,493                        | 6,028     | (535)     | (9%)     |
| AG-636 (DHODH inhibitor)                     | 3,759                        | —         | 3,759     | N/A      |
| Other research and platform programs         | 23,773                       | 22,354    | 1,419     | 6%       |
| Total research and development expenses, net | \$ 95,585                    | \$ 78,224 | \$ 17,361 | 22%      |

The changes in research and development expense depicted in the table above were primarily attributable to the following:

- Ivosidenib costs increased compared to the prior period primarily as a result of increased clinical costs related to the initiation of the intergroup sponsored, global registration-enabling phase 3 trial, supported in collaboration with Celgene, combining ivosidenib or enasidenib with standard induction and consolidation chemotherapy, which was initiated in the first quarter of 2019, and our AGILE study.
- Vorasidenib costs increased due to start-up costs related to our planned phase 3 study of vorasidenib in low-grade glioma with an IDH1 mutation, which is expected to initiate by the end of 2019.
- Mitapivat costs increased as a result of continuing enrollment in the ACTIVATE-T trial, which we initiated in April 2018, the ACTIVATE trial, which we initiated in June 2018, and the phase 2 study of mitapivat in thalassemia, which we initiated in December 2018.
- AG-636 costs increased as a result of the start-up costs for the planned phase 1 lymphoma study. Prior year development costs for AG-636 were included in other research and platform programs.
- The increase in the costs of other research and platform programs include activities related to exploratory efforts, target validation and lead optimization for our discovery and follow-on programs, and our proprietary metabolomics platform.

*Selling, General and Administrative Expense.* Selling, general and administrative expense increased primarily due to commercial costs for TIBSOVO®, including costs related to the sNDA, and personnel costs, including stock-based compensation expense, related to our workforce.

*Interest Income.* The increase in interest income is primarily attributable to higher interest rates earned on our marketable securities.

## **Liquidity and Capital Resources**

### ***Sources of liquidity***

Since our inception, and through March 31, 2019, we have funded our operations through commercial sales of TIBSOVO®, upfront, milestone, extension, cost reimbursement and royalty payments related to our collaboration agreements, proceeds received from our issuance of preferred stock, our initial public offering and concurrent private placement of common stock to an affiliate of Celgene, and our follow-on public offerings.

In addition to our existing cash, cash equivalents and marketable securities, we are eligible to earn a significant amount of milestone payments, cost reimbursements, and royalty payments under our Collaboration Agreements with Celgene and the CStone Agreement, and designation fees, license option fees and extension fees under our Collaboration Agreements with Celgene. Our ability to earn the milestone payments, cost reimbursements and royalty payments, and the timing of earning

Table of Contents

these amounts are dependent upon the timing and outcome of our development, regulatory and commercial activities, and is uncertain at this time. Our right to payments under our collaboration agreements with Celgene and CStone are our only committed potential external source of funds.

**Cash flows**

The following table provides information regarding our cash flows for the three months ended March 31, 2019 and 2018 (in thousands):

|                                                     | <b>Three Months Ended March 31,</b> |             |
|-----------------------------------------------------|-------------------------------------|-------------|
|                                                     | <b>2019</b>                         | <b>2018</b> |
| Net cash used in operating activities               | \$ (103,271)                        | \$ (99,000) |
| Net cash provided by (used in) investing activities | 131,352                             | (167,532)   |
| Net cash provided by financing activities           | 4,860                               | 528,277     |
| Net change in cash and cash equivalents             | \$ 32,941                           | \$ 261,745  |

*Net cash used in operating activities.* During the three months ended March 31, 2019, we received \$10.8 million from sales of TIBSOVO® and \$4.9 million in cost reimbursements and royalty payments under our Collaboration Agreements with Celgene. This amount was offset by increased operating expenses that relate to increases in clinical study costs due to advancements in our most advanced product candidates, commercialization efforts, expanded facilities and increased staffing needs due to our expanding operations.

During the three months ended March 31, 2018, we received \$4.4 million in cost reimbursements related to our Collaboration Agreements with Celgene. These amounts were offset by increased operating expenses which relate to increases in clinical study costs due to advancements in our most advanced product candidates, expanded facilities and increased staffing needs due to our expanding operations.

*Net cash provided by (used in) investing activities.* The cash provided by investing activities for the three months ended March 31, 2019 was primarily the result of higher proceeds from maturities and sales of marketable securities than purchases of marketable securities, and \$2.0 million in purchases of property and equipment. The cash used in investing activities for the three months ended March 31, 2018 was primarily the result of higher purchases of marketable securities than proceeds from maturities and sales of marketable securities, and \$1.4 million in purchases of property and equipment.

*Net cash provided by financing activities.* The cash provided by financing activities for the three months ended March 31, 2019 was primarily the result of the \$4.9 million of proceeds received from stock option exercises and purchases made pursuant to our employee stock purchase plan. The cash provided by financing activities for the three months ended March 31, 2018 was the result of the \$516.2 million of net proceeds received from our January 2018 follow-on public offering, after underwriting discounts and commissions, as well as \$12.3 million of proceeds received from stock option exercises and purchases made pursuant to our employee stock purchase plan.

**Funding requirements**

We expect our expenses to increase in connection with our ongoing activities, particularly as we continue to commercialize TIBSOVO®, and continue the research, development and clinical trials of, and seek additional

marketing approvals for, our product candidates. If we obtain additional marketing approval for any of our other product candidates, we expect to incur significant commercialization expenses related to product sales, marketing, manufacturing and distribution to the extent that such sales, marketing, manufacturing and distribution are not the responsibility of Celgene or other collaborators. Accordingly, we will need to obtain substantial additional funding in connection with our continuing operations.

We expect that our existing cash, cash equivalents and marketable securities as of March 31, 2019 together with anticipated product and royalty revenue, anticipated interest income and anticipated expense reimbursements under our collaboration agreements, but excluding any additional program-specific milestone payments, will enable us to fund our operating expenses and capital expenditure requirements through at least the end of 2020. Our future capital requirements will depend on many factors, including:

- the scope, progress, results and costs of drug discovery, preclinical development, laboratory testing and clinical trials for our product candidates;
- the success of, and developments regarding, our collaborations;
- the costs of preparing, filing and prosecuting patent applications, maintaining and enforcing our intellectual property rights and defending intellectual property-related claims;
- the costs, timing and outcome of regulatory review of our product candidates;

## Table of Contents

- the costs associated with preparation for the potential commercial launch of one or more of our product candidates, including the build-out of a limited commercial infrastructure in the EU;
- commercialization expenses relating to approved medicines such as TIBSOVO® and IDHIFA®;
- the levels of product revenue from sales of TIBSOVO® or royalties on sales of IDHIFA®;
- our ability to establish and maintain additional collaborations on favorable terms, if at all; and
- the extent to which we acquire or in-license other medicines and technologies.

Until such time, if ever, as we can generate substantial product revenue, we expect to finance our cash needs through a combination of equity offerings, debt financings, collaborations, strategic alliances and licensing arrangements. We do not have any committed external source of funds other than our collaborations. To the extent that we raise additional capital through the sale of equity or convertible debt securities, the ownership interest of our stockholders will be diluted, and the terms of these securities may include liquidation or other preferences that adversely affect the rights of our common stockholders. Debt financing, if available, may involve agreements that include covenants limiting or restricting our ability to take specific actions, such as incurring additional debt, making capital expenditures or declaring dividends.

If we raise funds through additional collaborations, strategic alliances or licensing arrangements with third parties, we may have to relinquish valuable rights to our technologies, future revenue streams, research programs or product candidates, or grant licenses on terms that may not be favorable to us. If we are unable to raise additional funds through equity or debt financings when needed or on attractive terms, we may be required to delay, limit, reduce or terminate our product development or future commercialization efforts, or grant rights to develop and market product candidates that we would otherwise prefer to develop and market ourselves.

### **Off-balance Sheet Arrangements**

We did not have, during the periods presented, and we do not currently have, any off-balance sheet arrangements, as defined under applicable SEC rules.

### **Contractual Obligations**

We have entered into agreements in the normal course of business with CROs for clinical trials and CMOs for supply manufacturing and with vendors for preclinical research studies and other services and products for operating purposes. These contractual obligations are cancelable at any time by us, generally upon prior written notice to the vendor.

During the three months ended March 31, 2019, there were no material changes to our contractual obligations and commitments described under Management's Discussion and Analysis of Financial Condition and Results of Operations in the Annual Report on Form 10-K for the year ended December 31, 2018.

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

We are exposed to market risk related to changes in interest rates. As of March 31, 2019 and December 31, 2018, we had cash, cash equivalents and marketable securities of \$707.8 million and \$805.4 million, respectively, consisting primarily of investments in certificates of deposit, U.S. Treasuries, government securities and corporate debt securities. Our primary exposure to market risk is interest rate sensitivity, which is affected by changes in the general level of U.S. interest rates, particularly because our investments are primarily in short-term marketable securities. Our marketable securities are subject to interest rate risk and could fall in value if market interest rates increase. Due to the short-term duration of our investment portfolio and the low risk profile of our investments, we do not believe an immediate and uniform 100 basis point increase in interest rates would have a material effect on the fair market value of our investment portfolio.

We are also exposed to market risk related to changes in foreign currency exchange rates. We have contracts with CROs located in Asia and Europe that are denominated in foreign currencies, and we are subject to fluctuations in foreign currency rates in connection with these agreements. We do not currently hedge our foreign currency exchange rate risk. As of March 31, 2019 and December 31, 2018, we had minimal or no liabilities denominated in foreign currencies.

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

Our management, with the participation of our principal executive officer and principal financial officer, evaluated, as of the end of the period covered by this Quarterly Report on Form 10-Q, the effectiveness of our disclosure controls and procedures. Based on that evaluation of our disclosure controls and procedures as of March 31, 2019, our

principal executive officer and principal financial officer concluded that our disclosure controls and procedures as of such date are effective at the reasonable

25

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Table of Contents

assurance level. The term “disclosure controls and procedures,” as defined in Rules 13a-15(e) and 15d-15(e) under the Exchange Act, means controls and other procedures of a company that are designed to ensure that information required to be disclosed by a company in the reports that it files or submits under the Exchange Act is recorded, processed, summarized and reported within the time periods specified in the SEC’s rules and forms. Disclosure controls and procedures include, without limitation, controls and procedures designed to ensure that information required to be disclosed by a company in the reports it files or submits under the Exchange Act is accumulated and communicated to its management, including its principal executive officer and principal financial officer, or person performing similar functions, as appropriate to allow timely decisions regarding required disclosure. Our management recognizes that any controls and procedures, no matter how well designed and operated, can provide only reasonable assurance of achieving their objectives, and our management necessarily applies its judgment in evaluating the cost-benefit relationship of possible controls and procedures.

No change in our internal control over financial reporting, as defined in Rules 13a-15(f) and 15d-15(f) under the Exchange Act, occurred during the fiscal quarter ended March 31, 2019 that has materially affected, or is reasonably likely to materially affect, our internal control over financial reporting.

26

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Table of Contents**PART II. OTHER INFORMATION****Item 1A. Risk Factors**

This Quarterly Report on Form 10-Q contains forward-looking statements that involve substantial risks and uncertainties. All statements, other than statements of historical facts, contained herein, including statements regarding our strategy, future operations, future financial position, future revenue, projected costs, prospects, plans and objectives of our management are forward-looking statements. These statements involve known and unknown risks, uncertainties and other important factors that may cause our actual results, performance or achievements to be materially different from any future results, performance or achievements expressed or implied by the forward-looking statements. The words “anticipate,” “believe,” “estimate,” “expect,” “intend,” “may,” “plan,” “predict,” “project,” “potential,” “will,” “would,” “could,” “should,” “continue” and similar expressions are intended to identify forward-looking statements, although not all forward-looking statements contain these identifying words. We may not actually achieve the plans, intentions or expectations disclosed in our forward-looking statements, and you should not place undue reliance on our forward-looking statements. Actual results or events could differ materially from the plans, intentions and expectations disclosed in the forward-looking statements we make. You should read this Quarterly Report on Form 10-Q completely and with the understanding that our actual future results may be materially different from what we expect. The risks described are not the only risks facing our company. Additional risks and uncertainties not currently known to us or that we currently deem to be immaterial also may materially adversely affect our business, financial condition and/or operating results. We do not assume any obligation to update any forward-looking statements, whether as a result of new information, future events or otherwise, except as required by law. These risk factors restate and supersede the risk factors set forth under the heading “Risk Factors” in our Annual Report on Form 10-K for the year ended December 31, 2018.

**Risks Related to Our Financial Position and Need for Additional Capital**

***We have incurred significant losses since inception. We expect to incur losses for the foreseeable future and may never achieve or maintain profitability.***

Since inception, we have incurred significant operating losses. Our net losses were \$346.0 million, \$314.7 million and \$198.5 million for the years ended December 31, 2018, 2017, and 2016, respectively, and \$93.1 million for the three months ended March 31, 2019. As of March 31, 2019, we had an accumulated deficit of \$1.2 billion. To date, we have generated only modest revenue from sales of TIBSOVO® and royalties on sales of IDHIFA®. The FDA approved IDHIFA® in August 2017 for the treatment of adult patients with R/R AML and an IDH2 mutation, and in July 2018 the FDA approved TIBSOVO® for the treatment of adult patients with R/R AML with a susceptible IDH1 mutation. We have not obtained marketing approval for any of our other product candidates, which are in preclinical or clinical development stages. We have financed our operations primarily through private placements of our preferred stock, our initial public offering and the concurrent private placement, our follow-on public offerings and our collaboration agreements with Celgene focused on cancer metabolism and metabolic immuno-oncology. We have devoted substantially all of our efforts to research and development. Although we may from time to time report profitable results, we expect to continue to incur significant expenses and increasing operating losses for the foreseeable future. The net losses we incur may fluctuate significantly from quarter to quarter. We anticipate that our expenses will increase substantially if and as we:

- initiate and continue clinical trials for our products and product candidates, including: enasidenib, ivosidenib, vorasidenib, mitapivat, AG-270 and AG-636;
- continue our research and preclinical development of our product candidates;
- seek to identify additional product candidates;
- seek marketing approvals for our product candidates that successfully complete clinical trials;
- establish and maintain a sales, marketing and distribution infrastructure to commercialize any medicines for which we have or may obtain marketing approval;
- require the manufacture of larger quantities of product candidates for clinical development and, potentially, commercialization;
- maintain, expand and protect our intellectual property portfolio;
- hire additional clinical, quality control and scientific personnel;

- add additional personnel to support our product development and planned future commercialization efforts and our operations;
- add equipment and physical infrastructure to support our research and development; and

27

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## Table of Contents

•acquire or in-license other medicines and technologies.

To become and remain profitable, we must develop and eventually commercialize one or more medicines with significant market potential. This will require us to be successful in a range of challenging activities, including completing preclinical testing and clinical trials of our product candidates, obtaining marketing approval for these product candidates, manufacturing, marketing and selling those medicines for which we may obtain marketing approval and satisfying any post-marketing requirements. Notwithstanding the extent to which we may succeed in these activities we may never generate revenues that are significant or large enough to achieve profitability. If we do achieve profitability, we may not be able to sustain or increase profitability on a quarterly or annual basis. Our failure to become and remain profitable would decrease the value of our company and could impair our ability to raise capital, maintain our research and development efforts, expand our business or continue our operations. A decline in the value of our company could also cause our stockholders to lose all or part of their investment.

***We will need substantial additional funding. If we are unable to raise capital when needed, we would be forced to delay, reduce or eliminate our product development programs or commercialization efforts.***

We expect our expenses to increase in connection with our ongoing activities, particularly as we continue the research and development of, initiate and continue clinical trials of, seek marketing approvals for, and potentially commercialize our product candidates, to the extent that such expenses are not the responsibility of Celgene or other collaborators. For example, we have incurred and expect to continue to incur expenses related to the commercialization of TIBSOVO®, and expect to incur expenses in connection with the buildout of a limited commercial infrastructure in the EU. Accordingly, we will need to obtain substantial additional funding in connection with our continuing operations. If we are unable to raise capital when needed or on attractive terms, we would be forced to delay, reduce or eliminate our research and development programs or future commercialization efforts.

We expect that our existing cash, cash equivalents and marketable securities as of March 31, 2019, together with anticipated product and royalty revenue, anticipated interest income and anticipated expense reimbursements under our collaboration agreements, but excluding any additional program-specific milestone payments, will enable us to fund our operating expenses and capital expenditure requirements through at least the end of 2020. Our estimate as to how long we expect our existing cash and cash equivalents to be available to fund our operations is based on assumptions that may prove to be wrong, and we could use our available capital resources sooner than we currently expect. Further, changing circumstances, some of which may be beyond our control, could cause us to consume capital significantly faster than we currently anticipate, and we may need to seek additional funds sooner than planned. Our future capital requirements will depend on many factors, including:

- the scope, progress, results and costs of drug discovery, preclinical development, laboratory testing and clinical trials for our product candidates;
- the success of, and developments regarding, our collaborations;
- the costs, timing and outcome of regulatory review of our product candidates;
- the costs of preparing, filing and prosecuting patent applications, maintaining and enforcing our intellectual property rights and defending intellectual property-related claims;
- commercialization expenses relating to approved medicines such as TIBSOVO® and IDHIFA®;
- levels of product revenue from sales of TIBSOVO® and royalties on sales IDHIFA®;
- the cost associated with preparation for the potential commercial launch of one or more of our product candidates, including the build-out of a limited commercial infrastructure in the EU;
- our ability to establish and maintain additional collaborations on favorable terms, if at all; and
- the extent to which we acquire or in-license other medicines and technologies.

Identifying potential product candidates and conducting preclinical testing and clinical trials is a time-consuming, expensive and uncertain process that takes years to complete, and we may never generate the necessary data or results required to obtain additional marketing approvals and achieve product sales. In addition, TIBSOVO®, IDHIFA®, or other product candidates, if approved, may not achieve commercial success. Even if we succeed in developing and commercializing one or more of our product candidates, we may never achieve sufficient sales revenue to achieve or maintain profitability. Accordingly, we will need to continue to rely on additional financing to achieve our business objectives. Adequate additional financing may not be available to us on acceptable terms, or at all.



## Table of Contents

### ***Raising additional capital may cause dilution to our stockholders, restrict our operations or require us to relinquish rights to our technologies or product candidates.***

Until such time, if ever, as we can generate substantial product revenue, we expect to finance our cash needs through a combination of equity offerings, debt financings, collaborations, strategic alliances and licensing arrangements. We do not have any committed external source of funds, other than our collaborations, which are limited in scope and duration. To the extent that we raise additional capital through the sale of equity or convertible debt securities, ownership interests will be diluted, and the terms of these securities may include liquidation or other preferences that adversely affect the rights of our common stockholders. Debt financing, if available, may require us to enter into agreements that include covenants limiting or restricting our ability to take specific actions, such as incurring additional debt, making capital expenditures or declaring dividends. In addition, securing financing could require a substantial amount of time and attention from our management and may divert a disproportionate amount of their attention away from day-to-day activities, which may adversely affect our management's ability to oversee the development of our product candidates.

