

REFINITIV

# DELTA REPORT

## 10-Q

AGEN - AGENUS INC

10-Q - JUNE 30, 2023 COMPARED TO 10-Q - MARCH 31, 2023

The following comparison report has been automatically generated

TOTAL DELTAS 1234

<span style="color: yellow;">█</span>	CHANGES	183
<span style="color: pink;">█</span>	DELETIONS	327
<span style="color: green;">█</span>	ADDITIONS	724

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

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**Form 10-Q**

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

For the quarterly period ended **March 31, June 30, 2023**

or

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

For the transition period from to

Commission File Number: 000-29089

**Agenus Inc.**

*(exact name of registrant as specified in its charter)*

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**Delaware**

**06-1562417**

*(State or other jurisdiction of incorporation or organization)*

*(I.R.S. Employer Identification No.)*

**3 Forbes Road, Lexington, Massachusetts 02421**

*(Address of principal executive offices, including zip code)*

**Registrant's telephone number, including area code:**

(781) 674-4400

Securities registered or to be registered pursuant to Section 12(b) of the Act.

<b>Title of each class</b>	<b>Trading symbol(s)</b>	<b>Name of each exchange on which registered</b>
Common stock, par value \$0.01	AGEN	The Nasdaq Capital Market

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

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

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

Large accelerated filer

Accelerated filer

Non-accelerated filer

Smaller reporting company

Emerging growth company

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

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

Number of shares outstanding of the issuer's Common Stock as of May 5, 2023 August 4, 2023:

348,875,959 379,572,187 shares.

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### Agenus Inc.

Three Six Months Ended March 31, 2023 June 30, 2023

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## PART I - FINANCIAL INFORMATION

### Item 1. *Financial Statements*

**AGENUS INC. AND SUBSIDIARIES**  
**CONDENSED CONSOLIDATED BALANCE SHEETS**  
(Amounts in thousands, except share and per share amounts)

ASSETS	March 31, 2023	December 31, 2022	June 30, 2023	December 31, 2022
	(unaudited)	(unaudited)	(unaudited)	(unaudited)
Cash and cash equivalents			143,20	
	\$ 164,819	\$ 178,674	\$ 5	\$ 178,674
Short-term investments	24,414	14,684	14,647	14,684
Accounts receivable	1,417	2,741	1,341	2,741

Prepaid expenses	11,143	13,829	8,699	13,829
Other current assets	3,896	3,194	2,843	3,194
Total current assets			170,73	
	205,689	213,122	5	213,122
Property, plant and equipment, net of accumulated amortization and depreciation of \$56,119 and \$54,075 at March 31, 2023 and December 31, 2022, respectively	140,434	133,017		
Property, plant and equipment, net of accumulated amortization and depreciation of \$58,489 and \$54,075 at June 30, 2023 and December 31, 2022, respectively			143,35	
Operating lease right-of-use assets	31,029	31,269	30,528	31,269
Goodwill	25,623	25,467	24,728	25,467
Acquired intangible assets, net of accumulated amortization of \$16,699 and \$16,148 at March 31, 2023 and December 31, 2022, respectively	5,660	6,228		
Acquired intangible assets, net of accumulated amortization of \$17,123 and \$16,148 at June 30, 2023 and December 31, 2022, respectively			4,986	6,228
Other long-term assets	4,419	4,453	9,258	4,453
Total assets			383,59	
	\$ 412,854	\$ 413,556	\$ 3	\$ 413,556
<b>LIABILITIES AND STOCKHOLDERS' DEFICIT</b>				
Current portion, long-term debt	\$ 1,022	\$ 575	\$ 622	\$ 575
Current portion, liability related to sale of future royalties and milestones	84,859	83,510	97,778	83,510
Current portion, deferred revenue	9,886	12,269	7,828	12,269
Current portion, operating lease liabilities	1,972	1,943	1,905	1,943
Accounts payable	46,768	40,939	52,473	40,939
Accrued liabilities	33,454	38,259	30,194	38,259
Other current liabilities	12,937	11,457	13,268	11,457
Total current liabilities			204,06	
	190,898	188,952	8	188,952

