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

FORM 8-K

**CURRENT REPORT
Pursuant to Section 13 or 15(d)
of the Securities Exchange Act of 1934**

Date of Report (Date of earliest event reported): April 2, 2021 (March 31, 2021)

Agios Pharmaceuticals, Inc.

(Exact Name of Registrant as Specified in Charter)

Delaware
(State or Other Jurisdiction
of Incorporation)

001-36014
(Commission
File Number)

26-0662915
(IRS Employer
Identification No.)

88 Sidney Street, Cambridge, MA
(Address of Principal Executive Offices)

02139
(Zip Code)

Registrant's telephone number, including area code: (617) 649-8600

(Former Name or Former Address, if Changed Since Last Report)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions (see General Instruction A.2. below):

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

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

Title of each class	Trading symbol(s)	Name of each exchange on which registered
Common Stock, Par Value \$0.001 per share	AGIO	Nasdaq Global Select Market

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

Emerging growth company

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

Item 1.01 Entry into a Material Definitive Agreement.

On March 31, 2021, Agios Pharmaceuticals, Inc., a Delaware corporation (the “Company”), entered into a Share Repurchase Agreement (the “Repurchase Agreement”) with Bristol-Myers Squibb Company, a Delaware corporation (“BMS”), pursuant to which the Company agreed to repurchase an aggregate of 7,121,658 shares of common stock of the Company, par value \$0.001 per share, held by certain subsidiaries of BMS for \$48.3785 per share, for an aggregate purchase price of \$344,535,310 (the “Share Repurchase”).

The Share Repurchase is subject to certain conditions and is expected to occur by April 15, 2021.

The foregoing description of the Repurchase Agreement does not purport to be complete and is qualified in its entirety by reference to the full text of the Repurchase Agreement, a copy of which is attached as Exhibit 10.1 to this Current Report and is incorporated herein by reference.

Item 2.01 Completion of Acquisition or Disposition of Assets.

On March 31, 2021, the Company completed the previously announced sale (the “Transaction”) of its oncology business (the “Oncology Business”), pursuant to the Purchase and Sale Agreement, dated as of December 20, 2020 (the “Purchase Agreement”), by and among the Company, Servier Pharmaceuticals, LLC, a Delaware limited liability company (“Purchaser”), and, solely for purposes of guaranteeing certain obligations of Purchaser, Servier S.A.S., a French *societe par actions simplifiee*. Pursuant to the Purchase Agreement, Purchaser acquired specified assets and assumed specified liabilities from the Company related to the Oncology Business for:

- \$1.8 billion in cash paid at the closing date, subject to adjustments based on closing levels of working capital of the Oncology Business and amounts payable for a representation and warranty insurance policy;
- \$200 million in cash if, prior to January 1, 2027, vorasidenib is granted New Drug Application (“NDA”) approval from the U.S. Food and Drug Administration (“FDA”) that permits vorasidenib’s use as a single agent for the adjuvant treatment of patients with Grade 2 glioma that have an IDH1 or IDH2 mutation (and, to the extent required by such NDA approval, the vorasidenib companion diagnostic test is granted an FDA premarket approval);
- a royalty of 5% of U.S. net sales (as defined in the Purchase Agreement) of TIBSOVO (ivosidenib) from the completion of the Transaction through its loss of exclusivity; and
- a royalty of 15% of U.S. net sales (as defined in the Purchase Agreement) of vorasidenib from the first commercial sale of vorasidenib through its loss of exclusivity.

The foregoing description of the Purchase Agreement does not purport to be complete and is qualified in its entirety by reference to the full text of the Purchase Agreement, which is filed as Exhibit 2.1 to the Company’s Current Report on Form 8-K filed with the Securities and Exchange Commission on December 22, 2020 and is incorporated herein by reference.

Item 8.01 Other Events.

On April 1, 2021, the Company issued a press release announcing the closing of the Transaction and entry into the Repurchase Agreement. A copy of the press release is furnished herewith as Exhibit 99.1 hereto and is incorporated by reference herein.