If we raise funds through additional collaborations, strategic alliances or licensing arrangements with third parties, we may have to relinquish valuable rights to our technologies, future revenue streams, research programs or product candidates or to grant licenses on terms that may not be favorable to us.

### ***Our short operating history may make it difficult for you to evaluate the success of our business to date and to assess our future viability.***

We were incorporated in the second half of 2007 and commenced operations in late 2008. Our operations to date have been primarily limited to organizing and staffing our company, business planning, raising capital, acquiring and developing our technology, identifying potential product candidates, undertaking preclinical and clinical studies of our product candidates, and establishing a commercial infrastructure. All of our product candidates are still in preclinical and clinical development, with the exception of TIBSOVO® and IDHIFA®. We have not yet demonstrated our ability to successfully complete any large-scale or pivotal clinical trials. Typically, it takes about 10 to 15 years to develop one new medicine from the time it is discovered to when it is available for treating patients, assuming that it successfully completes all stages of research and development and achieves marketing approval, all of which is highly uncertain. Consequently, any predictions you make about our future success or viability may not be as accurate as they could be if we had a longer operating history.

We may encounter unforeseen expenses, difficulties, complications, delays and other known and unknown factors that may adversely affect our ability to successfully commercialize our products and product candidates. We are in the early stages of transitioning from a company with solely a research focus to a company capable of supporting commercial activities and we have not yet demonstrated our ability to conduct large-scale sales and marketing activities necessary for successful commercialization. We may not be successful in such a transition.

We expect our financial condition and operating results to continue to fluctuate significantly from quarter to quarter and year to year due to a variety of factors, many of which are beyond our control. Accordingly, you should not rely upon the results of any quarterly or annual periods as indications of future operating performance.

### **Risks Related to the Discovery, Development, and Commercialization of our Product Candidates**

#### ***We do not know whether we will be able to develop any medicines of commercial value, based on our approach to the discovery and development of product candidates that target cellular metabolism.***

Our scientific approach focuses on using our proprietary technology to identify key metabolic enzymes in cancer, RGDs, or other diseased cells in the laboratory and then using these key enzymes to screen for and identify product candidates targeting cellular metabolism and adjacent areas of biology. We are also focused on metabolic immuno-oncology, an emerging field of cancer research focused on altering the metabolic state of immune cells to enhance the body's immune response to cancer.

Our focus on using our proprietary technology to screen for and identify product candidates targeting cellular metabolism and adjacent areas of biology may not result in the discovery and development of commercially viable medicines to treat cancer or RGDs. Any medicines that we develop may not effectively correct metabolic pathways or alter the metabolic state of immune cells. If we are able to develop a product candidate that targets cellular metabolism in preclinical studies, we may not succeed in demonstrating safety and efficacy of the product candidate in human clinical trials. In addition, even if we obtain marketing approval for one of our product candidates, we can

provide no assurance that commercialization of such product candidate will be successful.

29

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Table of Contents

***We may not be successful in our commercialization of TIBSOVO®. If we do not successfully commercialize TIBSOVO® for the treatment of adult patients with R/R AML with a susceptible IDH1 mutation, our future prospects may be substantially harmed.***

In July 2018, the FDA approved TIBSOVO® for the treatment of adult patients with R/R AML with a susceptible IDH1 mutation. We are still evaluating ivosidenib in other clinical trials. Our ability to generate product revenue from TIBSOVO® will depend heavily on our successful development and commercialization of the product.

The development and commercialization of TIBSOVO® (ivosidenib) could be unsuccessful if:

- TIBSOVO® becomes no longer accepted as safe, efficacious, and cost-effective for the treatment of adult patients with R/R AML with a susceptible IDH1 mutation in the medical community and by third-party payors;
- we fail to maintain the necessary financial resources and expertise to manufacture, market and sell TIBSOVO®;
- we fail to continue to develop and implement effective marketing, sales and distribution strategies and operations for the development and commercialization of TIBSOVO®;
- we fail to continue to develop, validate and maintain a commercially viable manufacturing process for TIBSOVO® that is compliant with current good manufacturing practices;
- we fail to successfully obtain third party reimbursement and generate commercial demand that results in sales of TIBSOVO®;
- we encounter any third party patent interference, derivation, inter partes review, post-grant review, reexamination or patent infringement claims with respect to ivosidenib;
- we fail to comply with regulatory and legal requirements applicable to the sale of TIBSOVO®;
- competing drug products are approved for the same indications as TIBSOVO®;
- new significant safety risks are identified;
- ivosidenib does not demonstrate acceptable safety and efficacy in current or future clinical trials, or otherwise does not meet applicable regulatory standards for approval in indications other than for the treatment of adult patients with R/R AML with a susceptible IDH1 mutation.

If we experience significant delays or an inability to successfully develop and commercialize TIBSOVO® (ivosidenib), our business would be materially harmed.

***The failure to maintain the CStone Agreement or the failure of CStone to perform its obligations under the CStone Agreement, could negatively impact our business.***

In June 2018, we entered into the CStone Agreement for the development and commercialization of ivosidenib, either as monotherapy or in combination with other therapies, in the CStone Territory. Pursuant to the CStone Agreement, CStone will be responsible for the development and commercialization of ivosidenib in the CStone Territory. Our ability to generate royalty and milestone revenue under the CStone Agreement is dependent on CStone's performance of its obligations under the agreement. We cannot control the amount and timing of resources that CStone will dedicate to these efforts.

We are subject to a number of other risks associated with our dependence on the CStone Agreement with respect to ivosidenib in the CStone Territory, including:

- CStone may fail to comply with applicable regulatory guidelines with respect to developing, manufacturing or commercializing ivosidenib, which could adversely impact future development or potential sales of ivosidenib in the CStone Territory or elsewhere;
- We and CStone could disagree as to future development plans and CStone may delay, fail to commence or stop future clinical trials or other development;
- There may be disputes between CStone and us, including disagreements regarding the CStone Agreement, that may result in the delay of or failure to achieve developmental, regulatory and sales objectives that would result in milestone or royalty payments, the delay or termination of any future development or commercialization of ivosidenib in the CStone Territory, and/or costly litigation or arbitration that diverts our management's attention and resources;
- CStone may fail to provide us with timely and accurate information regarding development, sales and marketing activities or supply forecasts, which could adversely impact our ability to comply with our obligations to CStone, as well as our ability to generate accurate financial forecasts; and

## Table of Contents

•Business combinations or significant changes in CStone's business strategy may adversely affect CStone's ability or resources available to perform its obligations under the CStone Agreement.

The CStone Agreement is also subject to early termination, including through CStone's right under certain circumstances to terminate upon advance notice to us. If the CStone Agreement is terminated early, we may not be able to find another collaborator for the further development and commercialization of ivosidenib in the CStone Territory on acceptable terms, or at all, and we may be unable to pursue continued development and commercialization of ivosidenib in the CStone Territory on our own.

### ***We may not be successful in our efforts to identify or discover potential product candidates.***

A key element of our strategy is to identify and test compounds that target cellular metabolism and adjacent areas of biology in a variety of different types of cancer and RGDs, as well as in immune cells for the treatment of cancer. A significant portion of the research that we are conducting involves new compounds and drug discovery methods, including our proprietary technology. The drug discovery that we are conducting using our proprietary technology may not be successful in identifying compounds that are useful in treating cancer or RGDs. In addition, our efforts in the emerging field of metabolic immuno-oncology may not be as successful as our efforts to date in cancer metabolism and RGDs. Furthermore, our research programs may initially show promise in identifying potential product candidates, yet fail to yield product candidates for clinical development for a number of reasons, including:

- the research methodology used may not be successful in identifying appropriate biomarkers or potential product candidates; or
- potential product candidates may, on further study, be shown to have harmful side effects or other characteristics that indicate that they are unlikely to be medicines that will receive marketing approval and achieve market acceptance. Research programs to identify new product candidates require substantial technical, financial and human resources. We may choose to focus our efforts and resources on a potential product candidate that ultimately proves to be unsuccessful.

If we are unable to identify suitable compounds for preclinical and clinical development, we will not be able to generate incremental product revenue in future periods, which likely would result in significant harm to our financial position and adversely impact our stock price.

### ***We depend heavily on the success of our clinical product candidates. Clinical trials of our product candidates may not be successful. If we or our collaborators are unable to commercialize our product candidates or experience significant delays in doing so, our business will be materially harmed.***

We have invested a significant portion of our efforts and financial resources in the identification of our products and most advanced programs, which are TIBSOVO® (ivosidenib), IDHIFA® (enasidenib), and vorasidenib for the treatment of hematological and solid tumors, mitapivat for the treatment of PK deficiency, and AG-270 for the treatment of MTAP deleted cancers. The FDA approved IDHIFA® and TIBSOVO® for the treatment of adult patients with R/R AML with an IDH2 or IDH1 mutation, respectively. In June 2018, Celgene submitted an MAA to the EMA for IDHIFA® for IDH2 mutant-positive R/R AML. In December 2018, we submitted an MAA to the EMA for TIBSOVO® for the treatment of adult patients with IDH1 mutant-positive R/R AML and an sNDA to the FDA for TIBSOVO® for the treatment of patients with newly-diagnosed AML with an IDH1 mutation who are not eligible for standard treatment. We plan to submit an sNDA for TIBSOVO® for second line or later IDH1 mutant-positive cholangiocarcinoma to the FDA by the end of 2019. Other than TIBSOVO®, IDHIFA®, vorasidenib, mitapivat, AG-270 and AG-636, we have not commenced clinical trials for any of our other product candidates. Our ability to generate product revenue will depend heavily on the successful development and eventual commercialization of our product candidates.

The success of ivosidenib and our other product candidates will depend on many factors, including the following:

- successful enrollment in, and completion of, clinical trials;
- safety, tolerability and efficacy profiles that are satisfactory to the FDA, the EMA or any comparable foreign regulatory authority for marketing approval;
- timely receipt of marketing approvals from applicable regulatory authorities;
- establishing both clinical and commercial manufacturing capabilities or making arrangements with third-party manufacturers;
- the performance of any collaborators;

- obtaining and maintaining patent and trade secret protection and non-patent exclusivity for our medicines;
  - launching commercial sales of the medicines, if and when approved, whether alone or in collaboration with others;
- 31
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## Table of Contents

- acceptance of the medicines, if and when approved, by patients, the medical community and third-party payors;
- effectively competing with other therapies;
- continuing acceptable safety profile for the medicines following approval;
- enforcing and defending intellectual property rights and claims; and
- achieving desirable medicinal properties for the intended indications.

Many of these factors are beyond our control, including clinical development, the regulatory submission process, potential threats to our intellectual property rights and the manufacturing, marketing and sales efforts of any collaborator. If we or any collaborators do not achieve one or more of these factors in a timely manner or at all, we or such collaborators could experience significant delays or an inability to successfully commercialize our most advanced product candidates, which would materially harm our business.

***If clinical trials of products or product candidates fail to demonstrate safety and efficacy to the satisfaction of regulatory authorities or do not otherwise produce positive results, we may incur additional costs or experience delays in completing, or ultimately be unable to complete, the development and commercialization of our product candidates.***

We, and any collaborators, are not permitted to commercialize, market, promote or sell any product candidate in the United States without obtaining marketing approval from the FDA. Foreign regulatory authorities, such as the EMA, impose similar requirements. Before obtaining marketing approval from regulatory authorities for the sale of our product candidates, we must complete preclinical development and then conduct extensive clinical trials to demonstrate the safety and efficacy of our product candidates in humans. The FDA has approved IDHIFA® and TIBSOVO® for the treatment of adult patients with R/R AML and an IDH2 or IDH1 mutation, respectively. In June 2018 Celgene submitted an MAA to the EMA for IDHIFA® for IDH2 mutant-positive AML and, in December 2018, we submitted an MAA to the EMA for TIBSOVO® for the treatment of adult patients with IDH1 mutant-positive R/R AML and an sNDA to the FDA for TIBSOVO® for the treatment of patients with newly-diagnosed AML with an IDH1 mutation who are not eligible for standard treatment. We plan to submit an sNDA for TIBSOVO® for second line or later IDH1 mutant-positive cholangiocarcinoma to the FDA by the end of 2019. However, we can provide no assurance that we will successfully submit such sNDA, or any NDA for any of our other product candidates, or that any MAA, NDA or sNDA submitted by us or Celgene will receive regulatory approval on the timeframe we expect, or at all.

Clinical testing is expensive, difficult to design and implement, can take many years to complete and is uncertain as to outcome. We cannot guarantee that any clinical trials will be conducted as planned or completed on schedule, if at all. The clinical development of our product candidates is susceptible to the risk of failure inherent at any stage of product development, including failure to demonstrate efficacy in a clinical trial or across a broad population of patients, the occurrence of adverse events that are severe or medically or commercially unacceptable, failure to comply with protocols or applicable regulatory requirements and determination by the FDA or any comparable foreign regulatory authority that a product candidate may not continue development or is not approvable. For instance, in December 2016, we withdrew our IND for AG-519, our second PKR activator, following verbal notification of a clinical hold from the FDA relating to a previously disclosed case of drug-induced cholestatic hepatitis which occurred in our phase 1 clinical trial of AG-519 in healthy volunteers. Although these decisions and this hepatic adverse event finding do not affect our ongoing clinical trials for mitapivat, our first PKR activator, we cannot provide any assurances that there will not be similar or other treatment-related severe adverse events in our other clinical trials of mitapivat, that our other trials will not be placed on clinical hold in the future, or that patient recruitment for our other trials will not be adversely impacted.

It is possible that even if one or more of our product candidates has a beneficial effect, that effect will not be detected during clinical evaluation as a result of one or more of a variety of factors, including the size, duration, design, measurements, conduct or analysis of our clinical trials. Conversely, as a result of the same factors, our clinical trials may indicate an apparent positive effect of a product candidate that is greater than the actual positive effect, if any. Similarly, in our clinical trials we may fail to detect toxicity of or intolerability caused by our product candidates, or mistakenly believe that our product candidates are toxic or not well-tolerated when that is not in fact the case. Any inability to successfully complete preclinical and clinical development could result in additional costs to us, or any collaborators, and impair our ability to generate revenue from product sales, regulatory and commercialization

milestones and royalties. Moreover, if we or our collaborators are required to conduct additional clinical trials or other testing of our product candidates beyond those that we currently contemplate, if we or our collaborators are unable to successfully complete clinical trials of our product candidates or other testing, if the results of these trials or tests are not positive or are only modestly positive or if there are safety concerns, we or our collaborators may:

- be delayed in obtaining marketing approval for our product candidates;

32

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## Table of Contents

- not obtain marketing approval at all;
- obtain approval for indications or patient populations that are not as broad as intended or desired;
- obtain approval with labeling that includes significant use or distribution restrictions or safety warnings, including boxed warnings;
- be subject to additional post-marketing testing requirements; or
- have the medicine removed from the market after obtaining marketing approval.

Our failure to successfully complete clinical trials of our product candidates and to demonstrate the efficacy and safety necessary to obtain regulatory approval to market any of our product candidates would significantly harm our business.

***If we, or any collaborators, experience any of a number of possible unforeseen events in connection with clinical trials of our product candidates, potential clinical development, marketing approval or commercialization of our product candidates could be delayed or prevented.***

We or our collaborators may experience numerous unforeseen events during, or as a result of, clinical trials that could delay or prevent our ability to receive marketing approval or commercialize our product candidates, including:

- regulators or institutional review boards may not authorize us, our collaborators or our investigators to commence a clinical trial or conduct a clinical trial at a prospective trial site;
- we or our collaborators may have delays in reaching or fail to reach agreement on acceptable clinical trial contracts or clinical trial protocols with prospective trial sites;
- clinical trials of our product candidates may produce negative or inconclusive results, and we or our collaborators may decide, or regulators may require us, to conduct additional clinical trials, including testing in more subjects, or abandon product development programs;
- the number of patients required for clinical trials of our product candidates may be larger than we anticipate; enrollment in these clinical trials, which may be particularly challenging for some of the orphan diseases we target in our RGD programs, may be slower than we anticipate; or participants may drop out of these clinical trials at a higher rate than we anticipate;
- third-party contractors used by us or our collaborators may fail to comply with regulatory requirements or meet their contractual obligations in a timely manner, or at all;
- we or our collaborators might have to suspend or terminate clinical trials of our product candidates for various reasons, including a finding that the participants are being exposed to unacceptable health risks;
- regulators, institutional review boards, or the data safety monitoring board for such trials may require that we, our collaborators or our investigators suspend or terminate clinical research for various reasons, including noncompliance with regulatory requirements or a finding that the participants are being exposed to unacceptable health risks;
- the cost of clinical trials of our product candidates may be greater than anticipated;
- the supply or quality of our product candidates or other materials necessary to conduct clinical trials of our product candidates may be insufficient or inadequate; and
- our product candidates may have undesirable side effects or other unexpected characteristics, causing us, our collaborators or our investigators, regulators or institutional review boards to suspend or terminate the trials.

Product development costs for us, or any collaborators, will increase if we, or they, experience delays in testing or pursuing marketing approvals and we, or they, may be required to obtain additional funds to complete clinical trials and prepare for possible commercialization of our product candidates. We do not know whether any preclinical tests or clinical trials will begin as planned, will need to be restructured, or will be completed on schedule or at all.

Significant preclinical study or clinical trial delays also could shorten any periods during which we, or any collaborators, may have the exclusive right to commercialize our product candidates or allow our competitors, or the competitors of any collaborators, to bring products to market before we, or any collaborators, do and impair our ability, or the ability of any collaborators, to successfully commercialize our product candidates and may harm our business and results of operations. In addition, many of the factors that lead to clinical trial delays may ultimately lead to the denial of marketing approval of any of our product candidates.

## Table of Contents

### ***If we experience delays or difficulties in the enrollment of patients in clinical trials, our receipt of necessary regulatory approvals could be delayed or prevented.***

We or our collaborators may not be able to initiate or continue clinical trials for our product candidates if we or they are unable to locate and enroll a sufficient number of eligible patients to participate in these trials as required by the FDA or analogous regulatory authorities outside the United States. Enrollment may be particularly challenging for some of the orphan diseases we target in our RGD programs. In addition, some of our competitors may have ongoing clinical trials for product candidates that would treat the same indications as our product candidates, and patients who would otherwise be eligible for our clinical trials may instead enroll in clinical trials of our competitors' product candidates.