Long-term debt, net of current portion	12,627	12,584	12,673	12,584
Liability related to sale of future royalties and milestones, net of current portion	184,527	187,753	2	187,753
Deferred revenue, net of current portion	1,143	1,143	1,143	1,143
Operating lease liabilities, net of current portion	62,857	63,326	62,253	63,326
Other long-term liabilities	13,911	14,700	11,075	14,700
Commitments and contingencies				
<b>STOCKHOLDERS' DEFICIT</b>				
Series A-1 convertible preferred stock; 31,620 shares designated, issued, and outstanding at March 31, 2023 and December 31, 2022; liquidation value of \$33,726 at March 31, 2023	0	0		
Common stock, par value \$0.01 per share; 800,000,000 shares authorized; 341,663,183 and 305,573,397 shares issued at March 31, 2023 and December 31, 2022, respectively	3,417	3,056		
Series A-1 convertible preferred stock; 31,620 shares designated, issued, and outstanding at June 30, 2023 and December 31, 2022; liquidation value of \$33,779 at June 30, 2023			0	0
Common stock, par value \$0.01 per share; 800,000,000 shares authorized; 367,491,091 and 305,573,397 shares issued at June 30, 2023 and December 31, 2022, respectively			3,675	3,056
Additional paid-in capital	1,715,29		1,751,0	
	1	1,644,658	24	1,644,658
Accumulated other comprehensive income	917	915		
Accumulated other comprehensive income (loss)			(717)	915
Accumulated deficit	(1,778,1		(1,847,	(1,709,90
	61 )	(1,709,907)	177)	7)

Total stockholders' deficit attributable to Agenus Inc.	(58,536)	(61,278)	(93,195)	(61,278)
Non-controlling interest	5,427	6,376	16,434	6,376
Total stockholders' deficit	(53,109)	(54,902)	(76,761)	(54,902)
Total liabilities and stockholders' deficit			383,59	
	<u>\$ 412,854</u>	<u>\$ 413,556</u>	<u>\$ 3</u>	<u>\$ 413,556</u>

See accompanying notes to unaudited condensed consolidated financial statements.

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**AGENUS INC. AND SUBSIDIARIES**  
**CONDENSED CONSOLIDATED STATEMENTS OF OPERATIONS AND COMPREHENSIVE LOSS**  
**(Unaudited)**  
**(Amounts in thousands, except per share amounts)**

	Three Months Ended		Three Months Ended		Six Months Ended June	
	March 31,		June 30,		30,	
	2023	2022	2023	2022	2023	2022
Revenue:						
Research and development	\$ 2,612	\$ 6,740	\$ 2,489	\$ 1,907	\$ 5,101	\$ 8,647
Royalty sales milestone			—	17,316	—	6
Service revenue	1,184	1,567	739	1,559	1,923	3,126
Non-cash royalty revenue related to the sale of future royalties	19,106	17,634	8	144	4	8
Total revenues	22,902	25,941	25,29	20,926	48,19	46,86
Operating expenses:						
Cost of service revenue	(2,294)	(543)	(254)	(2,024)	(2,54	(2,56
Research and development	(57,11	(42,44	(59,28	(44,96	(116,	(87,4
General and administrative	(18,23	(18,95	(20,41	(18,91	(38,6	(37,8
Contingent purchase price consideration fair value adjustment	406	536	(8)	407	398	943
Operating loss	(54,34	(35,46	(54,66	(44,56	(109,	(80,0
	1)	1)	6)	5)	007)	27)

Other income (expense):						
Non-operating income	40	56				
Non-operating income (expense)			(244)	9,061	(204)	9,118
Interest expense, net	(16,59	(15,19	(18,52	(13,73	(35,1	(28,9
	2)	9)	0)	1)	12)	30)
Net loss	(70,89	(50,60	(73,43	(49,23	(144,	(99,8
	3)	4)	0)	5)	323)	39)
Dividends on Series A-1 convertible preferred stock	(53)	(53)	(53)	(53)	(107)	(106)
Less: net loss attributable to non-controlling interest	(2,639)	(2,279)	(4,414)	(2,801)	3)	1)
Net loss attributable to Agenus Inc. common stockholders	(68,30	(48,37	(69,06	(46,48	(137,	(94,8
	\$ 7)	\$ 8)	\$ 9)	\$ 7)	\$ 377)	\$ 64)
Per common share data:						
Basic and diluted net loss attributable to Agenus Inc. common stockholders	\$ (0.22)	\$ (0.19)	\$ (0.20)	\$ (0.17)	\$ (0.41)	\$ (0.35)
Weighted average number of Agenus Inc. common shares outstanding:						
Basic and diluted	317,10	258,31	351,3	277,03	334,3	267,7
	9	0	79	3	39	23
Other comprehensive loss:						
Foreign currency translation gain (loss)	\$ 2	\$ (522)	\$ (1,634)	\$ 1,179	\$ 2)	\$ 657
Other comprehensive gain (loss)	2	(522)	(1,634)	1,179	2)	657
Comprehensive loss	(68,30	(48,90	(70,70	(45,30	(139,	(94,2
	\$ 5)	\$ 0)	\$ 3)	\$ 8)	\$ 009)	\$ 07)