In addition, on April 2, 2021, in connection with the repurchase of shares of Company common stock authorized by the board of directors of the Company and announced by the Company on March 25, 2021, the Company entered into a Rule 10b5-1 plan pursuant to which it may repurchase up to \$600 million of shares of Company common stock.

Item 9.01 Financial Statements and Exhibits.

(b)

The Company intends to file the unaudited pro forma consolidated financial information of the Company as of and for the fiscal year ended December 31, 2020, and for the fiscal years ended December 31, 2019 and December 31, 2018 as required by Item 9.01(b) under cover of a Form 8-K/A no later than four business days after the consummation of the Transaction.

(d) Exhibits.

<u>Exhibit No.</u>	<u>Description</u>
2.1	<u>Purchase and Sale Agreement, dated as of December 20, 2020, by and among Agios Pharmaceuticals, Inc., Servier Pharmaceuticals, LLC and, solely for purposes of guaranteeing certain obligations therein, Servier S.A.S. (incorporated by reference to Exhibit 2.1 of the Current Report on Form 8-K filed by Agios Pharmaceuticals, Inc. with the Securities and Exchange Commission on December 22, 2020).</u>
10.1	<u>Share Repurchase Agreement, dated as of March 31, 2021, by and between Agios Pharmaceuticals, Inc. and Bristol-Myers Squibb Company.</u>
99.1	<u>Press Release of Agios Pharmaceuticals, Inc., dated as of April 1, 2021</u>
104	Cover Page Interactive Data File (embedded within the Inline XBRL document)

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 hereunto duly authorized.

AGIOS PHARMACEUTICALS, INC.

Date: April 2, 2021

By: /s/ Jacquelyn A. Fouse
Jacquelyn A. Fouse, Ph.D.
Chief Executive Officer

SHARE REPURCHASE AGREEMENT

This SHARE REPURCHASE AGREEMENT, dated as of March 31, 2021 (this "Agreement"), is by and between by and between Bristol-Myers Squibb Company, a Delaware corporation ("BMS"), and Agios Pharmaceuticals, Inc., a Delaware corporation (the "Purchaser").

RECITALS

WHEREAS, BMS desires for the BMS Entities (as defined below) to sell shares of common stock, par value \$0.001 per share, of the Purchaser ("Common Shares") to the Purchaser, and the Purchaser desires to purchase Common Shares from the BMS Entities, on the terms and conditions set forth in this Agreement (the "Repurchase Transaction").

NOW, THEREFORE, in consideration of the agreements set forth below, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

ARTICLE I**SALE AND PURCHASE OF COMMON SHARES**

Section 1.1 Purchase. Subject to the terms and conditions of this Agreement, including Section 1.3, BMS shall cause the BMS Entities to sell, assign, transfer, convey and deliver to the Purchaser, and the Purchaser shall purchase, acquire and accept from the BMS Entities, an aggregate of 7,121,658 Common Shares (the "Shares") on such date (the "Closing Date") as is mutually agreed by the parties in writing by 5 pm on April 2, 2021; provided, however, that the Closing Date shall not be deferred beyond April 15, 2021; provided, further, that, if after the execution of this Agreement and prior to the Closing Date, any of the following events specified in clauses (1), (2), (3) or (4) below shall have occurred in such a manner that shall make it impracticable for either party to consummate the transactions contemplated by this Agreement on the first proposed Closing Date, then the Closing Date shall be deferred to the first date on which none of the following events specified in clauses (1), (2), (3) or (4) below shall be in effect or, if earlier, when the parties shall be able to consummate the transactions contemplated by this Agreement (but in no event shall the Closing Date be deferred beyond April 15, 2021): (1) trading generally have been suspended or materially limited on the Nasdaq Stock Market; (2) trading of any securities issued or guaranteed by the Purchaser have been suspended on any exchange or in any over-the-counter market; (3) a general moratorium on commercial banking activities have been declared by federal or New York State authorities; or (4) there have occurred any outbreak or escalation of hostilities or any change in financial markets or any calamity or crisis, either within or outside the United States, which makes it impracticable to consummate the transactions contemplated by this Agreement. The purchase price for the Shares shall be equal to \$344,535,309.59 (the "Purchase Price"), or approximately \$48.3785 per share.