Patient enrollment is also affected by other factors including:

- severity of the disease under investigation;
- availability and efficacy of approved medications for the disease under investigation;
- eligibility criteria for the study in question;
- perceived risks and benefits of the product candidate under study;
- efforts to facilitate timely enrollment in clinical trials;
- patient referral practices of physicians;
- the ability to monitor patients adequately during and after treatment; and
- proximity and availability of clinical trial sites for prospective patients.

Utilizing our precision medicine approach, we generally focus our development activities on genetically or biomarker defined patients most likely to respond to our therapies. As a result, the potential patient populations for our clinical trials are narrowed, and we may experience difficulties in identifying and enrolling a sufficient number of patients in our clinical trials. In particular, the successful completion of our clinical development program for mitapivat for the treatment of PK deficiency is dependent upon our ability to enroll a sufficient number of patients with PK deficiency. PK deficiency is a rare disease with a small patient population. Further, there are only a limited number of specialist physicians that regularly treat patients with PK deficiency and major clinical centers that support PK deficiency are concentrated in a few geographic regions. The small population of patients, the nature of the disease and limited trial sites may make it difficult for us to enroll enough patients to complete our clinical trials for mitapivat for PK deficiency in a timely and cost-effective manner.

In addition, other companies are conducting clinical trials, or may in the future conduct clinical trials, which may have similar eligibility criteria as our current or future clinical trials. For example, Daiichi Sankyo Company, Ltd., with DS-1001b, Bayer AG, or Bayer, with BAY1436032, and Forma Therapeutics Holdings, LLC, with FT-2102, are conducting clinical trials that are targeted specifically towards patients with IDH1 mutant positive-cancers and/or include IDH mutant positive populations. Rocket Pharma LTD is in the preclinical stages of development for a gene therapy targeting PK deficiency. As these companies and others initiate and conduct clinical trials, they may compete for eligible patients with our clinical trials of ivosidenib, vorasidenib or mitapivat. Competition for these patients may make it particularly difficult for us to enroll enough patients to complete our clinical trials for ivosidenib, vorasidenib or mitapivat in a timely and cost-effective manner.

Furthermore, we rely on CROs and clinical trial sites to ensure the proper and timely conduct of our clinical trials and while we have agreements governing their committed activities, we have limited influence over their actual performance. Our or our collaborators' inability to enroll a sufficient number of patients for our clinical trials would result in significant delays or may require us to abandon one or more clinical trials altogether. Enrollment delays in our clinical trials may result in increased development costs for our product candidates, which would cause the value of our company to decline and limit our ability to obtain additional financing.

### ***If serious adverse side effects or unexpected characteristics are identified during the development of our product candidates, we may need to abandon or limit our development of some of our product candidates.***

With the exception of TIBSOVO® and IDHIFA®, all of our most advanced product candidates are still in clinical stage development and their risk of failure is high. It is impossible to predict when or if any of our product candidates will prove effective or safe in humans or will receive marketing approval. Adverse events or undesirable side effects caused by, or other unexpected properties of, our product candidates could cause us or any collaborators, an institutional review board or regulatory authorities to interrupt, delay or halt clinical trials of one or more of our

product candidates and could result in a more restrictive label, or the delay or denial of marketing approval by the FDA or comparable foreign regulatory authorities. If adverse effects were to arise in patients being treated with any of our product candidates, it could require us to halt, delay or interrupt clinical trials of such product candidate or adversely affect our ability to obtain requisite approvals to advance the development and commercialization of such product candidate. If any of our product candidates is associated with adverse

34

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Table of Contents

events or undesirable side effects or has properties that are unexpected, we, or any collaborators, may need to abandon development or limit development of that product candidate to certain uses or subpopulations in which the undesirable side effects or other characteristics are less prevalent, less severe or more acceptable from a risk-benefit perspective. Many compounds that initially showed promise in earlier stage testing for treating cancer, RGDs or other diseases have later been found to cause side effects that prevented further development of the compound. For instance, in December 2016, we withdrew our IND for AG-519, our second PKR activator, following verbal notification of a clinical hold from the FDA relating to a previously disclosed case of drug-induced cholestatic hepatitis which occurred in our phase 1 clinical trial of AG-519 in healthy volunteers. Although these decisions and this hepatic adverse event finding do not affect our ongoing clinical trials for mitapivat, we cannot provide any assurances that there will not be similar or other treatment-related severe adverse events in our other clinical trials for mitapivat, that our other trials will not be placed on clinical hold in the future, or that patient recruitment for our other trials will not be adversely impacted.

***Results of preclinical studies and early clinical trials may not be predictive of results of future clinical trials.***

The outcome of preclinical studies and early clinical trials may not be predictive of the success of later clinical trials, and interim results of clinical trials do not necessarily predict success in future clinical trials. Many companies in the pharmaceutical and biotechnology industries have suffered significant setbacks in late-stage clinical trials after achieving positive results in earlier development, and we could face similar setbacks. The design of a clinical trial can determine whether its results will support approval of a product and flaws in the design of a clinical trial may not become apparent until the clinical trial is well advanced. We have limited experience in designing clinical trials and may be unable to design and execute a clinical trial to support marketing approval. In addition, preclinical and clinical data are often susceptible to varying interpretations and analyses. Many companies that believed their product candidates performed satisfactorily in preclinical studies and clinical trials have nonetheless failed to obtain marketing approval for the product candidates. Even if we, or any collaborators, believe that the results of clinical trials for our product candidates warrant marketing approval, the FDA or comparable foreign regulatory authorities may disagree and may not grant marketing approval of our product candidates.

In some instances, there can be significant variability in safety or efficacy results between different clinical trials of the same product candidate due to numerous factors, including changes in trial procedures set forth in protocols, differences in the size and type of the patient populations, changes in and adherence to the dosing regimen and other clinical trial protocols and the rate of dropout among clinical trial participants. If we fail to receive positive results in clinical trials of our product candidates, the development timeline and regulatory approval and commercialization prospects for our most advanced product candidates, and, correspondingly, our business and financial prospects would be negatively impacted.

***We may expend our limited resources to pursue a particular product candidate or indication and fail to capitalize on product candidates or indications that may be more profitable or for which there is a greater likelihood of success.***

Because we have limited financial and managerial resources, we focus on research programs and product candidates that we identify for specific indications. As a result, we may forego or delay pursuit of opportunities with other product candidates or for other indications that later prove to have greater commercial potential. Our resource allocation decisions may cause us to fail to capitalize on viable commercial medicines or profitable market opportunities. Our spending on current and future research and development programs and product candidates for specific indications may not yield any commercially viable medicines. If we do not accurately evaluate the commercial potential or target market for a particular product candidate, we may relinquish valuable rights to that product candidate through collaboration, licensing or other royalty arrangements in cases in which it would have been more advantageous for us to retain sole development and commercialization rights to such product candidate.

***If we are unable to successfully develop companion diagnostics for our product candidates, or experience significant delays in doing so, we may not realize the full commercial potential of our therapeutics.***

Because we are focused on precision medicine, in which predictive biomarkers will be used to identify the right patients for our drug candidates, we believe that our success will depend, in part, on our ability to develop companion diagnostics, which are assays or tests to identify an appropriate patient population for these drug candidates. There has been limited success to date industry-wide in developing these types of companion diagnostics. To be successful, we

need to address a number of scientific, technical and logistical challenges. We have little experience in the development of diagnostics and may not be successful in developing appropriate diagnostics to pair with any of our therapeutic product candidates that receive marketing approval.

Companion diagnostics are subject to regulation by the FDA and similar regulatory authorities outside the United States as medical devices and require separate regulatory approval prior to commercialization. Given our limited experience in developing diagnostics, we rely and expect to continue to rely in part or in whole on third parties for their design and manufacture. We also depend on Celgene and Abbott Laboratories for the development of the FDA approved companion diagnostics for IDHIFA® and TIBSOVO®, respectively, and may in the future depend on Celgene or other third parties for the development of other companion diagnostics for our cancer therapeutic product candidates. If any parties, including without

35

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## Table of Contents

limitation Celgene or us, or any third parties engaged by Celgene or us are unable to successfully develop companion diagnostics for our therapeutic product candidates, or experience delays in doing so:

- the development of our therapeutic product candidates may be adversely affected if we are unable to appropriately select patients for enrollment in our clinical trials;
- our therapeutic product candidates may not receive marketing approval if safe and effective use of a therapeutic product candidate depends on an in vitro diagnostic; and
- we may not realize the full commercial potential of any therapeutics that receive marketing approval if, among other reasons, we are unable to appropriately select patients who are likely to benefit from therapy with our medicines.

As a result of any of these events, our business would be harmed, possibly materially.

### ***We may be unable to obtain, or may be delayed in obtaining, marketing approval for our product candidates.***

It is possible that the FDA or EMA may refuse to accept for substantive review any NDA, sNDA or MAA that we and/or Celgene submit for our product candidates or may conclude after review of our data that our application is insufficient to obtain marketing approval of our product candidates. If the FDA or EMA does not accept or approve our applications for any of our product candidates, it may require that we conduct additional clinical trials, preclinical studies or manufacturing validation studies and submit that data before it will reconsider our applications. Depending on the extent of these or any other FDA- or EMA-required trials or studies, approval of any applications that we submit may be delayed by several years, or may require us to expend more resources than we have available. It is also possible that additional trials or studies, if performed and completed, may not be considered sufficient by the FDA or EMA to approve our applications. Any delay in obtaining, or an inability to obtain, marketing approvals would prevent us or Celgene from commercializing our product candidates, generating revenue and achieving and sustaining profitability. If any of these outcomes occur, we may be forced to abandon our development efforts for our product candidates, which could significantly harm our business.

### ***Even if any of our product candidates receives marketing approval, we or others may later discover that the product is less effective than previously believed or causes undesirable side effects that were not previously identified, which could compromise our ability, or that of any collaborators, to market the product.***

Clinical trials of our product candidates are conducted in carefully defined sets of patients who have agreed to enter into clinical trials. Consequently, it is possible that our clinical trials, or those of any collaborators, may indicate an apparent positive effect of a product candidate that is greater than the actual positive effect, if any, or alternatively fail to identify undesirable side effects. If, following approval of a product candidate, we, or others, discover that the product is less effective than previously believed or causes undesirable side effects that were not previously identified, any of the following adverse events could occur:

- regulatory authorities may withdraw their approval of the product or seize the product;
- we, or any collaborators, may be required to recall the product, change the way the product is administered or conduct additional clinical trials;
- additional restrictions may be imposed on the marketing of, or the manufacturing processes for, the particular product;
- we may be subject to fines, injunctions or the imposition of civil or criminal penalties;
- regulatory authorities may require the addition of labeling statements, such as a “black box” warning or a contraindication, including, for example, the black box warning for differentiation syndrome on the labels for IDHIFA® and TIBSOVO®;
- we, or any collaborators, may be required to create a Medication Guide outlining the risks of the previously unidentified side effects for distribution to patients;
- we, or any collaborators, could be sued and held liable for harm caused to patients;
- the product may become less competitive; and
- our reputation may suffer.

### ***Even if any of our product candidates receive marketing approval, they may fail to achieve the degree of market acceptance by physicians, patients, healthcare payors and others in the medical community necessary for commercial success.***

TIBSOVO® and IDHIFA®, or any of our product candidates that receive marketing approval in the future, may nonetheless fail to gain sufficient market acceptance by physicians, patients, healthcare payors and others in the medical community. For example, current cancer treatments like chemotherapy and radiation therapy are well

established in the medical community, and doctors may continue to rely on these treatments. If our product candidates do not achieve an adequate level of acceptance, we

36

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## Table of Contents

may not generate significant product revenue and we may not become profitable. The degree of market acceptance of our product candidates, if approved for commercial sale, will depend on a number of factors, including:

- efficacy and potential advantages compared to alternative treatments;
- the approval, availability, market acceptance and reimbursement for the companion diagnostic;
- the ability to offer our medicines for sale at competitive prices;
- convenience and ease of administration compared to alternative treatments;
- the willingness of the target patient population to try new therapies and of physicians to prescribe these therapies;
- ensuring uninterrupted product supply;
- the strength of marketing and distribution support;
- sufficient third-party coverage or reimbursement; and
- the prevalence and severity of any side effects.

***If we are unable to establish and maintain sales and marketing capabilities or enter into agreements with third parties to sell and market our product candidates, we may not be successful in commercializing our product candidates if and when they are approved.***

We have limited experience in the sale, marketing or distribution of pharmaceutical products. To achieve commercial success for any approved medicine for which we retain sales and marketing responsibilities, we must either develop a sales and marketing organization or outsource these functions to other third parties. Although we have established sales and marketing capabilities to support our co-promotion efforts for IDHIFA® and the commercial launch of TIBSOVO®, we will need to further build our sales and marketing infrastructure to sell, or participate in sales activities with our collaborators for, our other product candidates if and when they are approved, including, for example, to support the potential approval of one or more product candidates in the EU.

There are risks involved with both establishing our own sales and marketing capabilities and entering into arrangements with third parties to perform these services. For example, recruiting and training a sales force is expensive and time consuming and could delay any product launch. If the commercial launch of a product candidate for which we recruit a sales force and establish marketing capabilities is delayed or does not occur for any reason, we would have prematurely or unnecessarily incurred these commercialization expenses. This may be costly, and our investment would be lost if we cannot retain or reposition our sales and marketing personnel.

Factors that may inhibit our efforts to commercialize our medicines on our own include:

- our inability to recruit and retain adequate numbers of effective sales and marketing personnel;
- the inability of sales personnel to obtain access to physicians or persuade adequate numbers of physicians to prescribe any future medicines;
- the lack of complementary medicines to be offered by sales personnel, which may put us at a competitive disadvantage relative to companies with more extensive product lines; and
- unforeseen costs and expenses associated with creating an independent sales and marketing organization.

If we enter into arrangements with third parties to perform sales, marketing and distribution services, our product revenue or the profitability of product revenue to us are likely to be lower than if we were to market and sell any medicines that we develop ourselves. In addition, we may not be successful in entering into arrangements with third parties to sell and market our product candidates or may be unable to do so on terms that are favorable to us. We likely will have little control over such third parties, and any of them may fail to devote the necessary resources and attention to sell and market our medicines effectively. If we do not establish sales and marketing capabilities successfully, either on our own or in collaboration with third parties, we will not be successful in commercializing our product candidates.

***We face substantial competition, which may result in others discovering, developing or commercializing products before or more successfully than we do.***

The development and commercialization of new drug products is highly competitive. We face competition with respect to our current products and product candidates, and we and our collaborators will face competition with respect to any product candidates that we or they may seek to develop or commercialize in the future, from major pharmaceutical companies, specialty pharmaceutical companies and biotechnology companies worldwide. There are a number of large pharmaceutical and biotechnology companies that currently market and sell products or are pursuing the development of products for the treatment



Table of Contents

of the disease indications for which we are developing our product candidates, such as AML and high risk myelodysplasia. For example, Jazz Pharmaceuticals plc, Abbvie Inc. (in collaboration with Roche Holdings Inc.), Novartis International AG, Pfizer Inc. and Astellas Pharma Inc. are each marketing therapies to treat AML, and a number of other biotechnology companies have product candidates in clinical development in similar indications as ours. Some competitive products and therapies are based on scientific approaches that are the same as or similar to our approach, and others are based on entirely different approaches, for example, in the area of RGDs. Potential competitors also include academic institutions, government agencies and other public and private research organizations that conduct research, seek patent protection and establish collaborative arrangements for research, development, manufacturing and commercialization.

We are developing most of our initial product candidates for the treatment of cancer. There are a variety of available drug therapies marketed for cancer. In many cases, these drugs are administered in combination to enhance efficacy, and cancer drugs are frequently prescribed off-label by healthcare professionals. Some of the currently approved drug therapies are branded and subject to patent protection, and others are available on a generic basis. Many of these approved drugs are well established therapies and are widely accepted by physicians, patients and third-party payors. Insurers and other third-party payors may also encourage the use of generic products. We expect that our product candidates, if approved, will be priced at a significant premium over competitive generic products, as is the case with TIBSOVO® and IDHIFA®. This may make it difficult for us to achieve our business strategy of using our product candidates in combination with existing therapies or replacing existing therapies with our product candidates.

We are also pursuing product candidates to treat patients with RGDs. There are a variety of treatment options available, including a number of marketed enzyme replacement therapies, for treating patients with RGDs. In addition to currently marketed therapies, there are also a number of products that are either enzyme replacement therapies or gene therapies in various stages of clinical development to treat RGDs. These products in development may provide efficacy, safety, convenience and other benefits that are not provided by currently marketed therapies. As a result, they may provide significant competition for any of our product candidates for which we obtain marketing approval.

There are also a number of product candidates in preclinical or clinical development by third parties to treat cancer and RGDs by targeting cellular metabolism. These companies include large pharmaceutical companies, including AstraZeneca plc, Bayer with BAY1436032, Daiichi Sankyo Company, Ltd. with its IDH1 mutant inhibitor DS-1001b, Eli Lilly and Company, Roche and its subsidiary Genentech, Inc., GlaxoSmithKline plc, Merck, and Pfizer. There are also biotechnology companies of various sizes that are developing therapies to target cellular metabolism and there are several companies developing immunotherapies, including metabolic immunotherapies, targeting cancer, including AstraZeneca; BeiGene, Ltd.; Bristol-Myers Squibb Company; GlaxoSmithKline; Genentech; and Merck. Our competitors may develop products that are more effective, safer, more convenient or less costly than any that we are developing or that would render our product candidates obsolete or non-competitive. In addition, our competitors may discover biomarkers that more efficiently measure metabolic pathways than our methods, which may give them a competitive advantage in developing potential products. Our competitors may also obtain marketing approval from the FDA or other regulatory authorities for their products more rapidly than we may obtain approval for ours, which could result in our competitors establishing a strong market position before we are able to enter the market.

Many of our competitors have significantly greater financial resources and expertise in research and development, manufacturing, preclinical testing, conducting clinical trials, obtaining regulatory approvals and marketing approved products than we do. Mergers and acquisitions in the pharmaceutical and biotechnology industries may result in even more resources being concentrated among a smaller number of our competitors. Smaller and other clinical stage companies may also prove to be significant competitors, particularly through collaborative arrangements with large and established companies. These third parties compete with us in recruiting and retaining qualified scientific and management personnel, establishing clinical trial sites and patient registration for clinical trials, as well as in acquiring technologies complementary to, or necessary for, our programs.

***If the FDA does not grant our products appropriate periods of data exclusivity before approving generic versions of our products, the sales of our products could be adversely affected.***

With FDA approval of an NDA, the product covered by the application is specified as a “reference-listed drug” in the FDA’s publication, “Approved Drug Products with Therapeutic Equivalence Evaluations,” or the Orange Book.