See accompanying notes to unaudited condensed consolidated financial statements.

**AGENUS INC. AND SUBSIDIARIES**  
**CONDENSED CONSOLIDATED STATEMENTS OF CONVERTIBLE PREFERRED STOCK AND STOCKHOLDERS' EQUITY**  
**(DEFICIT)**

**(Unaudited)**  
**(Amounts in thousands)**

Retirement of treasury shares	—	—	(996)	(10)	—	10	2,	—	—	—	2,41								
							42				9								
							9												
						1,71													
			341,6	3,4	5,29				5,42	(1,77)	(53,1)								
Balance at March 31, 2023	32	\$ 0	63	\$ 17	\$ 1	—	\$ —	\$ 917	\$ 7	\$ 8,161)	\$ 09)								
<b>Series A-1</b>																			
<b>Convertible</b>																			
<b>Preferred</b>																			
<b>Stock</b>				<b>Common Stock</b>				<b>Treasury Stock</b>											
<b>Accum</b>																			
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Issuance of shares for employee bonus	—	—	2,716	27	4,19	(10)	(2,)	—	—	—	1,79
					8		42				6
							9				
								2,			
								42			2,41
Retirement of treasury shares	—	—	(996)	(10)	—	10	9	—	—	—	9
					1,71						
					341,6	3,4	5,29			5,42	(1,77)
Balance at March 31, 2023	32	\$ 0	63	\$ 17	\$ 1	—	\$ —	\$ 917	\$ 7	\$ 8,161	\$ 09)
										(4,41)	(69,0)
											(73,4)
Net loss	—	—	—	—	—	—	—	—	4)	16)	30)
									(1,63)		(1,63)
Other comprehensive income	—	—	—	—	—	—	—	4)	—	—	4)
											6,04
Share-based compensation	—	—	—	—	4	—	—	—	888	—	2
					24,55	24	42,0				42,2
Shares sold at the market	—	—	7	6	01	—	—	—	—	—	47
Vesting of nonvested shares	—	—	17	—	—	—	—	—	—	—	—
MiNK stock dividend	—	—	—	—	888)	—	—	—	88	—	—
MiNK stock purchases	—	—	—	—	405	—	—	—	(640)	—	(235)
Issuance of subsidiary shares for employee bonus	—	—	—	—	—	—	—	—	285	—	285
									(1,		
									64		1,43
Issuance of shares for employee bonus	—	—	1,928	19	1	(7)	2)	—	—	—	8
									1,		
									64		1,63
Retirement of treasury shares	—	—	(673)	(7)	—	7	2	—	—	—	5
									1,75		
									367,4	3,6	1,02
Balance at June 30, 2023	32	\$ 0	92	\$ 75	\$ 4	—	\$ —	\$ (717)	\$ 34	\$ 7,177	\$ 61)

See accompanying notes to unaudited condensed consolidated financial statements.

**AGENUS INC. AND SUBSIDIARIES**  
**CONDENSED CONSOLIDATED STATEMENTS OF CONVERTIBLE PREFERRED STOCK AND STOCKHOLDERS' EQUITY**  
**(DEFICIT)**  
**(Unaudited)**  
**(Amounts in thousands)**

		(4	(5			(4	(5
		(2	8,	0,		(2	8,
		,2	3	6		,2	3
		7	2	0		7	2
Net loss	—	—	—	—	—	—	—
Other							
compre							
hensive							
loss	—	—	—	—	—	—	—
Share-							
based							
compen-							
sation	—	—	—	—	—	—	—
Shares							
sold at							
the							
market	—	—	—	—	—	—	—
Issuanc							
e of							
director							
deferre							
d shares	—	—	—	—	—	—	—
Issuanc							
e of							
shares							
for							
services	—	—	—	—	—	—	—
Vesting							
of							
nonvest							
ed							
shares	—	—	—	—	—	—	—