Section 1.2 Closing. On the Closing Date, BMS shall deliver or cause to be delivered to the Purchaser all of the rights, titles and interests of Celgene Corporation, Celgene Switzerland LLC, Celgene European Investment Company LLC, and Celgene Alpine Investment Co., LLC (collectively, the “BMS Entities”) and of BMS in and to the Shares by delivery of a duly executed stock powers or other instruments of assignment and, in the case of Shares represented by one or more physical certificates, delivery of such certificates. On the Closing Date, the Purchaser shall pay to each BMS Entity its portion of the Purchase Price in cash by wire transfer of immediately available funds in accordance with the wire transfer instructions to be provided by BMS to the Purchaser.

Section 1.3 Withholding. The Purchaser and any other applicable withholding agent shall be entitled to deduct and withhold from any amounts paid or payable pursuant to this Agreement such amount as the Purchaser or such other applicable withholding agent is required to deduct and withhold with respect to such payment under the Internal Revenue Code of 1986, as amended (the “Code”), or any provision of law; provided that if the recipient of such payment is a “United States person” (as such term is defined in Section 7701(a)(30) of the Code) and provides the Purchaser or other applicable withholding agent with a properly completed and executed Internal Revenue Service Form W-9 or such withholding is not required by law as established by other applicable documentation (including, but not limited, to a properly completed and executed appropriate Internal Revenue Service Form W-8BEN) prior to the Closing Date, and, in each case, an appropriate certification with respect to the application of Section 302 of the Code reasonably satisfactory to the Purchaser, the Purchaser or other applicable withholding agent shall not deduct or withhold any amounts with respect to U.S. taxes unless it informs BMS prior to the execution of this Agreement that it plans on deducting or withholding any amount. Purchaser shall inform BMS prior to the Closing Date if Purchaser plans on deducting or withholding any amount as of the Closing Date. To the extent that amounts are so deducted and withheld, such deducted and withheld amounts shall be treated for all purposes of this Agreement as having been paid to the person in respect of which such deduction and withholding was made.

Section 1.4 Conditions to Closing. The obligation of (a) either party to consummate the Repurchase Transaction shall be conditioned upon the absence of any judgment, injunction, law, judicial order or decree that would prohibit, prevent, render illegal or enjoin the consummation of the transactions contemplated hereby or any pending action, suit or proceeding which challenges the validity or legality of the Repurchase Transaction; (b) BMS to consummate the Repurchase Transaction shall be further conditioned upon the representations of the Purchaser set forth in Section 3.6 of this Agreement being true and correct in all respects; and (c) Purchaser to consummate the Repurchase Transaction shall be further conditioned upon (i) the representations and warranties of BMS set forth in Section 2.3 of this Agreement being true and correct in all respects and (ii) the receipt by the Purchaser of the Closing Purchase Price (as defined in the Oncology Sale Agreement) in connection with the closing of the transactions contemplated by that certain Purchase and Sale Agreement, dated as of December 20, 2020, by and among the Purchaser, Servier Pharmaceuticals, LLC, a Delaware limited liability company, and solely for purposes of guaranteeing certain obligations therein, Servier S.A.S., a French *societe par actions simplifiee* (the “Oncology Sale Agreement”).

ARTICLE II

REPRESENTATIONS AND WARRANTIES OF BMS

BMS hereby makes the following representations and warranties to the Purchaser, each of which is true and correct as of the date hereof and as of the Closing Date.

Section 2.1 Existence and Power.

(a) BMS is a corporation duly organized, validly existing and in good standing under the laws of the State of Delaware and has the power, authority and capacity to execute and deliver this Agreement, to perform its obligations hereunder and to consummate the transactions contemplated hereby.