Manufacturers may seek approval of generic versions of reference-listed drugs through submission of abbreviated new

drug applications, or ANDAs, in the United States. In support of an ANDA, a generic manufacturer need not conduct clinical trials. Rather, the applicant generally must show that its product has the same active ingredient(s), dosage form, strength, route of administration and conditions of use or labeling as the reference-listed drug and that the generic version is bioequivalent to the reference-listed drug, meaning it is absorbed in the body at the same rate and to the same extent. Generic products may be significantly less costly to bring to market than the reference-listed drug and companies that produce generic products are generally able to offer them at lower prices. Thus, following the introduction of a generic drug, a significant percentage of the sales of any reference-listed drug may be typically lost to the generic product.

38

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## Table of Contents

The FDA may not approve an ANDA for a generic product until any applicable period of non-patent exclusivity for the reference-listed drug has expired. The Federal Food, Drug, and Cosmetic Act, or FDCA, provides a period of five years of non-patent exclusivity for a new drug containing a new chemical entity. Specifically, in cases where such exclusivity has been granted, an ANDA may not be filed with the FDA until the expiration of five years unless the submission is accompanied by a Paragraph IV certification that a patent covering the reference-listed drug is either invalid or will not be infringed by the generic product, in which case the applicant may submit its application four years following approval of the reference-listed drug. The FDCA also provides a period of three years of new clinical investigation data exclusivity in connection with the approval of a supplemental indication for the product for which a clinical trial is essential for approval.

In the event that a generic manufacturer is somehow able to obtain FDA approval without adherence to these periods of data exclusivity, the competition that our approved products may face from generic versions could negatively impact our future revenue, profitability and cash flows and substantially limit our ability to obtain a return on our investments in those product candidates.

***Even if we or any collaborators are able to commercialize any product candidates, such products may become subject to unfavorable pricing regulations, third-party reimbursement practices or healthcare reform initiatives, which would harm our business.***

The commercial success of our product candidates will depend substantially, both domestically and abroad, on the extent to which the costs of our product candidates will be paid by third-party payors, including government health administration authorities and private health coverage insurers. If coverage and reimbursement is not available, or reimbursement is available only to limited levels, we, or any collaborators, may not be able to successfully commercialize our product candidates. Even if coverage is provided, the approved reimbursement amount may not be high enough to allow us, or any future collaborators, to establish or maintain pricing sufficient to realize a sufficient return on our or their investments. In the United States, no uniform policy of coverage and reimbursement for products exists among third-party payors and coverage and reimbursement for products can differ significantly from payor to payor. As a result, the coverage determination process is often a time-consuming and costly process that will require us to provide scientific and clinical support for the use of our products to each payor separately, with no assurance that coverage and adequate reimbursement will be applied consistently or obtained in the first instance.

There is significant uncertainty related to third-party payor coverage and reimbursement of newly approved drugs. Marketing approvals, pricing and reimbursement for new drug products vary widely from country to country. Some countries require approval of the sale price of a drug before it can be marketed. In many countries, the pricing review period begins after marketing or product licensing approval is granted. In some foreign markets, prescription pharmaceutical pricing remains subject to continuing governmental control even after initial approval is granted. As a result, we, or any collaborators, might obtain marketing approval for a product in a particular country, but then be subject to price regulations that delay commercial launch of the product, possibly for lengthy time periods, which may negatively impact the revenue we are able to generate from the sale of the product in that country. Adverse pricing limitations may hinder our ability or the ability of any collaborators to recoup our or their investment in one or more product candidates, even if our product candidates obtain marketing approval.

Patients who are provided medical treatment for their conditions generally rely on third-party payors to reimburse all or part of the costs associated with their treatment. Therefore, our ability, and the ability of any collaborators, to commercialize any of our product candidates will depend in part on the extent to which coverage and reimbursement for these products and related treatments will be available from third-party payors. Third-party payors decide which medications they will cover and establish reimbursement levels. The healthcare industry is acutely focused on cost containment, both in the United States and elsewhere. Government authorities and other third-party payors have attempted to control costs by limiting coverage and the amount of reimbursement for particular medications, which could affect our ability or that of any collaborators to sell our product candidates profitably. These payors may not view our products, if any, as cost-effective, and coverage and reimbursement may not be available to our customers, or those of any collaborators, or may not be sufficient to allow our products, if any, to be marketed on a competitive basis. Cost-control initiatives could cause us, or any collaborators, to decrease the price we, or they, might establish for products, which could result in lower than anticipated product revenue. If the prices for our products, if any, decrease or if governmental and other third-party payors do not provide coverage or adequate reimbursement, our

prospects for revenue and profitability will suffer.

There may also be delays in obtaining coverage and reimbursement for newly approved drugs, and coverage may be more limited than the indications for which the drug is approved by the FDA or comparable foreign regulatory authorities. Moreover, eligibility for reimbursement does not imply that any drug will be paid for in all cases or at a rate that covers our costs, including research, development, manufacture, sale and distribution. Reimbursement rates may vary, by way of example, according to the use of the product and the clinical setting in which it is used. Reimbursement rates may also be based on reimbursement levels already set for lower cost drugs or may be incorporated into existing payments for other services.

39

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## Table of Contents

In addition, increasingly, third-party payors are requiring higher levels of evidence of the benefits and clinical outcomes of new technologies and are challenging the prices charged. We cannot be sure that coverage will be available for any product candidate that we, or any collaborator, commercialize and, if available, that the reimbursement rates will be adequate. Further, the net reimbursement for drug products may be subject to additional reductions if there are changes to laws that presently restrict imports of drugs from countries where they may be sold at lower prices than in the United States. An inability to promptly obtain coverage and adequate payment rates from both government-funded and private payors for any of our product candidates for which we, or any collaborator, obtain marketing approval could significantly harm our operating results, our ability to raise capital needed to commercialize products and our overall financial condition.

### ***Product liability lawsuits against us or our collaborators could cause us or our collaborators to incur substantial liabilities and could limit commercialization of any medicines that we or they may develop.***

We and our collaborators face an inherent risk of product liability exposure related to the testing of our product candidates in human clinical trials and will face an even greater risk as we or they commercially sell any medicines that we or they may develop. If we or our collaborators cannot successfully defend ourselves or themselves against claims that our product candidates or medicines caused injuries, we could incur substantial liabilities. Regardless of merit or eventual outcome, liability claims may result in:

- decreased demand for any product candidates or medicines that we may develop;
- injury to our reputation and significant negative media attention;
- withdrawal of clinical trial participants;
- significant costs to defend the related litigation;
- substantial monetary awards to trial participants or patients;
- loss of revenue;
- reduced resources of our management to pursue our business strategy; and
- the inability to commercialize any medicines that we may develop.

Although we maintain product liability insurance coverage, it may not be adequate to cover all liabilities that we may incur. We anticipate that we will need to increase our insurance coverage as we advance or expand our clinical trials and if we successfully commercialize any medicine. Insurance coverage is increasingly expensive. We may not be able to maintain insurance coverage at a reasonable cost or in an amount adequate to satisfy any liability that may arise. In addition, if one of our collaboration partners were to become subject to product liability claims or were unable to successfully defend themselves against such claims, any such collaboration partner could be more likely to terminate such relationship with us and therefore substantially limit the commercial potential of our products.

### ***Our internal computer systems, or those of any collaborators or contractors or consultants, may fail or suffer security breaches, which could result in a material disruption of our product development programs.***

Despite the implementation of security measures, our internal computer systems and those of third parties with which we contract are vulnerable to damage from cyber-attacks, computer viruses, worms and other destructive or disruptive software, unauthorized access, natural disasters, terrorism, war and telecommunication and electrical failures. System failures, accidents or security breaches could cause interruptions in our operations, and could result in a material disruption of our clinical and commercialization activities and business operations, in addition to possibly requiring substantial expenditures of resources to remedy. The loss of clinical trial data could result in delays in our regulatory approval efforts and significantly increase our costs to recover or reproduce the data. To the extent that any disruption or security breach were to result in a loss of, or damage to, our data or applications, or inappropriate disclosure of confidential or proprietary information, we could incur liability and our product research, development and commercialization efforts could be delayed. In addition, we may not have adequate insurance coverage to provide compensation for any losses associated with such events.

We could be subject to risks caused by misappropriation, misuse, leakage, falsification or intentional or accidental release or loss of information maintained in the information systems and networks of our company, including personal information of our employees. In addition, outside parties may attempt to penetrate our systems or those of our vendors or fraudulently induce our employees or employees of our vendors to disclose sensitive information in order to gain access to our data. Like other companies, we may experience threats to our data and systems, including malicious codes and viruses, and other cyber-attacks. The number and complexity of these threats continue to increase

over time. If a material breach of our security or that of our vendors occurs, the market perception of the effectiveness of our security measures could be harmed, we could lose business and our reputation and credibility could be damaged. We could be required to expend significant amounts of money and other resources to repair or replace information systems or networks. Although we develop and maintain systems and controls

40

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## Table of Contents

designed to prevent these events from occurring, and we have a process to identify and mitigate threats, the development and maintenance of these systems, controls and processes is costly and requires ongoing monitoring and updating as technologies change and efforts to overcome security measures become more sophisticated. Moreover, despite our efforts, the possibility of these events occurring cannot be eliminated entirely.

***Compliance with global privacy and data security requirements could result in additional costs and liabilities to us or inhibit our ability to collect and process data globally, and the failure to comply with such requirements could have a material adverse effect on our business, financial condition or results of operations.***

The regulatory framework for the collection, use, safeguarding, sharing, transfer and other processing of information worldwide is rapidly evolving and is likely to remain uncertain for the foreseeable future. Globally, virtually every jurisdiction in which we operate has established its own data security and privacy frameworks with which we must comply. For example, the EU's General Data Protection Regulation 2016/679, or GDPR, imposes strict obligations on the processing of personal data, including personal health data, and the free movement of such data. The GDPR applies to any company established in the EU as well as any company outside the EU that processes personal data in connection with the offering of goods or services to individuals in the EU or the monitoring of their behavior. The GDPR enhances data protection obligations for processors and controllers of personal data, including, for example, obligations relating to: processing health and other sensitive data; obtaining consent of individuals; providing notice to individuals regarding data processing activities; responding to data subject requests; taking certain measures when engaging third-party processors; notifying data subjects and regulators of data breaches; implementing safeguards to protect the security and confidentiality of personal data; and transferring personal data to countries outside the EU, including the United States. The GDPR imposes additional obligations and risks upon our business and substantially increases the penalties to which we could be subject in the event of any non-compliance, including fines of up to €20 million or 4% of total worldwide annual turnover, whichever is higher. The GDPR also confers a private right of action on data subjects and consumer associations to lodge complaints with supervisory authorities, seek judicial remedies and obtain compensation for damages. Given the breadth and depth of changes in data protection obligations, preparing for and complying with the GDPR's requirements has required and will continue to require significant time, resources and a review of our technologies, systems and practices, as well as those of any third-party collaborators, service providers, contractors or consultants that process or transfer personal data collected in the EU. The GDPR and other changes in laws or regulations associated with the enhanced protection of certain types of sensitive data, such as healthcare data or other personal information from our clinical trials, could require us to change our business practices or lead to government enforcement actions, private litigation or significant penalties against us and could have a material adverse effect on our business, financial condition or results of operations.

## **Risks Related to Our Dependence on Third Parties**

***We are reliant on Celgene for the successful development and commercialization of IDHIFA®. If Celgene does not successfully commercialize IDHIFA® for the treatment of adult patients with R/R AML and an IDH2 mutation, our future prospects may be substantially harmed.***

In August 2017, the FDA approved IDHIFA® for the treatment of adult patients with R/R AML and an IDH2 mutation, on the basis of an NDA submitted by Celgene. Although IDHIFA® has received FDA approval in R/R AML with an IDH2 mutation, we and Celgene are still evaluating enasidenib in other clinical trials. Celgene maintains worldwide development and commercial rights to IDHIFA® and will fund the development and commercialization costs related to this program, although we have certain co-commercialization and co-promotion rights to IDHIFA®. Under the 2010 Agreement, Celgene is responsible for all development costs for enasidenib, and we are eligible to receive up to \$80.0 million in milestone payments and a tiered royalty on any net sales of products containing IDHIFA®. Thus, our ability to generate revenue from IDHIFA® will depend heavily on Celgene's successful development and eventual commercialization of the product.

The development and continued commercialization of IDHIFA® (enasidenib) could be unsuccessful if:

- IDHIFA® becomes no longer accepted as safe, efficacious, and cost-effective for the treatment of adult patients with R/R AML and an IDH2 mutation in the medical community and by third-party payors;
- Celgene fails to continue to apply the necessary financial resources and expertise to manufacturing, marketing and selling IDHIFA®;

- Celgene does not continue to develop and implement effective marketing, sales and distribution strategies and operations for development and commercialization of IDHIFA®;
- Celgene does not continue to develop, validate and maintain a commercially viable manufacturing process for IDHIFA® that is compliant with current good manufacturing practices;

41

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## Table of Contents

- Celgene does not successfully obtain third party reimbursement and generate commercial demand that results in sales of IDHIFA®;
- Celgene fails to provide us with timely and accurate information regarding development, sales and marketing activities;
- we or Celgene encounter any third party patent interference, derivation, inter partes review, post-grant review, reexamination or patent infringement claims with respect to enasidenib;
- Celgene does not comply with regulatory and legal requirements applicable to the sale of IDHIFA®;
- competing drug products are approved for the same indications as IDHIFA®;
- new safety risks are identified;
- enasidenib does not demonstrate acceptable safety and efficacy in current or future clinical trials, or otherwise does not meet applicable regulatory standards for approval in indications other than for the treatment of adult patients with R/R AML and an IDH2 mutation; or
- Celgene does not maintain or defend intellectual property rights associated with enasidenib.

We also face the risk that Celgene could determine to reprioritize its commercial or development programs and reduce or terminate its efforts on the development or commercialization of IDHIFA®. For example, on January 3, 2019, Bristol-Myers Squibb, or BMS, and Celgene announced that they have entered into a definitive merger agreement pursuant to which BMS will acquire Celgene in a transaction that is expected to close in the third quarter of 2019, subject to shareholder approval and the satisfaction of customary closing conditions and regulatory approvals. Celgene's merger with BMS could divert the attention of Celgene's management and adversely affect Celgene's ability to retain and motivate key personnel who are important to the continued development of the programs under our agreements with Celgene. In addition, if the transaction is completed as planned, thereafter BMS could determine to reprioritize Celgene's development programs such that it ceases to diligently pursue the development of our programs, and/or cause the agreements between Celgene and us to terminate.

If we or Celgene experience significant delays or an inability to successfully develop and continue to commercialize IDHIFA® (enasidenib), our business would be materially harmed.

***We depend on our collaborations and may depend on collaborations with additional third parties for the development and commercialization of our product candidates. If those collaborations are not successful, we may not be able to capitalize on the market potential of these product candidates.***

We are party to several collaboration agreements, including the 2010 Agreement and the 2016 Agreement with Celgene, and the CStone Agreement. These collaborations involve complex allocations of rights, provide for milestone payments to us based on the achievement of specified clinical development, regulatory and commercial milestones, provide us with royalty-based revenue if certain product candidates are successfully commercialized and provide for cost reimbursements of certain development activities. We cannot predict the success of these collaborations.

We may seek other third-party collaborators for the development and commercialization of our product candidates. Our likely collaborators for any collaboration arrangements include large and mid-size pharmaceutical companies, regional and national pharmaceutical companies and biotechnology companies. If we enter into any such arrangements with any third parties, we will likely have limited control over the amount and timing of resources that our collaborators dedicate to the development or commercialization of our product candidates. Our ability to generate revenue from these arrangements will depend on our collaborators' abilities to successfully perform the functions assigned to them in these arrangements.

Collaborations involving our product candidates, including our collaborations with Celgene and CStone, pose the following risks to us:

- Collaborators have significant discretion in determining the efforts and resources that they will apply to these collaborations. Under the 2010 Agreement, programs under a co-development and co-commercialization agreement pursuant to the 2016 Agreement and the CStone Agreement, development and commercialization plans and strategies for licensed programs, such as enasidenib, or in the CStone Territory, ivosidenib, will be conducted in accordance with a plan and budget approved by a joint committee comprised of equal numbers of representatives from each of us and Celgene or CStone, as to which Celgene or CStone, as applicable, may have final decision-making authority.

•Collaborators may not pursue development and commercialization of our product candidates or may elect not to continue or renew development or commercialization programs based on clinical trial results, changes in the collaborator's strategic focus or available funding or external factors such as an acquisition that diverts resources or creates competing priorities. For example, under the 2016 Agreement, it is possible for Celgene to elect not to progress into preclinical development a product candidate that we have nominated and the joint research committee confirmed, without triggering a termination of the collaboration arrangement.

42

---

## Table of Contents

- Collaborators may delay clinical trials, provide insufficient funding for a clinical trial program, stop a clinical trial or abandon a product candidate, repeat or conduct new clinical trials or require a new formulation of a product candidate for clinical testing, which may result in a need for additional capital to pursue further development or commercialization of the applicable product candidate. For example, under the 2010 Agreement and the 2016 Agreement, it is possible for Celgene to terminate the agreement, upon 90 days prior written notice, with respect to any product candidate at any point in the research, development and clinical trial process, without triggering a termination of the remainder of the collaboration arrangement.
- Collaborators could independently develop, or develop with third parties, products that compete directly or indirectly with our medicines or product candidates if the collaborators believe that competitive products are more likely to be successfully developed or can be commercialized under terms that are more economically attractive than ours.
- Collaborators with marketing and distribution rights to one or more medicines may not commit sufficient resources to the marketing and distribution of such medicine or medicines.
- Collaborators may not properly maintain or defend our intellectual property rights or may use our proprietary information in such a way as to invite litigation that could jeopardize or invalidate our proprietary information or expose us to potential litigation. For example, under specified circumstances Celgene has the first right to maintain or defend our intellectual property rights with respect to enasidenib under the 2010 Agreement and, although we may have the right to assume the maintenance and defense of our intellectual property rights if Celgene does not, our ability to do so may be compromised by Celgene's actions.
- Disputes may arise between the collaborators and us that result in the delay or termination of the research, development or commercialization of our medicines or product candidates or that result in costly litigation or arbitration that diverts management attention and resources.
- We may lose certain valuable rights under circumstances identified in our collaborations, including, in the case of our agreements with Celgene, if we undergo a change of control.
- Collaborations may be terminated and, if terminated, may result in a need for additional capital to pursue further development or commercialization of the applicable product candidates. For example, in September 2018, we and Celgene agreed to terminate the AG-881 Agreements effective as of September 4, 2018, as a result of which we will be responsible for future development costs of vorasidenib, other than certain agreed-up costs which we and Celgene had split until December 31, 2018. Celgene can terminate its remaining agreements with us, in their entirety or with respect to enasidenib under the 2010 Agreement or any program under the 2016 Agreement, upon 90 days' notice and can terminate each entire agreement with us in connection with a material breach of the agreement by us that remains uncured for a period ranging from 60 to 90 days. CStone has the right, under certain circumstances, to terminate the CStone Agreement upon advance notice to us, and may, subject to specified cure periods, terminate the CStone Agreement in the event of our uncured material breach or under specified circumstances relating to our insolvency.
- Collaboration agreements may not lead to development or commercialization of product candidates in the most efficient manner or at all.
- If present or future collaborators of ours were to be involved in a business combination, the continued pursuit and emphasis on our product development or commercialization program under such collaboration could be delayed, diminished or terminated. For example, the planned acquisition of Celgene by BMS could divert the attention of Celgene's management and adversely affect Celgene's ability to retain and motivate key personnel who are important to the continued development of the programs under our agreements with Celgene. In addition, if the transaction is completed as planned, thereafter BMS could determine to reprioritize Celgene's development programs such that it ceases to diligently pursue the development of our programs, and/or cause the agreements between Celgene and us to terminate.