Exercise of stock options and employ ee share purchas es	—	—	6	1	7	—	—	—	—	8	—	—	6	1	7	—	—	—	—	8		
Issuanc e of shares for employ ee bonus	—	—	5	38	5	7)	0)	—	—	—	3	—	—	5	8	5	7)	0)	—	—	3	
Retirem ent of treasury shares	—	—	7)	3)	—	7	0	—	—	—	7	—	—	7)	3)	—	7	0	—	—	7	
Balance at March 31, 2022	32	\$ 0	1	\$ 7	\$ 9	—	\$—	\$ 0	\$ 2	\$ 8)	\$ 0	2	\$ 0	1	\$ 7	\$ 9	—	\$—	\$ 0	\$ 2	\$ 8)	\$ 0
Net loss	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	
Other compre hensive income	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	

Share-based compensation	3,811	7,917	4,615
Shares sold at the market	5,785	8,107	8,237
Issuance of shares for milestones	2,891	—	7
Issuance of shares for services	0,281	—	0
Exercise of stock options	7,191	—	1,444
Issuance of subsidiary shares for employee bonuses	—	—	2,294
	—	—	9
	—	—	4

Issuanc e of shares for employ ee bonus	—	2	3	(1)	(2)	—	—	—	1
Retirem ent of treasury shares	—	—	6	2	3	0)	1)	—	—
Balance at June 30, 2022	—	—	0)	(1)	—	0	1	—	—
	—	—	—	—	—	1,	—	—	(1)
	2	2	5						,5
	8	8	8					1	8
	2,	2,	3,					2,	4,
	8	8	0					1	2
	3	6	2	3				4	2
	2	\$ 0	2	\$ 9	\$ 0	—	\$—	\$ 9	\$ 2
	—	—	—	—	—	—	—	—	—
	2	2	2	2	2	2	2	2	2

See accompanying notes to unaudited condensed consolidated financial statements.

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**AGENUS INC. AND SUBSIDIARIES**  
**CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS**  
**(Unaudited)**  
**(Amounts in thousands, except per share amounts)**

	Three Months Ended March 31,		Six Months Ended June 30,	
	2023	2022	2023	2022
Cash flows from operating activities:				
Net loss	\$ (70,893)	\$ (50,604)	\$ (144,32)	\$ (99,83)
Adjustments to reconcile net loss to net cash used in operating activities:				
Depreciation and amortization	2,562	1,660	5,535	3,350
Share-based compensation	5,485	4,991	11,527	9,625

				(17,778)
Non-cash royalty revenue	(19,106)	(17,634)	(41,174)	8)
Non-cash interest expense	17,273	14,952	36,920	28,588
Loss on disposal of assets	21	2		
Loss (gain) on sale of assets			49	(6,601)
Other, net			249	—
Gain on partial forgiveness of liability			—	(2,791)
Change in fair value of contingent obligations	(406)	(536)	(398)	(943)
Changes in operating assets and liabilities:				(17,13)
Accounts receivable	1,291	135	1,021	0)
Prepaid expenses	2,965	(1,380)	5,427	(2,947)
Accounts payable	2,032	(7,626)	7,969	363
Deferred revenue	(2,382)	(1,346)	(4,439)	(3,284)
Accrued liabilities and other current liabilities	5,158	279	8,135	(1,553)
Other operating assets and liabilities	(2,526)	4,716	(5,067)	15,096
			(118,56)	(95,84)
Net cash used in operating activities	(58,526)	(52,391)	9)	4)
Cash flows from investing activities:				(22,99)
Purchases of plant and equipment	(1,842)	(4,544)	(6,279)	6)
Proceeds from sale of property, plant and equipment			350	10,002
Purchase of long-term investment			(5,396)	—
Cash paid for business acquisition	—	(3,002)	—	(3,652)
Purchases of available-for-sale securities	(14,647)	(4,987)	(14,647)	(9,945)
Proceeds from sale of available-for-sale securities	5,000	5,000	15,000	15,000
				(11,59)
Net cash used in investing activities	(11,489)	(7,533)	(10,972)	1)
Cash flows from financing activities:				102,82
Net proceeds from sale of equity	60,583	19,182	9	47,419
Proceeds from employee stock purchases and option exercises	374	368	397	382
Purchase of treasury shares to satisfy tax withholdings	(2,819)	(3,380)	(4,566)	(3,789)