(b) The execution and delivery of this Agreement by BMS and the consummation by BMS and the BMS Entities of the transactions contemplated hereby (i) do not require the consent, approval, authorization, order, registration or qualification of, or (except for filings in connection with BMS's or the BMS Entities' obligations under federal securities laws, including pursuant to Section 16 or Regulation 13D under the Securities Exchange Act of 1934 ("Exchange Act")) filing by BMS or any BMS Entity with, any governmental authority or regulatory authority, including any stock exchange or self-regulatory organization, or court, or body or arbitrator having jurisdiction over BMS or any BMS Entity; and (ii) except as would not have an adverse effect on the ability of BMS or any BMS Entity to consummate the transactions contemplated by this Agreement, do not and will not constitute or result in a breach, violation or default, or cause the acceleration or termination of any obligation or right of BMS or any BMS Entity, under (A) any note, bond, mortgage, deed, indenture, lien, instrument, contract, agreement, lease or license, whether written or oral, express or implied, to which BMS, any BMS Entity or any of their respective affiliates is a party, (B) BMS or any BMS Entity's organizational documents or (C) any statute, law, ordinance, decree, order, injunction, rule, directive, judgment or regulation of any court, administrative or regulatory body, including any stock exchange or self-regulatory organization, governmental authority, arbitrator, mediator or similar body.

Section 2.2 Valid and Enforceable Agreement; Authorization. This Agreement has been duly executed and delivered by BMS and, assuming the due execution and delivery of this Agreement by the Purchaser, constitutes a legal, valid and binding obligation of BMS, enforceable against BMS in accordance with its terms, except as limited by applicable bankruptcy, insolvency, reorganization, moratorium, fraudulent conveyance and other similar laws of general application relating to or affecting the rights and remedies of creditors and general principles of equity (collectively, the "Enforceability Exceptions"). BMS has duly taken all necessary corporate action to authorize the execution and delivery of this Agreement and to effect the performance of this Agreement and the transactions contemplated hereby.

Section 2.3 Title to Shares. The BMS Entities have good and valid title to the Shares free and clear of any lien, encumbrance, pledge, charge, security interest, mortgage, title retention agreement, option, equity or other adverse claim, and has not, in whole or in part, (a) assigned, transferred, hypothecated, pledged or otherwise disposed of the Shares or its ownership rights in such Shares to any person or (b) given any person any transfer order, power of attorney or other authority of any nature whatsoever with respect to the Shares.

Section 2.4 Sophistication of BMS. BMS, on behalf of itself and each BMS Entity, acknowledges and agrees that, except as set forth in this Agreement, the Purchaser is not making any express or implied warranties in connection with the transactions contemplated hereby, including the Repurchase Transaction. BMS, on behalf of itself and each BMS Entity, acknowledges that each of BMS and the BMS Entities has such knowledge and experience in financial and business matters and in making investment decisions of this type that it is capable of evaluating the merits and risks of making its investment decision regarding the transactions contemplated hereby, including the Repurchase Transaction, and of making an informed investment decision. Each of BMS, on behalf of itself and each BMS Entity, and its respective advisor(s) have had a reasonable opportunity to ask questions of and receive answers from a person or persons acting on behalf of the Purchaser concerning the Shares and the Purchaser and all such questions have been answered to BMS's full satisfaction. Neither BMS nor any other BMS Entity is relying on the Purchaser with respect to the tax and other economic considerations of the transactions contemplated hereby, including the Repurchase Transaction, and each of BMS and the BMS Entities has relied on the advice of, or has consulted with, its own advisors.

Section 2.5 Brokers. There is no broker, investment banker or financial advisor of BMS, any BMS Entity or any of their respective affiliates that would be entitled any broker's, finder's, financial advisor's or other similar fee or commission from Purchaser or any of its affiliates in connection with the transactions contemplated by this Agreement.

ARTICLE III

REPRESENTATIONS AND WARRANTIES OF THE PURCHASER

Except as set forth in the disclosure letter delivered by the Purchaser to BMS contemporaneously herewith, the Purchaser hereby makes the following representations and warranties to BMS, each of which is true and correct as of the date hereof and as of the Closing Date.

Section 3.1 Existence and Power.

(a) The Purchaser is a corporation duly organized, validly existing and in good standing under the laws of the State of Delaware and has the power, authority and capacity to execute and deliver this Agreement, to perform the Purchaser's obligations hereunder, and to consummate the transactions contemplated hereby.