***We may seek to establish additional collaborations, and, if we are not able to establish them on commercially reasonable terms, we may have to alter our development and commercialization plans.***

Our drug development programs and the potential commercialization of our product candidates will require substantial additional cash to fund expenses. For some of our product candidates, we may decide to collaborate with additional pharmaceutical and biotechnology companies for the development and potential commercialization of those product candidates.

We face significant competition in seeking appropriate collaborators. Whether we reach a definitive agreement for a collaboration will depend, among other things, upon our assessment of the collaborator's resources and expertise, the terms and conditions of the proposed collaboration and the proposed collaborator's evaluation of a number of factors. Those factors may include the design or results of clinical trials, the likelihood of approval by the FDA or similar regulatory authorities outside the United States, the potential market for the subject product candidate, the costs and complexities of manufacturing and

43

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## Table of Contents

delivering such product candidate to patients, the potential of competing products, the existence of uncertainty with respect to our ownership of technology, which can exist if there is a challenge to such ownership without regard to the merits of the challenge, and industry and market conditions generally. The collaborator may also consider alternative product candidates or technologies for similar indications that may be available to collaborate on and whether such collaboration could be more attractive than the one with us for our product candidate.

We may also be restricted under existing collaboration agreements from entering into future agreements on certain terms with potential collaborators. For example, during the discovery phase of the 2016 Agreement, we may not directly or indirectly develop, manufacture or commercialize, except pursuant to the agreement, any medicine or product candidate with specified activity against certain metabolic targets except in connection with certain third-party collaborations or with respect to certain targets the rights to which have reverted back to us pursuant to the terms of the 2016 Agreement. Following the discovery phase until termination or expiration of the 2010 Agreement, either in its entirety or with respect to the relevant program, we may not directly or indirectly develop, manufacture or commercialize, outside of the collaboration, any medicine or product candidate with specified activity against any collaboration target that is within a licensed program or against any former collaboration target against which Celgene is conducting an independent program under the agreement. Following the discovery phase of the 2016 Agreement until termination or expiration of the applicable co-development and co-commercialization agreement or license agreement under the 2016 Agreement, we may not directly or indirectly develop, manufacture or commercialize, outside of the collaboration, any medicine or product candidate with specified activity against the collaboration target that is the subject of such co-development and co-commercialization agreement or license agreement, except in connection with certain third-party collaborations or with respect to certain targets the rights to which have reverted back to us pursuant to the terms of the 2016 Agreement. During the term of the CStone Agreement, we are prohibited from developing or commercializing, in the CStone Territory and in specified indications, other compounds or products that inhibit IDH1 mutations at specified levels of binding.

Collaborations are complex and time-consuming to negotiate and document. In addition, there have been a significant number of business combinations among large pharmaceutical companies that have resulted in a reduced number of potential future collaborators.

We may not be able to negotiate collaborations on a timely basis, on acceptable terms, or at all. If we are unable to do so, we may have to curtail the development of the product candidate for which we are seeking to collaborate, reduce or delay its development program or one or more of our other development programs, delay its potential commercialization or reduce the scope of any sales or marketing activities, or increase our expenditures and undertake development or commercialization activities at our own expense. If we elect to increase our expenditures to fund development or commercialization activities on our own, we may need to obtain additional capital, which may not be available to us on acceptable terms or at all. If we do not have sufficient funds, we may not be able to further develop our product candidates or bring them to market and generate product revenue.

***We rely and expect to continue to rely on third parties to conduct our clinical trials and some aspects of our research and preclinical testing, and those third parties may not perform satisfactorily, including failing to meet deadlines for the completion of such trials, research or testing.***

We do not independently conduct clinical trials of any of our product candidates. We rely and expect to continue to rely on third parties, such as CROs, clinical data management organizations, medical institutions and clinical investigators, to conduct our clinical trials. In addition, we currently rely and expect to continue to rely on third parties to conduct some aspects of our research and preclinical testing. Any of these third parties may terminate their engagements with us, some in the event of an uncured material breach and some at any time. If any of our relationships with these third parties terminate, we may not be able to enter into arrangements with alternative third-parties or to do so on commercially reasonable terms. Switching or adding additional third parties involves additional cost and requires management time and focus. In addition, there is a natural transition period when a new third party commences work. As a result, delays may occur in our product development activities. Although we seek to carefully manage our relationships with our CROs, we could encounter similar challenges or delays in the future and these challenges or delays could have a material adverse impact on our business, financial condition and prospects.

Our reliance on third parties for research and development activities will reduce our control over these activities but will not relieve us of our responsibilities. For example, we are responsible for ensuring that each of our studies is conducted in accordance with the applicable protocol, and legal, regulatory and scientific standards, and our reliance on third parties does not relieve us of our responsibility to comply with any such standards. We and these third parties are required to comply with current good clinical practices, or cGCP, which are regulations and guidelines enforced by the FDA, the Competent Authorities of the Member States of the European Economic Area and comparable foreign regulatory authorities for all of our products in clinical development. Regulatory authorities enforce these cGCPs through periodic inspections of trial sponsors, principal investigators and trial sites. If we or any of these third parties fail to comply with applicable cGCPs, the clinical data generated in our clinical trials may be deemed unreliable and the FDA, the EMA, or comparable foreign regulatory authorities may

44

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## Table of Contents

require us to perform additional clinical trials before approving our marketing applications. We cannot assure you that upon inspection by a given regulatory authority, such regulatory authority will determine that any of our clinical trials comply with cGCP regulations. In addition, our clinical trials must be conducted with product produced under current good manufacturing practices, or cGMP, regulations. Our failure to comply with these regulations may require us to repeat clinical trials, which would delay the regulatory approval process. We also are required to register ongoing clinical trials and post the results of completed clinical trials on a U.S. government-sponsored database, [clinicaltrials.gov](http://clinicaltrials.gov), within certain timeframes. Failure to do so can result in fines, adverse publicity and civil and criminal sanctions.

Furthermore, third parties on whom we rely may also have relationships with other entities, some of which may be our competitors. In addition, these third parties are not our employees, and except for remedies available to us under our agreements with such third parties, we cannot control whether or not they devote sufficient time and resources to our on-going clinical, nonclinical and preclinical programs. If these third parties do not successfully carry out their contractual duties or obligations or meet expected deadlines, if they need to be replaced or if the quality or accuracy of the clinical data they obtain is compromised due to the failure to adhere to our clinical protocols, regulatory requirements or for other reasons, our clinical trials may be extended, delayed or terminated and we may not be able to obtain, or may be delayed in obtaining, marketing approvals for our product candidates and will not be able to, or may be delayed in our efforts to, successfully commercialize our medicines. As a result, our results of operations and the commercial prospects for our medicines would be harmed, our costs could increase and our ability to generate revenue could be delayed.

We also rely and expect to continue to rely on other third parties to store and distribute drug supplies for our clinical trials. Any performance failure on the part of our distributors could delay clinical development or marketing approval of our product candidates or commercialization of our medicines, producing additional losses and depriving us of potential product revenue.

***We contract with third parties for the manufacture of our product candidates for preclinical and clinical testing and expect to continue to do so for late-stage clinical trials and for commercialization. This reliance on third parties increases the risk that we will not have sufficient quantities of our product candidates or medicines or that such supply will not be available to us at an acceptable cost, which could delay, prevent or impair our development or commercialization efforts.***

We do not have any manufacturing facilities. We currently rely, and expect to continue to rely, on third-party manufacturers for the manufacture of our product candidates for preclinical and clinical testing and for commercial supply of any of these product candidates for which we or our collaborators obtain marketing approval. To date, we have obtained materials for our product candidates for our ongoing preclinical and clinical testing from third-party manufacturers.

Although we have long-term supply agreements in place for commercial supply of TIBSOVO® with third-party manufacturers, we may be unable to establish any further long-term supply agreements with third-party manufacturers or to do so on acceptable terms. Even if we are able to establish agreements with third-party manufacturers, reliance on third-party manufacturers entails additional risks, including:

- reliance on the third party for regulatory compliance and quality assurance;
- the possible breach of the manufacturing agreement by the third party;
- the possible termination or nonrenewal of the agreement by the third party at a time that is costly or inconvenient for us; and
- reliance on the third party for regulatory compliance, quality assurance, environmental and safety and pharmacovigilance reporting.

Third-party manufacturers may not be able to comply with cGMP regulations or similar regulatory requirements on a global basis. Our failure, or the failure of our third-party manufacturers, to comply with applicable regulations could result in sanctions being imposed on us, including fines, injunctions, civil penalties, delays, suspension or withdrawal of approvals, license revocation, seizures or recalls of product candidates or medicines, operating restrictions and criminal prosecutions, any of which could significantly and adversely affect supplies of our medicines and harm our business and results of operations.

Any medicines that we may develop may compete with other product candidates and products for access to manufacturing facilities. There are a limited number of manufacturers that operate under cGMP regulations and that might be capable of manufacturing for us.

Any performance failure on the part of our existing or future manufacturers could delay clinical development or marketing approval. We do not currently have arrangements in place for redundant supply for bulk drug substance or drug product. If any one of our current contract manufacturers cannot perform as agreed, we may be required to replace that manufacturer. Although we believe that there are several potential alternative manufacturers who could manufacture our product candidates, we may incur added costs and delays in identifying and qualifying any such replacement.

45

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## Table of Contents

Our current and anticipated future dependence upon others for the manufacture of our product candidates or medicines may adversely affect our future profit margins and our ability to commercialize any medicines that receive marketing approval on a timely and competitive basis.

### **Risks Related to Our Intellectual Property**

***If we are unable to obtain and maintain patent or trade secret protection for our medicines and technology, or if the scope of the patent protection obtained is not sufficiently broad, our competitors could develop and commercialize medicines and technology similar or identical to ours, and our ability to successfully commercialize our medicines and technology may be adversely affected.***

Our success depends in large part on our ability to obtain and maintain patent protection in the United States and other countries with respect to our proprietary medicines and technology. We seek to protect our proprietary position by filing patent applications in the United States and abroad related to our novel technologies and medicines that are important to our business. We do not yet have issued patents for all our most advanced product candidates in all markets we intend to commercialize.

The patent prosecution process is expensive and time-consuming, and we may not be able to file and prosecute all necessary or desirable patent applications at a reasonable cost or in a timely manner. It is also possible that we will fail to identify patentable aspects of our research and development output before it is too late to obtain patent protection. Although we enter into non-disclosure and confidentiality agreements with parties who have access to patentable aspects of our research and development output, such as our employees, corporate collaborators, outside scientific collaborators, contract research organizations, contract manufacturers, consultants, advisors and other third parties, any of these parties may breach the agreements and disclose such output before a patent application is filed, thereby jeopardizing our ability to seek patent protection.

We have licensed patent rights, and in the future may license additional patent rights, from third parties. These licensed patent rights may be valuable to our business, and we may not have the right to control the preparation, filing and prosecution of patent applications, or to maintain the patents, covering technology or medicines underlying such licenses. We cannot be certain that these patents and applications will be prosecuted and enforced in a manner consistent with the best interests of our business. If any such licensors fail to maintain such patents, or lose rights to those patents, the rights we have licensed may be reduced or eliminated and our right to develop and commercialize any of our products that are the subject of such licensed rights could be adversely affected. In addition to the foregoing, the risks associated with patent rights that we license from third parties also apply to patent rights we own. The patent position of biotechnology and pharmaceutical companies generally is highly uncertain, involves complex legal and factual questions and has in recent years been the subject of much litigation. As a result, the issuance, scope, validity, enforceability and commercial value of our patent rights are highly uncertain. Our pending and future patent applications may not result in patents being issued that protect our technology or medicines or that effectively prevent others from commercializing competitive technologies and medicines. Changes in either the patent laws or interpretation of the patent laws in the United States and other countries may diminish the value of our patents or narrow the scope of our patent protection. The laws of foreign countries may not protect our rights to the same extent as the laws of the United States. Publications of discoveries in the scientific literature often lag behind the actual discoveries, and patent applications in the United States and other jurisdictions are typically not published until 18 months after filing, or in some cases not at all. Therefore we cannot be certain that we were the first to make the inventions claimed in our owned or licensed patents or pending patent applications, or that we were the first to file for patent protection of such inventions.

Assuming the other requirements for patentability are met, prior to March 2013, in the United States, the first to make the claimed invention was entitled to the patent, while outside the United States, the first to file a patent application was entitled to the patent. Beginning in March 2013, the United States transitioned to a first inventor to file system in which, assuming the other requirements for patentability are met, the first inventor to file a patent application will be entitled to the patent. We may be subject to a third-party preissuance submission of prior art to the U.S. Patent and Trademark Office, or PTO, or become involved in opposition, derivation, revocation, reexamination, post-grant and inter partes review or interference proceedings challenging our patent rights or the patent rights of others. An adverse determination in any such submission, proceeding or litigation could reduce the scope of, or invalidate, our patent rights, allow third parties to commercialize our technology or products and compete directly with us, without payment

to us, or result in our inability to manufacture or commercialize medicines without infringing third-party patent rights. Even if our patent applications issue as patents, they may not issue in a form that will provide us with any meaningful protection, prevent competitors or other third parties from competing with us or otherwise provide us with any competitive advantage. Our competitors or other third parties may be able to circumvent our patents by developing similar or alternative technologies or products in a non-infringing manner.

46

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## Table of Contents

The issuance of a patent is not conclusive as to its inventorship, scope, validity or enforceability, and our patents may be challenged in the courts or patent offices in the United States and abroad. Such challenges may result in loss of exclusivity or in patent claims being narrowed, invalidated or held unenforceable, which could limit our ability to stop others from using or commercializing similar or identical technology and products, or limit the duration of the patent protection of our technology and medicines. Given the amount of time required for the development, testing and regulatory review of new product candidates, patents protecting such candidates might expire before or shortly after such candidates are commercialized. As a result, our intellectual property may not provide us with sufficient rights to exclude others from commercializing products similar or identical to ours.

***We may become involved in lawsuits to protect or enforce our patents and other intellectual property rights, which could be expensive, time consuming and unsuccessful.***

Competitors may infringe our patents and other intellectual property rights. To counter infringement or unauthorized use, we may be required to file infringement claims, which can be expensive and time consuming. In addition, in an infringement proceeding, a court may decide that a patent of ours is invalid or unenforceable, or may refuse to stop the other party from using the technology at issue on the grounds that our patents do not cover the technology in question. An adverse result in any litigation proceeding could put one or more of our patents at risk of being invalidated or interpreted narrowly. Furthermore, because of the substantial amount of discovery required in connection with intellectual property litigation, there is a risk that some of our confidential information could be compromised by disclosure during this type of litigation.

***Third parties may initiate legal proceedings alleging that we or our collaborators are infringing their intellectual property rights, the outcome of which would be uncertain and could have a material adverse effect on the success of our business.***

Our commercial success depends upon our ability and the ability of our collaborators to develop, manufacture, market and sell our product candidates and use our proprietary technologies without infringing the proprietary rights and intellectual property of third parties. The biotechnology and pharmaceutical industries are characterized by extensive litigation regarding patents and other intellectual property rights. We have in the past and may in the future become party to, or threatened with, adversarial proceedings or litigation regarding intellectual property rights with respect to our medicines and technology, including interference proceedings before the PTO. For example, in 2011, The Leonard and Madlyn Abramson Family Cancer Research Institute at the Abramson Cancer Center of the University of Pennsylvania initiated a lawsuit against us, one of our founders, Craig B. Thompson, M.D., and Celgene, alleging misappropriation of intellectual property and, in 2012, the Trustees of the University of Pennsylvania initiated a similar lawsuit against us and Dr. Thompson. Each of these lawsuits was settled in 2012. We are not aware of any other legal proceedings having been filed against us to date. Third parties may assert infringement claims against us based on existing patents or patents that may be granted in the future. If we or one of our collaborators are found to infringe a third party's intellectual property rights, we or they could be required to obtain a license from such third party to continue developing and marketing our medicines and technology. However, we or our collaborators may not be able to obtain any required license on commercially reasonable terms or at all. Even if we or our collaborators were able to obtain a license, it could be non-exclusive, thereby giving our competitors and other third parties access to the same technologies licensed to us. We or our collaborators could be forced, including by court order, to cease developing and commercializing the infringing technology or medicine. In addition, we or our collaborators could be found liable for monetary damages. A finding of infringement could prevent us or our collaborators from commercializing our product candidates or force us to cease some of our business operations, which could materially harm our business. Claims that we or our collaborators have misappropriated the confidential information or trade secrets of third parties could have a similar negative impact on our business.

***We may be subject to claims that our employees have wrongfully used or disclosed alleged trade secrets of their former employers.***

Many of our employees, consultants or advisors are currently or were previously employed at universities or other biotechnology or pharmaceutical companies, including our competitors or potential competitors. Although we try to ensure that our employees, consultants and advisors do not use the proprietary information or know-how of others in their work for us, we may be subject to claims that we or these individuals have used or disclosed intellectual property, including trade secrets or other proprietary information, of any such individual's current or former employer.

Litigation may be necessary to defend against these claims. If we fail in defending any such claims, in addition to paying monetary damages, we may lose valuable intellectual property rights or personnel. Even if we are successful in defending against such claims, litigation could result in substantial costs and be a distraction to our management.