Purchase of subsidiary shares			(236)	—
Payment of finance lease obligation	(1,888)	(132)	(3,911)	(178)
Net cash provided by financing activities	56,250	16,038	94,513	43,834
Effect of exchange rate changes on cash	(90)	(336)	(441)	55
Net decrease in cash, cash equivalents and restricted cash	(13,855)	(44,222)	(35,469)	(63,546)
Cash, cash equivalents and restricted cash, beginning of period	181,343	294,600	181,343	294,600
Cash, cash equivalents and restricted cash, end of period	<u>\$ 167,488</u>	<u>\$ 250,378</u>	<u>\$ 4</u>	<u>\$ 4</u>
Supplemental cash flow information:				
Cash paid for interest	\$ 830	\$ 279	\$ 1,705	\$ 568
Supplemental disclosures - non-cash activities:				
Purchases of plant and equipment in accounts payable and accrued liabilities	\$ 3,893	\$ 12,236	\$ 4,762	\$ 10,555
Issuance of common stock, \$0.01 par value, in connection with payment for services	318	56	318	101
Insurance financing agreement	707	933	707	933
Issuance of common stock, \$0.01 par value, for payment of certain employee bonuses	4,215	6,270	7,288	6,634
Issuance of common stock, \$0.01 par value, for milestone achievement			—	500
Issuance of subsidiary shares for employee bonus	726	—	1,011	294
Lease right-of-use assets obtained in exchange for new operating lease liabilities	250	146	287	9,148
Lease right-of-use assets obtained in exchange for new finance lease liabilities	3,630	—	4,635	648

See accompanying notes to unaudited condensed consolidated financial statements.

**AGENUS INC. AND SUBSIDIARIES**  
**NOTES TO UNAUDITED CONDENSED CONSOLIDATED FINANCIAL STATEMENTS**  
**March 31, June 30, 2023**

**Note A - Business, Liquidity and Basis of Presentation**

Agenus Inc. (including its subsidiaries, collectively referred to as "Agenus," the "Company," "we," "us," and "our") is a clinical-stage company with a pipeline of focused on developing therapies designed to activate that harness the body's immune system to fight combat cancer and infections, including infections. Our pipeline includes immune-modulatory antibodies, adoptive cell therapies (through through our subsidiary MiNK Therapeutics, Inc. ("MiNK")), and vaccine adjuvants (through through our subsidiary SaponiQx, Inc. ("SaponiQx")). Our business is designed approach to drive success in Immuno-oncology ("I-O") through emphasizes speed, innovation, and effective combination therapies. therapies to drive success. We believe that combination therapies and a deep understanding of each patient's cancer will drive substantial expansion of significantly expand the patient population benefiting from current and potential new I-O therapies. treatments.

In addition to our diverse pipeline, we have assembled built fully integrated end-to-end capabilities including encompassing novel target discovery, antibody generation, cell line development, and current good manufacturing practice ("cGMP") clinical manufacturing. We believe that these fully integrated capabilities enable us to produce develop novel candidates on accelerated timelines that are shorter than the compared to industry standard. Leveraging standards. Through strategic partnerships, we leverage our science scientific expertise and capabilities we have forged important partnerships to advance our innovation, innovation in the field.

We are developing a comprehensive Our I-O portfolio is driven by the following several platforms and programs, which we intend plan to utilize individually and in combination:

- our multiple Multiple antibody discovery platforms, including our proprietary display technologies, designed to dr the discovery of identify future antibody candidates; candidates.
- our antibody Antibody candidate programs, including our lead asset, botensilimab, an Fc-enhanced CTLA-4 for wh data was antibody. Data presented at the 2023 American Society of Clinical Oncology – ESMO World Congress Gastrointestinal Cancers Symposium demonstrating in combination with balstilimab (PD-1) Cancer conference ("ESMO GI") demonstrated significant activity in "cold tumors," such as microsatellite stable colorectal cancer ("MS CRC"), and for which we initiated worldwide studies in 2022 in MSS CRC, in combination when combined with balstilimab melanoma (PD-1). In a late-breaking presentation at ESMO GI, the combination of botensilimab/balstilimab showed a median Overall Survival of 20.9 months for patients without active liver metastases, surpassing the recently reported 12.9 month benchmark with standard of care in this population. In A 2023, the botensilimab/balstilimab combination received Fast Track designation from the United States Food and pancreatic cancer; Drug Administration ("FDA") for the treatment of non-MSI-H/deficient mismatch repair (dMMR) metastatic colorectal cancer patients without active liver involvement.
- our Our saponin-based vaccine adjuvant platform, under SaponiQx, principally including primarily centered around our STIMULON™ cultured plant cell ("cpc") QS-21 STIMULON adjuvant ("QS-21 STIMULON" STIMULON cpc QS-21"); and.
- a A pipeline of novel allogeneic invariant natural killer T cell ("iNKT") therapies to treat for treating cancer and other immune-mediated diseases, controlled by MiNK.

Our business activities include encompass various areas such as product research, preclinical and clinical development, intellectual property prosecution, manufacturing, regulatory and clinical affairs, corporate finance and development activities, and support of our collaborations. Our strategy includes developing and commercializing product candidates require successful clinical trials through existing and approvals from regulatory agencies, as well as acceptance

in the marketplace. Part of our strategy is to develop and commercialize some of our product candidates by continuing our existing arrangements with academic and corporate collaborators and licensees and by entering into new collaborations.

Our cash, cash equivalents and short-term investments at **March 31, 2023** **June 30, 2023** were **\$189.2** **157.9** million, a decrease of **\$4.1** **35.5** million from December 31, 2022. Cash and cash equivalents of our subsidiary, MiNK, at **December 31, 2022** **March 31, 2023**, were **\$19.6** **14.9** million. MiNK cash can only be accessed by Agenus through a declaration of a dividend by the MiNK Board of Directors or through settlement of intercompany balances.

We have incurred losses since our inception. As of **March 31, 2023** **June 30, 2023**, we had an accumulated deficit of \$1.8 billion.

We have historically financed our operations through income and revenues generated from corporate partnerships, advance royalty sales and equity issuances. Based on our current plans and projections, we believe our cash resources of **\$189.2** **157.9** million at **March 31, 2023** **June 30, 2023** will be sufficient to satisfy our liquidity needs for more than one year from when these financial statements were issued.

Management consistently monitors our liquidity position and has the flexibility to adjust spending as necessary to preserve and extend liquidity. We regularly assess the likelihood of success of our programs, and our funding decisions are based on these evaluations. We are prepared to discontinue funding of any activities that do not impact our core priorities and to restrict capital expenditures and/or reduce the scale of our operations. Potential funding sources may include collaborations, out-licensing and/or partnering opportunities for our portfolio programs and product candidates with multiple parties, milestone payments from our existing partnerships, additional third-party agreements, asset sales, project financing, and/or sales of equity securities.

The accompanying unaudited interim condensed consolidated financial statements have been prepared in accordance with U.S. generally accepted accounting principles ("U.S. GAAP") for interim financial information and with the instructions to Article 10 of Regulation S-X. Accordingly, they do not include all of the information and footnotes required by U.S. GAAP for complete annual

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consolidated financial statements. In the opinion of our management, the condensed consolidated financial statements include all

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normal and recurring adjustments considered necessary for a fair presentation of our financial position and operating results. All significant intercompany transactions and accounts have been eliminated in consolidation. Operating results for the **three** **six** months ended **March 31, 2023** **June 30, 2023**, are not necessarily indicative of the results that may be expected for the year ending December 31, 2023. For further information, refer to our consolidated financial statements and

footnotes thereto included in our Annual Report on Form 10-K for the year ended December 31, 2022 filed with the Securities and Exchange Commission ("SEC").

The preparation of consolidated financial statements in conformity with U.S. GAAP requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosures of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting period. Management bases its estimates on historical experience and on various assumptions that are believed to be reasonable under the circumstances. Actual results could differ materially from those estimates.

For our foreign subsidiaries, the local currency is the functional currency. Assets and liabilities of our foreign subsidiaries are translated into U.S. dollars using rates in effect at the balance sheet date while revenues and expenses are translated into U.S. dollars using average exchange rates during the period. The cumulative translation adjustment resulting from changes in exchange rates are included in the consolidated balance sheets as a component of accumulated other comprehensive income in total stockholders' equity (deficit).