(b) The execution and delivery of this Agreement by the Purchaser and the consummation by the Purchaser of the transactions contemplated hereby (i) do not require, except as have been obtained prior to the date hereof, the consent, approval, authorization, order, registration or qualification of, or filing with, any governmental or regulatory authority, including any stock exchange or self-regulatory organization, or court, or body or arbitrator having jurisdiction over the Purchaser or any of its subsidiaries; and (ii) except as would not have an adverse effect on the ability of the Purchaser to consummate the transactions

contemplated by this Agreement, do not and will not constitute or result in a breach, violation or default, or cause the acceleration or termination of any obligation or right of the Purchaser, any of the Purchaser's subsidiaries or any other party thereto, under (A) any note, bond, mortgage, deed, indenture, lien, instrument, contract, agreement, lease or license, whether written or oral, express or implied, to which the Purchaser or any of its subsidiaries is a party, (B) the Purchaser's or any of its subsidiaries' organizational documents or (C) any statute, law, ordinance, decree, order, injunction, rule, directive, judgment or regulation of any court, administrative or regulatory body, including any stock exchange or self-regulatory organization, governmental authority, arbitrator, mediator or similar body.

Section 3.2 Valid and Enforceable Agreement; Authorization. This Agreement has been duly executed and delivered by the Purchaser and, assuming the due execution and delivery of this Agreement by BMS, constitutes a legal, valid and binding obligation of the Purchaser, enforceable against the Purchaser in accordance with its terms, except as limited by the Enforceability Exceptions. The Purchaser has duly taken all necessary corporate action to authorize the execution, delivery and performance of this Agreement and the transactions contemplated hereby.

Section 3.3 Sufficient Funds. Subject to receipt of the Closing Purchase Price as contemplated by the Oncology Sale Agreement, the Purchaser will have as of the Closing Date access to legally available funds sufficient to consummate the Repurchase Transaction. The Repurchase Transaction will be in compliance with Section 160 of the Delaware General Corporation Law.

Section 3.4 Sophistication of the Purchaser. The Purchaser acknowledges and agrees that, except as set forth in this Agreement, BMS is not making any express or implied warranties in connection with the Repurchase Transaction. The Purchaser has such knowledge and experience in financial and business matters and in making investment decisions of this type that it is capable of evaluating the merits and risks of making its investment decision regarding the Repurchase Transaction and of making an informed investment decision. The Purchaser and its advisor(s) have had a reasonable opportunity to ask questions of and receive answers from a person or persons acting on behalf of BMS concerning the Shares and BMS and all such questions have been answered to the Purchaser's full satisfaction. The Purchaser is not relying on BMS with respect to the tax and other economic considerations of the Repurchase Transaction, and the Purchaser has relied on the advice of, or has consulted with, the Purchaser's own advisors.

Section 3.5 Brokers. There is no broker, investment banker or financial advisor of the Purchaser or any of its affiliates that would be entitled any broker's, finder's, financial advisor's or other similar fee or commission from BMS or any of its affiliates in connection with the transactions contemplated by this Agreement.

Section 3.6 No MNPI. As of the date of this Agreement, Purchaser does not have any actual knowledge of any material, nonpublic information about the Purchaser or the Common Shares, and Purchaser is not entering into this Agreement as part of a plan or scheme to evade the prohibitions of Rule 10b5-1 of the Exchange Act.

ARTICLE IV

MISCELLANEOUS PROVISIONS

Section 4.1 Notice. Any notice provided for in this Agreement shall be in writing and shall be either personally delivered, mailed first class mail (postage prepaid) with return receipt requested, sent in the form of email transmission with receipt confirmation requested or sent by reputable overnight courier service (charges prepaid) to the address and to the attention of the person set forth in this Agreement. Notices will be deemed to have been given hereunder when delivered personally, three business days after deposit in the U.S. mail postage prepaid with return receipt requested, immediately upon confirmation of receipt of an email transmission and two business days after deposit postage prepaid with a reputable overnight courier service for delivery on the next business day.