***Intellectual property litigation could cause us to spend substantial resources and distract our personnel from their normal responsibilities.***

Even if resolved in our favor, litigation or other legal proceedings relating to intellectual property claims may cause us to incur significant expenses, and could distract our technical and management personnel from their normal responsibilities. In addition, there could be public announcements of the results of hearings, motions or other interim proceedings or developments and if

47

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## Table of Contents

securities analysts or investors perceive these results to be negative, it could have a substantial adverse effect on the price of our common stock. Such litigation or proceedings could substantially increase our operating losses and reduce the resources available for development activities or any future sales, marketing or distribution activities. We may not have sufficient financial or other resources to adequately conduct such litigation or proceedings. Some of our competitors may be able to sustain the costs of such litigation or proceedings more effectively than we can because of their greater financial resources and more mature and developed intellectual property portfolios. Uncertainties resulting from the initiation and continuation of patent litigation or other proceedings could have a material adverse effect on our ability to compete in the marketplace.

***If we are unable to protect the confidentiality of our trade secrets, our business and competitive position would be harmed.***

In addition to seeking patents for some of our technology and medicines, we also rely on trade secrets, including unpatented know-how, technology and other proprietary information, to maintain our competitive position. With respect to our proprietary cellular metabolism technology platform, we consider trade secrets and know-how to be our primary intellectual property. Trade secrets and know-how can be difficult to protect. In particular, we anticipate that with respect to this technology platform, these trade secrets and know-how will over time be disseminated within the industry through independent development, the publication of journal articles describing the methodology, and the movement of personnel skilled in the art from academic to industry scientific positions.

We seek to protect these trade secrets, in part, by entering into non-disclosure and confidentiality agreements with parties who have access to them, such as our employees, corporate collaborators, outside scientific collaborators, contract research organizations, contract manufacturers, consultants, advisors and other third parties. We also enter into confidentiality and invention or patent assignment agreements with our employees and consultants. Despite these efforts, any of these parties may breach the agreements and disclose our proprietary information, including our trade secrets, and we may not be able to obtain adequate remedies for such breaches. Enforcing a claim that a party illegally disclosed or misappropriated a trade secret is difficult, expensive and time-consuming, and the outcome is unpredictable. In addition, some courts inside and outside the United States are less willing or unwilling to protect trade secrets. If any of our trade secrets were to be lawfully obtained or independently developed by a competitor or other third party, we would have no right to prevent them from using that technology or information to compete with us. If any of our trade secrets were to be disclosed to or independently developed by a competitor or other third party, our competitive position would be harmed.

## **Risks Related to Regulatory Approval of Our Product Candidates and Other Legal Compliance Matters**

***Even if we complete necessary preclinical studies and clinical trials, the marketing approval process is expensive, time-consuming and uncertain and may prevent us from obtaining approvals for the commercialization of some or all of our product candidates. If we or our collaborators are not able to obtain, or if there are delays in obtaining, required regulatory approvals, we or they will not be able to commercialize, or will be delayed in commercializing, our product candidates, and our ability to generate revenue will be materially impaired.***

Our product candidates and the activities associated with their development and commercialization, including their design, testing, manufacture, safety, efficacy, record keeping, labeling, storage, approval, advertising, promotion, sale and distribution, export and import, are subject to comprehensive regulation by the FDA and other regulatory agencies in the United States and by the EMA and comparable regulatory authorities in other countries. With the exception of IDHIFA® and TIBSOVO®, we and our collaborators have not received approval to market any of our product candidates from regulatory authorities in any jurisdiction. Celgene has submitted an MAA to the EMA for IDHIFA® for IDH2 mutant-positive AML and we submitted an MAA to the EMA for TIBSOVO® for the treatment of adult patients with IDH1 mutant-positive R/R AML and an sNDA to the FDA for TIBSOVO® for the treatment of patients with newly-diagnosed AML with an IDH1 mutation who are not eligible for standard treatment. Failure to obtain marketing approval for a product candidate will prevent us from commercializing the product candidate. We have only limited experience in filing and supporting the applications necessary to gain marketing approvals and expect to rely on third-party contract research organizations to assist us in this process.

Securing marketing approval requires the submission of extensive preclinical and clinical data and supporting information to the various regulatory authorities for each therapeutic indication to establish the product candidate's safety and efficacy. Securing regulatory approval also requires the submission of information about the product

manufacturing process to, and inspection of manufacturing facilities by, the relevant regulatory authority. Our product candidates may not be effective, may be only moderately effective or may prove to have undesirable or unintended side effects, toxicities or other characteristics that may preclude our obtaining marketing approval or prevent or limit commercial use.

The process of obtaining marketing approvals, both in the United States and abroad, is expensive, may take many years if additional clinical trials are required, if approval is obtained at all, and can vary substantially based upon a variety of factors, including the type, complexity and novelty of the product candidates involved. Changes in marketing approval policies during the development period, changes in or the enactment of additional statutes or regulations, or changes in regulatory review for each submitted product application, may cause delays in the approval or rejection of an application. The FDA and comparable

48

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## Table of Contents

authorities in other countries have substantial discretion in the approval process and may refuse to accept any application we submit, or may decide that our data is insufficient for approval and require additional preclinical, clinical or other studies. In addition, varying interpretations of the data obtained from preclinical and clinical testing could delay, limit or prevent marketing approval of a product candidate. Any marketing approval we or our collaborators ultimately obtain may be limited or subject to restrictions or post-approval commitments that render the approved medicine not commercially viable.

Accordingly, if we or our collaborators experience delays in obtaining approval or if we or they fail to obtain approval of our product candidates, the commercial prospects for our product candidates may be harmed and our ability to generate revenue will be materially impaired.

### ***Failure to obtain marketing approval in foreign jurisdictions would prevent our medicines from being marketed in such jurisdictions.***

In order to market and sell our medicines in the EU and many other jurisdictions, we or our collaborators must obtain separate marketing approvals and comply with numerous and varying regulatory requirements. The approval procedure varies among countries and can involve additional testing. The time required to obtain approval may differ substantially from that required to obtain FDA approval. The regulatory approval process outside the United States generally includes all of the risks associated with obtaining FDA approval. In addition, in many countries outside the United States, a product must be approved for reimbursement before the product can be approved for sale in that country. We or our collaborators may not obtain approvals from regulatory authorities outside the United States on a timely basis, if at all. In particular, although Celgene has submitted an MAA to the EMA for IDHIFA® for IDH2 mutant-positive AML, and we submitted an MAA to the EMA for TIBSOVO® for the treatment of adult patients with IDH1 mutant-positive R/R AML, Celgene or we may not be successful in obtaining EMA approval of IDHIFA® or TIBSOVO®, respectively, on a timely basis, or ever. Moreover, approval by the FDA does not ensure approval by regulatory authorities in other countries or jurisdictions, and approval by one regulatory authority outside the United States does not ensure approval by regulatory authorities in other countries or jurisdictions or by the FDA. We may not be able to file for marketing approvals and may not receive necessary approvals to commercialize our medicines in any market.

Additionally, on June 23, 2016, the electorate in the United Kingdom voted in favor of leaving the EU, commonly referred to as Brexit. On March 29, 2017, the country formally notified the EU of its intention to withdraw pursuant to Article 50 of the Lisbon Treaty. The United Kingdom had a period of a maximum of two years from the date of its formal notification to negotiate the terms of its withdrawal from, and future relationship with, the EU. If no formal withdrawal agreement can be reached between the United Kingdom and the EU, then it is expected that the United Kingdom's membership of the EU would automatically terminate on the deadline, which was initially March 29, 2019. That deadline has been extended to October 31, 2019 to allow the parties to negotiate a withdrawal agreement, which has proven to be extremely difficult to date. Discussions between the United Kingdom and the EU will continue to focus on withdrawal issues and transition agreements. However, limited progress to date in these negotiations and ongoing uncertainty within the UK Government and Parliament sustains the possibility of the United Kingdom leaving the EU without a withdrawal agreement and associated transition period in place, which is likely to cause significant market and economic disruption.

Since a significant proportion of the regulatory framework in the United Kingdom is derived from EU directives and regulations, the referendum could materially impact the regulatory regime with respect to the approval of our product candidates in the United Kingdom or the EU. Any delay in obtaining, or an inability to obtain, any marketing approvals, as a result of Brexit or otherwise, would prevent us from commercializing our product candidates in the United Kingdom and/or the EU and restrict our ability to generate revenue and achieve and sustain profitability. If any of these outcomes occur, we may be forced to restrict or delay efforts to seek regulatory approval in the United Kingdom and/or EU for our product candidates, which could significantly and materially harm our business. Furthermore, other European countries may seek to conduct referenda with respect to continuing membership with the EU. We do not know to what extent Brexit or other comparable initiatives, or any resulting changes, would affect our ability to conduct clinical trials or obtain marketing approval in these jurisdictions, and each could materially impact our ability to conduct clinical trials or obtain marketing approval on a timely basis, or at all.

***A fast track designation by the FDA may not actually lead to a faster development or regulatory review or approval process, nor does it assure approval of the product candidate by FDA.***

In the United States, enasidenib and ivosidenib received fast track designation for treatment of patients with AML that harbor an IDH2 and IDH1 mutation, respectively. If a drug is intended for the treatment of a serious or life-threatening disease or condition and the drug demonstrates the potential to address unmet medical needs for this disease or condition, the drug sponsor may apply for FDA fast track designation. The FDA has broad discretion whether or not to grant fast track designation, so even if we believe a particular product candidate is eligible for such designation, the FDA may decide not to grant it. Even if our product candidates receive fast track designation, we may not experience a faster development process, review or approval, if at

49

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## Table of Contents

all, compared to conventional FDA procedures. The FDA may withdraw fast track designation if it believes that the designation is no longer supported by data from our clinical development program.

***We, or any collaborators, may not be able to obtain orphan drug designation or orphan drug exclusivity for our drug candidates and, even if we do, that exclusivity may not prevent the FDA or the EMA from approving competing drugs.***

Regulatory authorities in some jurisdictions, including the United States and Europe, may designate drugs and biologics for relatively small patient populations as orphan drugs. Under the Orphan Drug Act, the FDA may designate a product as an orphan drug if it is a drug or biologic 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. Generally, if a product with an orphan drug designation subsequently receives the first marketing approval for the indication for which it has such designation, the product is entitled to a period of marketing exclusivity, which precludes the EMA or the FDA from approving another marketing application for the same product for that time period. The applicable period is seven years in the United States and ten years in Europe. The European exclusivity period can be reduced to six years if a product no longer meets the criteria for orphan drug designation or if the product is sufficiently profitable so that market exclusivity is no longer justified. Orphan drug exclusivity may be lost if the FDA or EMA determines that the request for designation was materially defective or if the manufacturer is unable to assure sufficient quantity of the product to meet the needs of patients with the rare disease or condition. Moreover, even after an orphan drug is approved, the FDA can subsequently approve a different product for the same condition if the FDA concludes that the later product is clinically superior in that it is shown to be safer, more effective or makes a major contribution to patient care.

On August 3, 2017, the Congress passed the FDA Reauthorization Act of 2017, or FDARA. FDARA, among other things, codified the FDA's pre-existing regulatory interpretation, to require that a drug sponsor demonstrate the clinical superiority of an orphan drug that is otherwise the same as a previously approved drug for the same rare disease in order to receive orphan drug exclusivity. The new legislation reverses prior precedent holding that the Orphan Drug Act unambiguously requires that the FDA recognize the orphan exclusivity period regardless of a showing of clinical superiority. The FDA may further reevaluate the Orphan Drug Act and its regulations and policies. We do not know if, when, or how the FDA may change the orphan drug regulations and policies in the future, and it is uncertain how any changes might affect our business. Depending on what changes the FDA may make to its orphan drug regulations and policies, our business could be adversely impacted.

***Any product candidate for which we or our collaborators obtain marketing approval could be subject to restrictions or withdrawal from the market and we may be subject to substantial penalties if we fail to comply with regulatory requirements or if we experience unanticipated problems with our medicines, when and if any of them are approved.***

Any product candidate for which we or our collaborators obtain marketing approval, along with the manufacturing processes, post-approval clinical data, labeling, advertising and promotional activities for such medicine, will be subject to continual requirements of and review by the FDA and other regulatory authorities. These requirements include submissions of safety and other post-marketing information and reports, registration and listing requirements, cGMP requirements relating to quality control and manufacturing, quality assurance and corresponding maintenance of records and documents, and requirements regarding the distribution of samples to physicians and record keeping. Even if marketing approval of a product candidate is granted, the approval may be subject to limitations on the indicated uses for which the medicine may be marketed or to the conditions of approval, or contain requirements for costly post-marketing testing and surveillance to monitor the safety or efficacy of the medicine, including the requirement to implement a risk evaluation and mitigation strategy.

The FDA and other agencies, including the Department of Justice, or the DOJ, closely regulate and monitor the post-approval marketing and promotion of products to ensure that they are marketed and distributed only for the approved indications and in accordance with the provisions of the approved labeling. The FDA and DOJ impose stringent restrictions on manufacturers' communications regarding off-label use and if we do not market our medicines for their approved indications, we may be subject to enforcement action for off-label marketing. Violations of the FDCA and other statutes, including the False Claims Act, relating to the promotion and advertising of prescription drugs may lead to investigations and enforcement actions alleging violations of federal and state health care fraud and

abuse laws, as well as state consumer protection laws, which violations may result in the imposition of significant administrative, civil and criminal penalties.

In addition, later discovery of previously unknown adverse events or other problems with our medicines, manufacturers or manufacturing processes, or failure to comply with regulatory requirements, may yield various results, including:

- restrictions on such medicine, manufacturers or manufacturing processes;
- restrictions on the labeling or marketing of a medicine;
- restrictions on distribution or use of a medicine;
- requirements to conduct post-marketing studies or clinical trials;

50

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## Table of Contents

- warning letters or untitled letters;
- withdrawal of the medicine from the market;
- refusal to approve pending applications or supplements to approved applications that we submit;
- recall of medicines;
- damage to relationships with any potential collaborators;
- unfavorable press coverage and damage to our reputation;
- fines, restitution or disgorgement of profits or revenue;
- suspension or withdrawal of marketing approvals;
- refusal to permit the import or export of our medicines;
- product seizure;
- injunctions or the imposition of civil or criminal penalties; and
- litigation involving patients using our medicines.

Non-compliance with EU requirements regarding safety monitoring or pharmacovigilance, and with requirements related to the development of products for the pediatric population, can also result in significant financial penalties. Similarly, failure to comply with the EU requirements regarding the protection of personal information can also lead to significant penalties and sanctions.

***Our relationships with healthcare providers, physicians and third-party payors will be subject to applicable anti-kickback, fraud and abuse and other healthcare laws and regulations, which, in the event of a violation, could expose us to criminal sanctions, civil penalties, contractual damages, reputational harm and diminished profits and future earnings.***

Healthcare providers, physicians and third-party payors will play a primary role in the recommendation and prescription of any product candidates for which we obtain marketing approval. Our future arrangements with healthcare providers, physicians and third-party payors may expose us to broadly applicable fraud and abuse and other healthcare laws and regulations that may constrain the business or financial arrangements and relationships through which we market, sell and distribute any medicines for which we obtain marketing approval. Restrictions under applicable federal and state healthcare laws and regulations include the following:

- the federal Anti-Kickback Statute prohibits, among other things, persons from knowingly and willfully soliciting, offering, receiving or providing remuneration, directly or indirectly, in cash or in kind, to induce or reward, or in return for, either the referral of an individual for, or the purchase, order or recommendation or arranging of, any good or service, for which payment may be made under a federal healthcare program such as Medicare and Medicaid;
- the federal False Claims Act imposes criminal and civil penalties, including through civil whistleblower or qui tam actions, against individuals or entities for, among other things, knowingly presenting, or causing to be presented, false or fraudulent claims for payment by a federal healthcare program or making a false statement or record material to payment of a false claim or avoiding, decreasing or concealing an obligation to pay money to the federal government, with potential liability including mandatory treble damages and significant per-claim penalties, currently set at \$10,781.40 to \$21,562.80 per false claim;
- the federal Health Insurance Portability and Accountability Act of 1996, or HIPAA, imposes criminal and civil liability for executing a scheme to defraud any healthcare benefit program or making false statements relating to healthcare matters;
- HIPAA, as amended by the Health Information Technology for Economic and Clinical Health Act and its implementing regulations, also imposes obligations, including mandatory contractual terms, with respect to safeguarding the privacy, security and transmission of individually identifiable health information;
- the federal Physician Payments Sunshine Act requires applicable manufacturers of covered drugs to report payments and other transfers of value to physicians and teaching hospitals; and
- analogous state and foreign laws and regulations, such as state anti-kickback and false claims laws and transparency statutes, may apply to sales or marketing arrangements and claims involving healthcare items or services reimbursed by non-governmental third-party payors, including private insurers.

Some state laws require pharmaceutical companies to comply with the pharmaceutical industry's voluntary compliance guidelines and the relevant compliance guidance promulgated by the federal government and may require drug manufacturers



## Table of Contents

to report information related to payments and other transfers of value to physicians and other healthcare providers or marketing expenditures. State and foreign laws also govern the privacy and security of health information in some circumstances, many of which differ from each other in significant ways and often are not preempted by HIPAA, thus complicating compliance efforts.

Efforts to ensure that our business arrangements with third parties will comply with applicable healthcare laws and regulations will involve substantial costs. It is possible that governmental authorities will conclude that our business practices may not comply with current or future statutes, regulations or case law involving applicable fraud and abuse or other healthcare laws and regulations. If our operations are found to be in violation of any of these laws or any other governmental regulations that may apply to us, we may be subject to significant civil, criminal and administrative penalties, damages, fines, imprisonment, exclusion of products from government funded healthcare programs, such as Medicare and Medicaid, and the curtailment or restructuring of our operations. If any of the physicians or other healthcare providers or entities with whom we expect to do business are found to be not in compliance with applicable laws, they may be subject to criminal, civil or administrative sanctions, including exclusions from government funded healthcare programs.

The provision of benefits or advantages to physicians to induce or encourage the prescription, recommendation, endorsement, purchase, supply, order or use of medicinal products is also prohibited in the EU. The provision of benefits or advantages to physicians is governed by the national anti-bribery laws of EU Member States, such as the U.K. Bribery Act 2010. Infringement of these laws could result in substantial fines and imprisonment.

Payments made to physicians in certain EU Member States must be publicly disclosed. Moreover, agreements with physicians often must be the subject of prior notification and approval by the physician's employer, his or her competent professional organization and/or the regulatory authorities of the individual EU Member States. These requirements are provided in the national laws, industry codes or professional codes of conduct, applicable in the EU Member States. Failure to comply with these requirements could result in reputational risk, public reprimands, administrative penalties, fines or imprisonment.