During the quarter ended June 30, 2023, we deconsolidated certain foreign subsidiaries and recognized a gain of \$132,000, included in "Other income (expense)" on our condensed consolidated statements of operations and comprehensive loss.

#### Note B - Net Loss Per Share

Basic net loss per common share is calculated by dividing the net loss attributable to common stockholders by the weighted average number of common shares outstanding (including common shares issuable under our Amended and Restated Directors' Deferred Compensation Plan, or "DDCP"). Diluted loss per common share is calculated by dividing loss attributable to common stockholders by the weighted average number of common shares outstanding (including common shares issuable under our DDCP) plus the dilutive effect of outstanding instruments such as warrants, stock options, non-vested shares and convertible preferred stock. Because we reported a net loss attributable to common stockholders for all periods presented, diluted loss per common share is the same as basic loss per common share, as the effect of utilizing the fully diluted share count would have reduced the net loss per common share. The following securities (listed on an as-if-converted-to-Common-Stock basis) have been excluded from the computation of diluted weighted average shares outstanding as of **March 31, 2023** **June 30, 2023** and 2022, as they would be anti-dilutive (in thousands):

	Three Months Ended March 31,		Three and Six Months Ended June 30,	
	2023	2022	2023	2022
Warrants	1,980	1,980	1,980	1,980
Stock options	43,678	38,577	44,396	36,476
Non-vested shares	2,546	473	542	271
Series A-1 convertible preferred stock	333	333	333	333

## Note C - Investments

Cash equivalents and short-term investments consisted of the following as of **March 31, 2023** **June 30, 2023** and **December 31, 2022** (in thousands):

	March 31, 2023		December 31, 2022		June 30, 2023		December 31, 2022	
	Estimate		Estimate		Estimate		Estimate	
	d		d		d		d	
	Fair		Fair		Fair		Fair	
	Cost	Value	Cost	Value	Cost	Value	Cost	Value
Institutional money market funds	114, \$ 037	114,0 \$ 37	149, \$ 856	149,8 \$ 56	72,3 \$ 75	72,37 \$ 5	149, \$ 856	149, \$ 856
U.S. Treasury Bills	54,1 94	54,19 4	29,5 22	29,52 2	69,2 91	69,29 1	29,5 22	29,5 22
Total	168, \$ 231	168,2 \$ 31	179, \$ 378	179,3 \$ 78	141, \$ 666	141,6 \$ 66	179, \$ 378	179, \$ 378

As a result of the short-term nature of **our** **these** investments, there were minimal unrealized holding gains or losses for the three and six months ended **March 31, 2023** **June 30, 2023** and 2022.

Of the investments listed above, **\$143.8** **127.0** million and \$164.7 million were classified as cash equivalents and **\$24.4** **14.6** million and \$14.7 million as short-term investments on our condensed consolidated balance sheets as of **March 31, 2023** **June 30, 2023** and December 31, 2022, respectively.

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## Note D - Goodwill and Acquired Intangible Assets

The following table sets forth the changes in the carrying amount of goodwill for the **three** **six** months ended **March 31, 2023** **June 30, 2023** (in thousands):

Balance, December 31, 2022	\$ 25,467	\$ 25,467
Disposals		\$ (805)
Foreign currency translation adjustment	156	66
Balance, March 31, 2023	<u>\$ 25,623</u>	
Balance, June 30, 2023		<u>\$ 24,728</u>

Acquired intangible assets consisted of the following as of **March 31, 2023** **June 30, 2023** and December 31, 2022 (in thousands):

As of March 31, 2023	As of June 30, 2023
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	Amortization				Amortization					
	period (years)	Gross carrying		Accumulated amortization		period (years)	Gross carrying		Accumulated amortization	
		7-15 years	\$ 16,841	\$ 14,284	\$ 2,557		7-4 years	\$ 16,840	\$ 14,756	\$ 2,084
Intellectual property	15 years	\$ 16,841		\$ 14,284	\$ 2,557	15 years	\$ 16,840	\$ 14,756	\$ 2,084	
Trademarks	4 years	\$ 1,262		\$ (1,159)	\$ 103	4 years	\$ 1,214	\$ 5	\$ 69	
Other	7 years	\$ 2,199		\$ (1,256)	\$ 943	7 years	\$ 1,998	\$ 2	\$ 776	
In-process research and development	Indefinite	\$ 2,057		\$ —	\$ 2,057	Indefinite	\$ 2,057	\$ —	\$ 2,057	
Total		\$ 22,359		\$ (16,699)	\$ 5,660		\$ 22,109	\$ (17,123)	\$ 646	