If to the Purchaser, to:

Agios Pharmaceuticals, Inc.
88 Sidney St.
Cambridge, MA 02139
Attn: Jonathan Biller, Chief Financial Officer, Head of Corporate
and Legal Affairs
Email: jonathan.biller@agios.com

with a copy to:

Wachtell, Lipton, Rosen & Katz
51 West 52nd Street
New York, New York 10019
Attn: Steven A. Cohen, Esq.
David K. Lam, Esq.
Email: SACohen@wlrk.com
DKLam@wlrk.com

if to BMS, to:

Bristol-Myers Squibb Company
Route 206 and Province Line Road
Princeton, NJ 08543-4000
Attention: Executive Vice President, Strategy and Business Development
Email: Elizabeth.Mily@bms.com; bd-investments@bms.com

with a copy to:

Bristol-Myers Squibb Company
Route 206 and Province Line Road
Princeton, NJ 08543-4000

Attention: Senior Vice President and Associate General Counsel,
Transactions Law
Email: Casarine.Chong@bms.com; bd-investments@bms.com

Section 4.2 Entire Agreement. This Agreement embodies the entire agreement and understanding of the parties hereto with respect to the subject matter hereof and supersedes all prior written and contemporaneous oral agreements, representations, warranties, contracts, correspondence, conversations, memoranda and understandings between or among the parties or any of their agents, representatives or affiliates relative to such subject matter, including, without limitation, any term sheets, emails or draft documents.

Section 4.3 Assignment; Binding Agreement. This Agreement and the various rights and obligations arising hereunder shall inure to the benefit of and be binding upon the parties hereto and their successors and assigns. This Agreement may not be assigned to any person without the prior written consent of the non-assigning party.

Section 4.4 Counterparts. This Agreement may be executed in any number of counterparts, each of which will be deemed an original, with the same effect as if the signature on each such counterpart were on the same instrument. The words "execution," "signed," "signature," "delivery," and words of like import in or relating to this Agreement and/or any document to be signed in connection with this Agreement and the transactions contemplated hereby shall be deemed to include Electronic Signatures (as defined below), deliveries or the keeping of records in electronic form, each of which shall be of the same legal effect, validity or enforceability as a manually executed signature, physical delivery thereof or the use of a paper-based recordkeeping system, as the case may be. "Electronic Signatures" means any electronic symbol or process attached to, or associated with, any contract or other record and adopted by a person with the intent to sign, authenticate or accept such contract or record.

Section 4.5 Governing Law. This Agreement shall in all respects be construed in accordance with and governed by the substantive laws of the State of New York, without giving effect to principles of conflicts of laws. Each party hereto waives, to the fullest extent permitted by applicable law, any right it may have to a trial by jury in respect of any action, suit or proceeding arising out of or relating to this Agreement or any transaction contemplated hereby.

Section 4.6 No Third-Party Beneficiaries or Other Rights. Nothing herein shall grant to or create in any person not a party hereto any rights hereunder, and no such person shall be entitled to sue any party hereto with respect thereto.

Section 4.7 Waiver; Consent. This Agreement and its terms may not be changed, amended, waived, terminated, augmented, rescinded or discharged (other than in accordance with its terms), in whole or in part, except by a writing executed by the parties hereto.

Section 4.8 Further Assurances. Each party hereto hereby agrees to execute and deliver, or cause to be executed and delivered, such other documents, instruments and agreements, and take such other actions consistent with the terms of this Agreement, as may be reasonably necessary in order to accomplish the transactions contemplated hereby.

Section 4.9 Costs and Expenses. Each party hereto shall each pay its own respective costs and expenses, including any commission or finder's fee to any broker or finder, incurred in connection with the negotiation, preparation, execution and performance of this Agreement.

Section 4.10 Severability. If any one or more of the provisions contained herein, or the application thereof in any circumstance, is held invalid, illegal or unenforceable, the validity, legality and enforceability of any such provision in every other respect and of the remaining provisions contained herein shall not be affected or impaired thereby.

Section 4.11 Captions. The article and section captions herein are for convenience of reference only, do not constitute part of this Agreement and will not be deemed to limit or otherwise affect any of the provisions hereof.

Section 4.12 Confidentiality; Public Announcements.