The collection, use, disclosure, transfer, or other processing of personal data regarding individuals in the EU, including personal health data, is subject to the EU General Data Protection Regulation (GDPR), which became effective on May 25, 2018. The GDPR is wide-ranging in scope and imposes numerous requirements on companies that process personal data, including requirements relating to processing health and other sensitive data, obtaining consent of the individuals to whom the personal data relates, providing information to individuals regarding data processing activities, implementing safeguards to protect the security and confidentiality of personal data, providing notification of data breaches, and taking certain measures when engaging third-party processors. The GDPR also imposes strict rules on the transfer of personal data to countries outside the EU, including the U.S., and permits data protection authorities to impose large penalties for violations of the GDPR, including potential fines of up to €20 million or 4% of annual global revenues, whichever is greater. The GDPR also confers a private right of action on data subjects and consumer associations to lodge complaints with supervisory authorities, seek judicial remedies, and obtain compensation for damages resulting from violations of the GDPR. Compliance with the GDPR will be a rigorous and time-intensive process that may increase our cost of doing business or require us to change our business practices, and despite those efforts, there is a risk that we may be subject to fines and penalties, litigation, and reputational harm in connection with our European activities.

***Under the Trump Administration's regulatory reform initiatives, the FDA's policies, regulations and guidance may be revised or revoked and that could prevent, limit or delay regulatory approval of our product candidates, which would impact our ability to generate revenue.***

We also cannot predict the likelihood, nature or extent of government regulation that may arise from future legislation or administrative or executive action, either in the United States or abroad. For example, certain policies of the Trump administration may impact our business and industry. Namely, the Trump administration has taken several executive actions, including the issuance of a number of Executive Orders, that could impose significant burdens on, or otherwise materially delay, the FDA's ability to engage in routine regulatory and oversight activities such as implementing statutes through rulemaking, issuance of guidance, and review and approval of marketing applications. An under-staffed FDA could result in delays in the FDA's responsiveness or in its ability to review submissions or applications, issue regulations or guidance, or implement or enforce regulatory requirements in a timely fashion or at

all.

For example, on January 30, 2017, President Trump issued an Executive Order, applicable to all executive agencies, including the FDA, which required that for each notice of proposed rulemaking or final regulation to be issued in fiscal year 2017, the agency shall identify at least two existing regulations to be repealed, unless prohibited by law. These requirements are referred to as the “two-for-one” provisions. This Executive Order includes a budget neutrality provision that required the total incremental cost of all new regulations in the 2017 fiscal year, including repealed regulations, to be no greater than zero, except in limited circumstances. For fiscal years 2018 and beyond, the Executive Order requires agencies to identify regulations to offset any incremental cost of a new regulation and approximate the total costs or savings associated with each new regulation or repealed regulation. In interim guidance issued by the Office of Information and Regulatory Affairs within OMB on February 2, 2017, the administration indicates that the “two-for-one” provisions may apply not only to agency regulations, but also to

52

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## Table of Contents

significant agency guidance documents. In addition, on February 24, 2017, President Trump issued an executive order directing each affected agency to designate an agency official as a “Regulatory Reform Officer” and establish a “Regulatory Reform Task Force” to implement the two-for-one provisions and other previously issued executive orders relating to the review of federal regulations, however it is difficult to predict how these requirements will be implemented, and the extent to which they will impact the FDA’s ability to exercise its regulatory authority. If these executive actions impose constraints on the FDA’s ability to engage in oversight and implementation activities in the normal course, our business may be negatively impacted.

***Current and future legislation may increase the difficulty and cost for us and any collaborators to obtain marketing approval and commercialize our drug candidates and affect the prices we, or they, may obtain.***

In the United States and some foreign jurisdictions, there have been a number of legislative and regulatory changes and proposed changes regarding the healthcare system that could, among other things, prevent or delay marketing approval of our drug candidates, restrict or regulate post-approval activities and affect our ability, or the ability of any collaborators, to profitably sell any drugs for which we, or they, obtain marketing approval. We expect that current laws, as well as other healthcare reform measures that may be adopted in the future, may result in more rigorous coverage criteria and in additional downward pressure on the price that we, or any collaborators, may receive for any approved drugs.

Among the provisions of the Patient Protection and Affordable Care Act, or ACA, of potential importance to our business and our drug candidates are the following:

- an annual, non-deductible fee on any entity that manufactures or imports specified branded prescription drugs and biologic agents;
- an increase in the statutory minimum rebates a manufacturer must pay under the Medicaid Drug Rebate Program;
- expansion of healthcare fraud and abuse laws, including the civil False Claims Act and the federal Anti-Kickback Statute, new government investigative powers and enhanced penalties for noncompliance;
- a new Medicare Part D coverage gap discount program, in which manufacturers must agree to offer 50% point-of-sale discounts off negotiated prices to eligible beneficiaries during their coverage gap period, as a condition for a manufacturer’s outpatient drugs to be covered under Medicare Part D;
- extension of manufacturers’ Medicaid rebate liability;
- expansion of eligibility criteria for Medicaid programs;
- expansion of the entities eligible for discounts under the Public Health Service pharmaceutical pricing program;
- new requirements to report certain financial arrangements with physicians and teaching hospitals;
- a new requirement to annually report drug samples that manufacturers and distributors provide to physicians; and
- a new Patient-Centered Outcomes Research Institute to oversee, identify priorities in, and conduct comparative clinical effectiveness research, along with funding for such research.

Other legislative changes have been proposed and adopted since the ACA was enacted. These changes include the Budget Control Act of 2011, which, among other things, led to aggregate reductions to Medicare payments to providers of up to 2% per fiscal year that started in 2013 and will stay in effect through 2024 unless additional Congressional action is taken, and the American Taxpayer Relief Act of 2012, which, among other things, reduced Medicare payments to several types of providers and increased the statute of limitations period for the government to recover overpayments to providers from three to five years. These new laws may result in additional reductions in Medicare and other healthcare funding and otherwise affect the prices we may obtain for any of our product candidates for which we may obtain regulatory approval or the frequency with which any such product candidate is prescribed or used. Further, there have been several recent U.S. congressional inquiries and proposed state and federal legislation designed to, among other things, bring more transparency to drug pricing, review the relationship between pricing and manufacturer patient programs, reduce the costs of drugs under Medicare and reform government program reimbursement methodologies for drug products.

Since January 2017, President Trump has signed two Executive Orders designed to delay the implementation of certain provisions of the ACA or otherwise circumvent some of the requirements for health insurance mandated by the ACA. One Executive Order directs federal agencies with authorities and responsibilities under the ACA to waive, defer, grant exemptions from, or delay the implementation of any provision of the ACA that would impose a fiscal or regulatory burden on states, individuals, healthcare providers, health insurers, or manufacturers of pharmaceuticals or

medical devices. The second Executive Order terminates the cost-sharing subsidies that reimburse insurers under the ACA. Several state Attorneys General filed suit to stop the administration from terminating the subsidies, but their request for a restraining order was denied by a federal judge in California on October 25, 2017. The loss of the cost share reduction payments is expected to increase premiums on certain policies issued by qualified health plans under the ACA. Further, on June 14, 2018, U.S. Court of Appeals for the

53

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## Table of Contents

Federal Circuit ruled that the federal government was not required to pay more than \$12 billion in ACA risk corridor payments to third-party payors who argued were owed to them. The effects of this gap in reimbursement on third-party payors, the viability of the ACA marketplace, providers, and potentially our business, are not yet known. In addition, the Centers for Medicare & Medicaid Services, or CMS, has recently proposed regulations that would give states greater flexibility in setting benchmarks for insurers in the individual and small group marketplaces, which may have the effect of relaxing the essential health benefits required under the ACA for plans sold through such marketplaces. On November 30, 2018, CMS announced a proposed rule that would amend the Medicare Advantage and Medicare Part D prescription drug benefit regulations to reduce out of pocket costs for plan enrollees and allow Medicare plans to negotiate lower rates for certain drugs. Among other things, the proposed rule changes would allow Medicare Advantage plans to use pre authorization (PA) and step therapy (ST) for six protected classes of drugs, with certain exceptions, permit plans to implement PA and ST in Medicare Part B drugs; and change the definition of “negotiated prices” while a definition of “price concession” in the regulations. It is unclear whether these proposed changes we be accepted, and if so, what effect such changes will have on our business. Litigation and legislation over the ACA are likely to continue, with unpredictable and uncertain results. We continue to evaluate the effect that the ACA and its possible repeal and replacement has on our business.

While Congress has not passed comprehensive repeal legislation, it has enacted laws that modify certain provisions of the ACA. For example, with enactment of the Tax Cuts and Jobs Act of 2017, or TCJA, which was signed by the President on December 22, 2017, Congress repealed the “individual mandate.” The repeal of this provision, which requires most Americans to carry a minimal level of health insurance, will become effective in 2019. According to the Congressional Budget Office, the repeal of the individual mandate will cause 13 million fewer Americans to be insured in 2027 and premiums in insurance markets may rise.

On December 14, 2018, a U.S. District Court judge in the Northern District of Texas ruled that the individual mandate portion of the ACA is an essential and inseparable feature of the ACA, and therefore because the mandate was repealed as part of the TCJA, the remaining provisions of the ACA are invalid as well. The Trump administration and CMS have both stated that the ruling will have no immediate effect, and on December 30, 2018 the same judge issued an order staying the judgment pending appeal. The Trump Administration has recently represented to the Court of Appeals considering this judgment that it does not oppose the lower court’s ruling. It is unclear how this decision and any subsequent appeals and other efforts to repeal and replace the ACA will impact the ACA and our business. Litigation and legislation over the ACA are likely to continue, with unpredictable and uncertain results.

We expect that these healthcare reforms, as well as other healthcare reform measures that may be adopted in the future, may result in additional reductions in Medicare and other healthcare funding, more rigorous coverage criteria, new payment methodologies and additional downward pressure on the price that we receive for any approved product and/or the level of reimbursement physicians receive for administering any approved product we might bring to market. Reductions in reimbursement levels may negatively impact the prices we receive or the frequency with which our products are prescribed or administered. Any reduction in reimbursement from Medicare or other government programs may result in a similar reduction in payments from private payors.

We will continue to evaluate the effect that the ACA and its possible repeal and replacement could have on our business. It is possible that repeal and replacement initiatives, if enacted into law, could ultimately result in fewer individuals having health insurance coverage or in individuals having insurance coverage with less generous benefits. While the timing and scope of any potential future legislation to repeal and replace ACA provisions is highly uncertain in many respects, it is also possible that some of the ACA provisions that generally are not favorable for the research-based pharmaceutical industry could also be repealed along with ACA coverage expansion provisions. Accordingly, such reforms, if enacted, could have an adverse effect on anticipated revenue from product candidates that we may successfully develop and for which we may obtain marketing approval and may affect our overall financial condition and ability to develop or commercialize product candidates.

The costs of prescription pharmaceuticals in the United States has also been the subject of considerable discussion in the United States, and members of Congress and the Administration have stated that they will address such costs through new legislative and administrative measures. The pricing of prescription pharmaceuticals is also subject to governmental control outside the United States. In these countries, pricing negotiations with governmental authorities can take considerable time after the receipt of marketing approval for a product. To obtain reimbursement or pricing

approval in some countries, we may be required to conduct a clinical trial that compares the cost effectiveness of our product candidates to other available therapies. If reimbursement of our products is unavailable or limited in scope or amount, or if pricing is set at unsatisfactory levels, our ability to generate revenues and become profitable could be impaired.

Specifically, there have been several recent U.S. congressional inquiries and proposed federal and proposed and enacted state legislation designed to, among other things, bring more transparency to drug pricing, review the relationship between pricing and manufacturer patient programs, reduce the costs of drugs under Medicare and reform government program reimbursement methodologies for drug products. At the federal level, Congress and the current administration have each indicated that it will

54

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Table of Contents

continue to seek new legislative and/or administrative measures to control drug costs. For example, on May 11, 2018, the current administration issued a plan to lower drug prices. Under this blueprint for action, the current administration indicated that the Department of Health and Human Services, or HHS, will take steps to end the gaming of regulatory and patent processes by drug makers to unfairly protect monopolies, advance biosimilars and generics to boost price competition, evaluate the inclusion of prices in drug makers' ads to enhance price competition, speed access to and lower the cost of new drugs by clarifying policies for sharing information between insurers and drug makers, avoid excessive pricing by relying more on value-based pricing by expanding outcome-based payments in Medicare and Medicaid, work to give Medicare Part D plan sponsors more negotiation power with drug makers, examine which Medicare Part B drug prices could be negotiated by Medicare Part D plans, improve the design of the Medicare Part B Competitive Acquisition Program, update Medicare's drug-pricing dashboard to increase transparency, prohibit Medicare Part D contracts that include "gag rules" that prevent pharmacists from informing patients when they could pay less out-of-pocket by not using insurance, and require that Medicare Part D plan members be provided with an annual statement of plan payments, out-of-pocket spending, and drug price increases. More recently, on January 31, 2019, the HHS Office of Inspector General proposed modifications to the federal anti-kickback statute discount safe harbor for the purpose of reducing the cost of drug products to consumers which, among other things, if finalized, will affect discounts paid by manufacturers to Medicare Part D plans, Medicaid managed care organizations and pharmacy benefit managers working with these organizations.

At the state level, individual states are increasingly aggressive in passing legislation and implementing regulations designed to control pharmaceutical and biological product pricing, including price or patient reimbursement constraints, discounts, restrictions on certain product access and marketing cost disclosure and transparency measures, and, in some cases, designed to encourage importation from other countries and bulk purchasing. In addition, regional health care authorities and individual hospitals are increasingly using bidding procedures to determine what pharmaceutical products and which suppliers will be included in their prescription drug and other health care programs. These measures could reduce the ultimate demand for our products, once approved, or put pressure on our product pricing. We expect that additional state and federal healthcare reform measures will be adopted in the future, any of which could limit the amounts that federal and state governments will pay for healthcare products and services, which could result in reduced demand for our product candidates or additional pricing pressures.

Moreover, legislative and regulatory proposals have also been made to expand post-approval requirements and restrict sales and promotional activities for pharmaceutical drugs. We cannot be sure whether additional legislative changes will be enacted, or whether the FDA regulations, guidance or interpretations will be changed, or what the impact of such changes on the marketing approvals of our drug candidates, if any, may be. In addition, increased scrutiny by the United States Congress of the FDA's approval process may significantly delay or prevent marketing approval, as well as subject us and any collaborators to more stringent drug labeling and post-marketing testing and other requirements.

***We are subject to U.S. and foreign anti-corruption and anti-money laundering laws with respect to our operations and non-compliance with such laws can subject us to criminal and/or civil liability and harm our business.***

We are subject to the U.S. Foreign Corrupt Practices Act of 1977, as amended, the U.S. domestic bribery statute contained in 18 U.S.C. § 201, the U.S. Travel Act, the USA PATRIOT Act, and possibly other state and national anti-bribery and anti-money laundering laws in countries in which we conduct activities. Anti-corruption laws are interpreted broadly and prohibit companies and their employees, agents, third-party intermediaries, joint venture partners and collaborators from authorizing, promising, offering, or providing, directly or indirectly, improper payments or benefits to recipients in the public or private sector. We may have direct or indirect interactions with officials and employees of government agencies or government-affiliated hospitals, universities, and other organizations. In addition, we may engage third party intermediaries to promote our clinical research activities abroad and/or to obtain necessary permits, licenses, and other regulatory approvals. We can be held liable for the corrupt or other illegal activities of these third-party intermediaries, our employees, representatives, contractors, partners, and agents, even if we do not explicitly authorize or have actual knowledge of such activities.

Noncompliance with anti-corruption and anti-money laundering laws could subject us to whistleblower complaints, investigations, sanctions, settlements, prosecution, other enforcement actions, disgorgement of profits, significant fines, damages, other civil and criminal penalties or injunctions, suspension and/or debarment from contracting with certain persons, the loss of export privileges, reputational harm, adverse media coverage, and other collateral

consequences. If any subpoenas, investigations, or other enforcement actions are launched, or governmental or other sanctions are imposed, or if we do not prevail in any possible civil or criminal litigation, our business, results of operations and financial condition could be materially harmed. In addition, responding to any action will likely result in a materially significant diversion of management's attention and resources and significant defense and compliance costs and other professional fees. In certain cases, enforcement authorities may even cause us to appoint an independent compliance monitor which can result in added costs and administrative burdens.

55

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## Table of Contents

***If we fail to comply with environmental, health and safety laws and regulations, we could become subject to fines or penalties or incur costs that could have a material adverse effect on the success of our business.***

We are subject to numerous environmental, health and safety laws and regulations, including those governing laboratory procedures and the handling, use, storage, treatment and disposal of hazardous materials and wastes. Our operations involve the use of hazardous and flammable materials, including chemicals and biological and radioactive materials. Our operations also produce hazardous waste products. We generally contract with third parties for the disposal of these materials and wastes. We cannot eliminate the risk of contamination or injury from these materials. In the event of contamination or injury resulting from our use of hazardous materials, we could be held liable for any resulting damages, and any liability could exceed our resources. We also could incur significant costs associated with civil or criminal fines and penalties.

Although we maintain workers' compensation insurance to cover us for costs and expenses we may incur due to injuries to our employees resulting from the use of hazardous materials, this insurance may not provide adequate coverage against potential liabilities. We do not maintain insurance for environmental liability or toxic tort claims that may be asserted against us in connection with our storage or disposal of biological, hazardous or radioactive materials. In addition, we may incur substantial costs in order to comply with current or future environmental, health and safety laws and regulations. These current or future laws and regulations may impair our research, development or production efforts. Failure to comply with these laws and regulations also may result in substantial fines, penalties or other sanctions.

***If we obtain approval to commercialize our product candidates outside of the United States, a variety of risks associated with international operations could materially adversely affect our business.***

We expect that we will be subject to additional risks in commercializing our product candidates outside the United States, including:

- different regulatory requirements for approval of drugs in foreign countries;
  - reduced protection for intellectual property rights;
  - unexpected changes in tariffs, trade barriers and regulatory requirements;
  - economic weakness, including inflation, or political instability in particular foreign economies and markets;
  - compliance with tax, employment, immigration and labor laws for employees living or traveling abroad;
  - foreign currency fluctuations, which could result in increased operating expenses and reduced revenue, and other obligations incident to doing business in another country;
  - workforce uncertainty in countries where labor unrest is more common than in the United States;
  - production shortages resulting from any events affecting raw material supply or manufacturing capabilities abroad;
- and
- business interruptions resulting from geopolitical actions, including war and terrorism or natural disasters including earthquakes, typhoons, floods and fires.

## **Risks Related to Employee Matters and Managing Growth**

***Our future success depends on our ability to retain our key executives and scientific leadership and to attract, retain and motivate qualified personnel.***

We are highly dependent on the principal members of our management and scientific teams, each of whom is employed "at will," meaning we or they may terminate the employment relationship at any time. We do not maintain "key person" insurance for any of our executives or other employees. The loss of the services of any of these persons could impede the achievement of our research, development and commercialization objectives.