(a) Each party shall keep confidential and not disclose any nonpublic information provided by the other party or its agents for such party's use in connection with the Repurchase Transaction or the negotiation of this Agreement (the "Confidential Information"), and shall not publish, disclose or otherwise divulge, such Confidential Information without such other party's prior written consent, except to such party's officers, directors, agents, or employees on a confidential and need-to-know basis; provided that such party accepts responsibility for compliance by such parties with the provisions of this Agreement; provided, further, that nothing herein shall prevent such party from disclosing any Confidential Information (a) pursuant to the order of any court or administrative agency or in any legal, judicial or administrative proceeding, or otherwise as required by applicable law based on the advice of counsel (in which case such party agrees, to the extent not prohibited by applicable law or regulation, to inform the other party promptly thereof prior to disclosure), (b) pursuant to obligations of such party under law, regulation or any listing agreement with any securities exchange or the requirements of any self-regulatory organization or as contemplated by Section 4.12(b) (in which case such party agrees, to the extent not prohibited by applicable law or regulation, to inform the other party promptly thereof prior to disclosure), (c) in response to routine examinations, regulatory sweeps and other regulatory inquiries by a regulatory or self-regulatory authority, bank examiner or auditor, and (d) to the extent that such Confidential Information becomes publicly available other than by reason of improper disclosure by such party.

(b) Subject to each party's disclosure obligations imposed by law or obligations pursuant to any listing agreement with any securities exchange or the requirements of any self-regulatory organization, each of the parties hereto will cooperate with each other party in the development and dissemination of all public news releases and other public information containing disclosures with respect to this Agreement and any of the transactions contemplated by this Agreement (it being understood that the Purchaser intends to issue a press release announcing execution of this Agreement with a description of the terms of this Agreement in substantially the form presented by Purchaser to BMS).

Section 4.13 Specific Performance. The parties acknowledge and agree that a party would not be made whole by monetary damages in the event that any of the provisions of this Agreement are not performed by each other party in accordance with their specific terms or are otherwise breached. Accordingly, the parties agree that, in any such event, the parties shall be entitled to seek an injunction or injunctions to specifically enforce the terms and provisions hereof in an action instituted in any court of the State of Delaware having subject matter jurisdiction in respect thereof, and the parties further hereby agree to waive any requirement for the securing or posting of a bond in connection with the obtaining of such injunctive or other equitable relief.

[Signature Page Follows]

IN WITNESS WHEREOF, each of the parties hereto has caused this Agreement to be executed as of the date first above written.

THE PURCHASER:

AGIOS PHARMACEUTICALS, INC.

By: /s/ Jonathan Biller

Name: Jonathan Biller

Title: Chief Financial Officer, Head of Corporate and
Legal Affairs

BMS:

BRISTOL-MYERS SQUIBB COMPANY

By: /s/ Elizabeth Mily

Name: Elizabeth Mily

Title: Executive Vice President



AgiOS Announces Closing of Oncology Business Sale to Servier

AgiOS Receives \$1.8 Billion in Upfront Cash to Focus on Accelerating and Expanding its Genetically Defined Disease Portfolio

AgiOS Enters Into Agreement to Repurchase Approximately 10% of Its Outstanding Shares from Bristol-Myers Squibb for \$344.5 Million

CAMBRIDGE, Mass., April 1, 2021 – Agios Pharmaceuticals, Inc. (NASDAQ: AGIO), a leader in the field of cellular metabolism to treat genetically defined diseases, today announced the closing of the sale of its commercial, clinical and research-stage oncology portfolio to Servier Pharmaceuticals, LLC, an independent global pharmaceutical company. The transaction was approved by Agios shareholders on March 25, 2021.

In consideration for its oncology portfolio, Agios received from Servier \$1.8 billion in upfront cash and is eligible to receive an additional \$200 million in a potential future milestone payment for vorasidenib, as well as 5% royalties on U.S. net sales of TIBSOVO® (ivosidenib tablets) from sales after the closing through loss of exclusivity and 15% royalties on U.S. net sales of vorasidenib from the first commercial sale through loss of exclusivity.