Recruiting and retaining qualified scientific, clinical, manufacturing and sales and marketing personnel will also be critical to our success. We may not be able to attract and retain these personnel on acceptable terms given the competition among numerous pharmaceutical and biotechnology companies for similar personnel. We also experience competition for the hiring of scientific and clinical personnel from universities and research institutions. In addition, we rely on consultants and advisors, including scientific and clinical advisors, to assist us in formulating our research and development and commercialization strategy. Our consultants and advisors, including our scientific co-founders, may be employed by employers other than us and may have commitments under consulting or advisory contracts with other entities that may limit their availability to us.

*Our employees may engage in misconduct or other improper activities, including noncompliance with regulatory standards and requirements, which could have a material adverse effect on our business.*

56

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## Table of Contents

We are exposed to the risk of employee fraud or other misconduct. Misconduct by employees could include intentional failures to comply with FDA regulations, provide accurate information to the FDA, comply with manufacturing standards we have established, comply with federal and state healthcare fraud and abuse laws and regulations, report financial information or data accurately, disclose unauthorized activities to us, or comply with securities laws. Employee misconduct could also involve the improper use of information obtained in the course of clinical trials, including for illegal insider trading activities, which could result in regulatory sanctions and serious harm to our reputation. We have adopted a Code of Business Conduct and Ethics, but it is not always possible to identify and deter employee misconduct, and the precautions we take to detect and prevent this activity may not be effective in controlling unknown or unmanaged risks or losses or in protecting us from governmental investigations or other actions or lawsuits stemming from a failure to be in compliance with such laws or regulations. If any such actions are instituted against us, and we are not successful in defending ourselves or asserting our rights, those actions could have a significant impact on our business and results of operations, including the imposition of significant fines or other sanctions.

***We expect to expand our development, regulatory and future sales and marketing capabilities, and as a result, we may encounter difficulties in managing our growth, which could disrupt our operations.***

We expect to experience significant growth in the number of our employees and the scope of our operations, particularly in the areas of drug development, regulatory affairs and sales and marketing. To manage our anticipated future growth, we must continue to implement and improve our managerial, operational and financial systems, expand our facilities and continue to recruit and train additional qualified personnel. Due to our limited financial resources and the limited experience of our management team in managing a company with such anticipated growth, we may not be able to effectively manage the expected expansion of our operations or recruit and train additional qualified personnel. Moreover, the expected physical expansion of our operations may lead to significant costs and may divert our management and business development resources. Any inability to manage growth could delay the execution of our business plans or disrupt our operations.

***We may engage in acquisitions that could disrupt our business, cause dilution to our stockholders or reduce our financial resources.***

In the future, we may enter into transactions to acquire other businesses, products or technologies. Because we have not made any acquisitions to date, our ability to do so successfully is unproven. If we do identify suitable candidates, we may not be able to make such acquisitions on favorable terms, or at all. Any acquisitions we make may not strengthen our competitive position, and these transactions may be viewed negatively by customers or investors. We may decide to incur debt in connection with an acquisition or issue our common stock or other equity securities to the stockholders of the acquired company, which would reduce the percentage ownership of our existing stockholders.

We could incur losses resulting from undiscovered liabilities of the acquired business that are not covered by the indemnification we may obtain from the seller. In addition, we may not be able to successfully integrate the acquired personnel, technologies and operations into our existing business in an effective, timely and non-disruptive manner. Acquisitions may also divert management attention from day-to-day responsibilities, increase our expenses and reduce our cash available for operations and other uses. We cannot predict the number, timing or size of future acquisitions or the effect that any such transactions might have on our operating results.

## **Risks Related to Our Common Stock and Other Matters**

***Provisions in our corporate charter documents and under 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 our current management.***

Provisions in our corporate charter and our bylaws may discourage, delay or prevent a merger, acquisition or other change in control of us that stockholders may consider favorable, including transactions in which you might otherwise receive a premium for your shares. These provisions could also limit the price that investors might be willing to pay in the future for shares of our common stock, thereby depressing the market price of our common stock. In addition, because our board of directors is responsible for appointing the members of our management team, these provisions may frustrate or prevent any attempts by our stockholders to replace or remove our current management by making it more difficult for stockholders to replace members of our board of directors. Among other things, these provisions:

- establish a classified board of directors such that not all members of the board are elected at one time;

- allow the authorized number of our directors to be changed only by resolution of our board of directors;
- limit the manner in which stockholders can remove directors from the board;
- establish advance notice requirements for stockholder proposals that can be acted on at stockholder meetings and nominations to our board of directors;

57

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## Table of Contents

- require that stockholder actions must be effected at a duly called stockholder meeting and prohibit actions by our stockholders by written consent;
- limit who may call stockholder meetings;
- authorize our board of directors to issue preferred stock without stockholder approval, which could be used to institute a shareholder rights plan, or so-called “poison pill,” that would work to dilute the stock ownership of a potential hostile acquirer, effectively preventing acquisitions that have not been approved by our board of directors; and
- require the approval of the holders of at least 75% of the votes that all our stockholders would be entitled to cast to amend or repeal certain provisions of our charter or bylaws.

Moreover, because we are incorporated in Delaware, we are governed by the provisions of Section 203 of the Delaware General Corporation Law, which prohibits a person who owns in excess of 15% of our outstanding voting stock from merging or combining with us for a period of three years after the date of the transaction in which the person acquired in excess of 15% of our outstanding voting stock, unless the merger or combination is approved in a prescribed manner.

***If securities analysts do not publish research or reports about our business or if they publish negative, or inaccurate, evaluations of our stock, the price of our stock and trading volume could decline.***

The trading market for our common stock relies in part on the research and reports that industry or financial analysts publish about us or our business. If one or more of the analysts covering our business downgrade their evaluations of our stock, the price of our stock could decline. If one or more of these analysts cease to cover our stock, we could lose visibility in the market for our stock, which in turn could cause our stock price and trading volume to decline.

***An active trading market for our common stock may not be sustained.***

Although our common stock is listed on the Nasdaq Global Select Market, an active trading market for our shares may not be sustained. If an active market for our common stock does not continue, it may be difficult for our stockholders to sell their shares without depressing the market price for the shares or to sell their shares at all. An inactive trading market for our common stock may also impair our ability to raise capital to continue to fund our operations by selling shares and may impair our ability to acquire other companies or technologies by using our shares as consideration.

***The price of our common stock is likely to be volatile, which could result in substantial losses for purchasers of our common stock.***

The trading price of our common stock has been, and may continue to be, volatile and could be subject to wide fluctuations in response to various factors, some of which are beyond our control. For example, since January 1, 2014 the price of our common stock on the Nasdaq Global Select Market has ranged from \$21.70 per share to \$138.85 per share. The stock market in general and the market for biopharmaceutical companies in particular have experienced extreme volatility that has often been unrelated to the operating performance of particular companies. The market price for our common stock may be influenced by many factors, including:

- regulatory actions with respect to our product candidates or our competitors’ products and product candidates;
- announcements by us or our competitors of significant acquisitions, strategic partnerships, joint ventures, collaborations or capital commitments;
- the timing and results of clinical trials of product candidates;
- commencement or termination of collaborations for our development programs;
- failure or discontinuation of any of our development programs;
- results of clinical trials of product candidates of our competitors;
- regulatory or legal developments in the United States and other countries;
- developments or disputes concerning patent applications, issued patents or other proprietary rights;
- the recruitment or departure of key personnel;
- the level of expenses related to any of our product candidates or clinical development programs;
- the results of our efforts to develop additional product candidates or products;
- actual or anticipated changes in estimates as to financial results or development timelines;
- announcement or expectation of additional financing efforts;

## Table of Contents

- sales of our common stock by us, our insiders or other stockholders;
- variations in our financial results, including fluctuations in levels of sales of TIBSOVO® or royalties on sales of IDHIFA®, or results of companies that are perceived to be similar to us;
- changes in estimates or recommendations by securities analysts, if any, that cover our stock;
- changes in the structure of healthcare payment systems;
- market conditions in the pharmaceutical and biotechnology sectors;
- general economic, industry and market conditions; and
- the other factors described in this “Risk Factors” section.

If any of the forgoing matters were to occur, or if our operating results fall below the expectations of investors or securities analysts, the price of our common stock could decline substantially. In the past, following periods of volatility in the market price of a company's securities, securities class-action litigation often has been instituted against that company. Such litigation, if instituted against us, could cause us to incur substantial costs to defend such claims and divert management's attention and resources, which could seriously harm our business, financial condition, results of operations and prospects.

### ***Sales of a substantial number of shares of our common stock in the public market could cause our stock price to fall.***

Certain stockholders hold a substantial number of shares of our common stock. If such stockholders sell, or indicate an intention to sell, substantial amounts of our common stock in the public market, the trading price of our common stock could decline.

In addition, shares of common stock that are either subject to outstanding options or reserved for future issuance under our stock incentive plans will become eligible for sale in the public market to the extent permitted by the provisions of various vesting schedules and Rule 144 and Rule 701 under the Securities Act of 1933, as amended, or the Securities Act, and, in any event, we have filed a registration statement permitting shares of common stock issued on exercise of options to be freely sold in the public market. If these additional shares of common stock are sold, or if it is perceived that they will be sold, in the public market, the trading price of our common stock could decline.

Certain holders of our common stock are entitled to rights with respect to the registration of their shares under the Securities Act. Registration of these shares under the Securities Act would result in the shares becoming freely tradable without restriction under the Securities Act, except for shares held by affiliates. Any sales of securities by these stockholders who have exercised registration rights could have a material adverse effect on the trading price of our common stock.

### ***Our executive officers, directors and principal stockholders maintain the ability to significantly influence all matters submitted to stockholders for approval.***

As of March 31, 2019, our executive officers, directors and a small group of stockholders, in the aggregate, beneficially owned shares representing a significant percentage of our capital stock. As a result, if these stockholders were to choose to act together, they would be able to significantly influence all matters submitted to our stockholders for approval, as well as our management and affairs. For example, these persons, if they choose to act together, could significantly influence the election of directors and approval of any merger, consolidation or sale of all or substantially all of our assets. This concentration of voting power could delay or prevent an acquisition of our company on terms that other stockholders may desire.

### ***Future sales and issuances of our common stock or rights to purchase common stock could result in additional dilution of the percentage ownership of our stockholders and could cause our stock price to fall.***

We expect that significant additional capital will be needed in the future to continue our planned operations. To raise capital, we may sell common stock, convertible securities or other equity securities in one or more transactions at prices and in a manner we determine from time to time. If we sell common stock, convertible securities or other equity securities in more than one transaction, investors may be materially diluted by subsequent sales. Such sales may also result in material dilution to our existing stockholders, and new investors could gain rights, preferences and privileges senior to those of holders of our common stock.

### ***Our ability to use our net operating loss carryforwards and certain other tax attributes may be limited.***

Under Section 382 of the Internal Revenue Code of 1986, as amended, if a company undergoes an “ownership change,” generally defined as a greater than 50% change (by value) in its equity ownership over a three-year period, the

corporation's ability to use its pre-change net operating loss carryforwards and other pre-change tax attributes (such as research tax credits) to offset its post-change taxable income or taxes may be limited. Our prior equity offerings and other changes in our stock ownership, some of which are outside of our control, may have resulted or could in the future result in an ownership change. We completed a review of our changes in ownership through December 31, 2018, and determined that we did not have a

59

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Table of Contents

qualified ownership change since our last review as of December 31, 2017. We do not expect that this or any previous changes of ownership will result in our net operating loss carryforwards or certain other tax attributes expiring unutilized. Future ownership changes under Section 382 may limit the amount of net operating loss and tax credit carryforwards that we could potentially utilize to reduce future tax liabilities.

***The comprehensive tax reform bill could adversely affect our business and financial condition.***

On December 22, 2017, President Trump signed into law the TCJA, which significantly revised the Internal Revenue Code of 1986, as amended. The TCJA, among other things, contains significant changes to corporate taxation, including reduction of the corporate tax rate from a top marginal rate of 35% to a flat rate of 21%, limitation of the tax deduction for interest expense to 30% of adjusted earnings (except for certain small businesses), limitation of the deduction for net operating losses to 80% of current year taxable income and elimination of net operating loss carrybacks, one time taxation of offshore earnings at reduced rates regardless of whether they are repatriated, elimination of U.S. tax on foreign earnings (subject to certain important exceptions), immediate deductions for certain new investments instead of deductions for depreciation expense over time, and modifying or repealing many business deductions and credits. Notwithstanding the reduction in the corporate income tax rate, the overall impact of the federal tax law remains uncertain and our business and financial condition could be adversely affected. In addition, how various states will respond to the TCJA continues to be uncertain. The impact of this tax reform on holders of our common stock is also uncertain and could be adverse. We urge our stockholders to consult with their legal and tax advisors with respect to this legislation and the potential tax consequences of investing in or holding our common stock.

***Our effective tax rate may fluctuate, and we may incur obligations in tax jurisdictions in excess of accrued amounts.***

We are subject to taxation in numerous U.S. states and territories. As a result, our effective tax rate is derived from a combination of applicable tax rates in the various places that we operate. In preparing our financial statements, we estimate the amount of tax that will become payable in each of such places. Nevertheless, our effective tax rate may be different than experienced in the past due to numerous factors, including as a result of applying the provisions the TCJA (as such provisions may be elaborated on or further developed in guidance, regulations and technical corrections pertaining to the TCJA) changes in the mix of our profitability from state to state, the results of examinations and audits of our tax filings, our inability to secure or sustain acceptable agreements with tax authorities, changes in accounting for income taxes and changes in tax laws. Any of these factors could cause us to experience an effective tax rate significantly different from previous periods or our current expectations and may result in tax obligations in excess of amounts accrued in our financial statements.

***We incur costs as a result of operating as a public company, and our management is required to devote substantial time to compliance initiatives and corporate governance practices.***

We have incurred and will continue to incur significant legal, accounting and other expenses as a public company. The Sarbanes-Oxley Act of 2002, the Dodd-Frank Wall Street Reform and Consumer Protection Act, the listing requirements of The Nasdaq Global Select Market and other applicable securities rules and regulations impose various requirements on public companies, including establishment and maintenance of effective disclosure and financial controls and corporate governance practices. Stockholder activism, the current political environment and the current high level of government intervention and regulatory reform may lead to substantial new regulations. Our management and other personnel devote, and will need to continue to devote, a substantial amount of time to these compliance initiatives. Moreover, these rules and regulations increase our legal and financial compliance costs and make some activities more time-consuming and costly.

***Because we do not anticipate paying any cash dividends on our capital stock in the foreseeable future, capital appreciation, if any, will be the sole source of gain for our stockholders.***

We have never declared or paid cash dividends on our capital stock. We currently intend to retain all of our future earnings, if any, to finance the growth and development of our business. In addition, the terms of any future debt agreements may preclude us from paying dividends. As a result, capital appreciation, if any, of our common stock will be the sole source of gain for our stockholders for the foreseeable future.

Table of Contents**Item 6. Exhibits**

| Incorporated by Reference |                                                                                                                                              |      |             |                |                |                |
|---------------------------|----------------------------------------------------------------------------------------------------------------------------------------------|------|-------------|----------------|----------------|----------------|
| Exhibit Number            | Description of Exhibit                                                                                                                       | Form | File Number | Date of Filing | Exhibit Number | Filed Herewith |
| 3.1                       | <u>Restated Certificate of Incorporation</u>                                                                                                 | 8-K  | 001-36014   | July 30, 2013  | 3.1            |                |
| 3.2                       | <u>Amended and Restated By-Laws</u>                                                                                                          | 8-K  | 001-36014   | July 30, 2013  | 3.2            |                |
| 31.1                      | <u>Certification of principal executive officer pursuant to Rule 13a-14(a)/15d-14(a) of the Securities Exchange Act of 1934, as amended</u>  |      |             |                |                | X              |
| 31.2                      | <u>Certification of principal financial officer pursuant to Rule 13a-14(a)/15d-14(a) of the Securities Exchange Act of 1934, as amended.</u> |      |             |                |                | X              |

|         |                                                                                                                                                                                                                                                                                                                                                                |   |
|---------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---|
| 32.1    | <u>Certification</u><br><u>of</u><br><u>principal</u><br><u>executive</u><br><u>officer</u><br><u>pursuant</u><br><u>to</u><br><u>18 U.S.C.</u><br><u>§1350.</u><br><u>as</u><br><u>adopted</u><br><u>pursuant</u><br><u>to</u><br><u>Section</u><br><u>906</u><br><u>of</u><br><u>the</u><br><u>Sarbanes-Oxley</u><br><u>Act</u><br><u>of</u><br><u>2002.</u> | X |
| 32.2    | <u>Certification</u><br><u>of</u><br><u>principal</u><br><u>financial</u><br><u>officer</u><br><u>pursuant</u><br><u>to</u><br><u>18 U.S.C.</u><br><u>§1350.</u><br><u>as</u><br><u>adopted</u><br><u>pursuant</u><br><u>to</u><br><u>Section</u><br><u>906</u><br><u>of</u><br><u>the</u><br><u>Sarbanes-Oxley</u><br><u>Act</u><br><u>of</u><br><u>2002.</u> | X |
| 101.INS | XBRL<br>Instance<br>Document<br>-<br>the<br>instance<br>document<br>does                                                                                                                                                                                                                                                                                       | X |

|         |                                                                                                                                                                                          |   |
|---------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---|
|         | not<br>appear<br>in<br>the<br>Interactive<br>Data<br>File<br>because<br>its<br>XBRL<br>tags<br>are<br>not<br>embedded<br>within<br>the<br>Inline<br>XBRL<br>document<br>XBRL<br>Taxonomy |   |
| 101.SCH | Extension<br>Schema<br>Document<br>XBRL<br>Taxonomy                                                                                                                                      | X |
| 101.CAL | Calculation<br>Linkbase<br>Document<br>XBRL<br>Taxonomy                                                                                                                                  | X |
| 101.DEF | Extension<br>Definition<br>Linkbase<br>Document<br>XBRL<br>Taxonomy                                                                                                                      | X |
| 101.LAB | Label<br>Linkbase<br>Document<br>XBRL<br>Taxonomy                                                                                                                                        | X |
| 101.PRE | Presentation<br>Linkbase<br>Document                                                                                                                                                     | X |

Table of Contents

**SIGNATURES**

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

AGIOS PHARMACEUTICALS,  
INC.

May 2, 2019 By: /s/  
Jacqualyn  
A. Fouse  
Jacqualyn  
A. Fouse,  
Ph.D.  
Chief  
Executive  
Officer  
(principal  
executive  
officer)

May 2, 2019 By: /s/ Andrew  
Hirsch  
Andrew  
Hirsch  
Chief  
Financial  
Officer  
(principal  
financial  
officer)