“First, I want to thank each and every employee within the oncology franchise who helped create truly meaningful, differentiated therapies for patients over the past decade. With your expertise and Servier’s deep commitment to its expanding oncology portfolio, we look forward to watching these programs flourish,” said Jackie Fouse, Ph.D., chief executive officer of Agios. “As we look ahead, Agios is poised for a bright and focused future as we seek to rapidly advance our genetically defined disease portfolio, delivering sustainable, long-term value to shareholders and superior outcomes for patients. In the near-term, mitapivat has the potential to be a blockbuster product with approvals in our three initial focus areas – pyruvate kinase (PK) deficiency, thalassemia and sickle cell disease – and we have tremendous untapped potential for both the pyruvate kinase R (PKR) activation portfolio as well as our other preclinical assets.”

In addition, Agios today announced that it has entered into a definitive agreement with Bristol-Myers Squibb Company (BMS) to repurchase 7,121,658 shares of Agios common stock held by BMS and its affiliates for an aggregate purchase price of \$344.5 million, or \$48.3785 per share, using the proceeds from the sale of the oncology business. As previously disclosed, the Agios board of directors authorized the company to repurchase up to \$1.2 billion of its outstanding shares, using the proceeds from the sale of the oncology business. Following completion of the repurchase of shares from BMS, Agios expects to conduct the remaining \$855.5 million of share repurchases over the next 12-18 months, including executing a meaningful portion of the planned repurchases by year-end through a combination of 10b5-1 plans and open market purchases.

With a singular focus on growing the company’s genetically defined disease clinical and research pipeline, Agios anticipates significant key milestones in 2021, including filing for regulatory approval for mitapivat in adults with PK deficiency in both the U.S. and EU; initiating



two Phase 3 studies of mitapivat in transfusion dependent and non-transfusion dependent thalassemia; initiating a Phase 2/3 study of mitapivat in sickle cell disease; presenting the first data from the healthy volunteer study of AG-946, the next generation PKR activator; and prioritizing new indications for PKR and pyruvate kinase M2 (PKM2) activator clinical development. In addition, Agios will explore all options to maximize the patient impact and value of mitapivat globally, including strategic transactions.

Goldman Sachs & Co. LLC and Morgan Stanley & Co. LLC acted as financial advisors to Agios on this transaction. Wachtell, Lipton, Rosen & Katz acted as legal advisor to Agios.

About Agios

Agios is focused on discovering and developing novel investigational medicines to treat genetically defined diseases through scientific leadership in the field of cellular metabolism. The company's most advanced drug candidate is a first-in-class pyruvate kinase R (PKR) activator, mitapivat, that is currently being evaluated for the treatment of three distinct hemolytic anemias. In addition to its active late-stage clinical pipeline, Agios has multiple novel, investigational therapies in clinical and/or preclinical development. For more information, please visit the company's website at www.agios.com.

Cautionary Note Regarding Forward-Looking Statements

Certain statements contained in this communication may constitute forward-looking statements within the meaning of within the meaning of the Private Securities Litigation Reform Act of 1995, Section 27A of the Securities Act of 1933 and Section 21E of the Securities Exchange Act of 1934. Forward-looking statements are based on our current plans and expectations and involve risks and uncertainties which are, in many instances, beyond our control, and which could cause actual results to differ materially from those included in or contemplated or implied by the forward-looking statements. Such risks and uncertainties include the following: (i) the failure of Agios to receive milestone or royalty payments after the closing of the transaction and the uncertainty of the timing of any receipt of any such payments; (ii) the uncertainty of the results and effectiveness of the use of proceeds from the transaction; (iii) the ability of Agios to realize the expected benefits from the transaction; and (iv) other risks and uncertainties described in our reports and filings with the U.S. Securities and Exchange Commission, including the risks and uncertainties set forth in Item 1A under the heading Risk Factors in our Annual Report on Form 10-K for the year ended December 31, 2020 and other subsequent periodic reports we file with the SEC, which are available at www.sec.gov and Agios' website at www.agios.com. While the list of factors presented here is considered representative, this list should not be considered to be a complete statement of all potential risks and uncertainties. Any forward-looking statements contained in this communication are made only as of the date hereof, and we undertake no obligation to update forward-looking statements to reflect developments or information obtained after the date hereof and disclaim any obligation to do so other than as may be required by law.

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