	As of December 31, 2022				
	Amortization		Gross		
	period (years)	carrying amount	Accumulated amortization	Net carrying amount	
Intellectual property	7-15 years	\$ 16,790	\$ (13,782)	\$ 3,008	
Trademarks	4-4.5 years	\$ 1,272	\$ (1,139)	\$ 133	
Other	2-6 years	\$ 2,278	\$ (1,227)	\$ 1,051	
In-process research and development	Indefinite	\$ 2,036	\$ —	\$ 2,036	
Total		\$ 22,376	\$ (16,148)	\$ 6,228	

The weighted average amortization period of our finite-lived intangible assets is 9 years. Amortization expense related to acquired intangibles is estimated at \$1.10.6 million for the remainder of 2023, \$0.6 million for the each of the years year ending December 31, 2024 and 2025, \$0.5 million for the year years ending December 31, 2026 December 31, 2025 and 2026 and \$0.4 million for the year ending December 31, 2027.

## Note E - Debt

Debt obligations consisted of the following as of **March 31, 2023** **June 30, 2023** and December 31, 2022 (in thousands):

<b><u>Debt instrument</u></b>	<b>Balance at</b>		<b>Balance at</b>
	<b>March 31,</b>	<b>2023</b>	
Current Portion:			
Debentures	\$	146	\$
Other		876	476
Long-term Portion:			
2015 Subordinated Notes		12,627	12,673
Total	\$	13,649	\$ 13,295

<b><u>Debt instrument</u></b>	<b>Balance at</b>	
	<b>December 31,</b>	<b>2022</b>
Current Portion:		
Debentures	\$	146
Other		429
Long-term Portion:		
2015 Subordinated Notes		12,584
Total	\$	13,159

As of **March 31, 2023** **both June 30, 2023** and December 31, 2022, the principal amount of our outstanding debt balance was **\$14.0 million** and **\$13.6 million**, respectively. **million**.

#### **Note F – Liability Related to the Sale of Future Royalties and Milestones**

The following table shows the activity within the liability account in the **three** **six** months ended **March 31, 2023** **June 30, 2023** (in thousands):

<b>Period from</b>	<b>Period from</b>
<b>December 31, 2022 to</b>	<b>December 31, 2022 to</b>
<b>March 31, 2023</b>	<b>June 30, 2023</b>

Liability related to sale of future royalties and milestones - beginning balance	\$ 271,560	\$ 271,560
Non-cash royalty revenue	(19,106)	(41,174)
Non-cash interest expense recognized	17,214	36,801
Liability related to sale of future royalties and milestones - ending balance	269,668	267,187
Less: unamortized transaction costs	(282)	(267)
Liability related to sale of future royalties and milestones, net	<u>\$ 269,386</u>	<u>\$ 266,920</u>

### **Healthcare Royalty Partners**

In January 2018, we, through our wholly-owned subsidiary Antigenics, LLC ("Antigenics"), entered into a Royalty Purchase Agreement (the "HCR Royalty Purchase Agreement") with Healthcare Royalty Partners III, L.P. and certain of its affiliates (collectively, "HCR"). Pursuant to the terms of the HCR Royalty Purchase Agreement, we sold to HCR 100% of Antigenics' worldwide rights to receive royalties from GlaxoSmithKline ("GSK") on sales of GSK's vaccines containing our QS-21 STIMULON adjuvant. At closing, we received gross proceeds of \$190.0 million from HCR. Although we sold all of our rights to receive royalties on sales of GSK's vaccines containing QS-21, as a result of our obligation to HCR, we are required to account for the \$190.0 million in proceeds from this transaction as a liability on our condensed consolidated balance sheet that will be recognized into revenue in proportion to the royalty payments from GSK to HCR over the estimated life of the HCR Royalty Purchase Agreement. The liability is classified between the current and non-current portion of liability related to sale of future royalties and milestones in the condensed consolidated balance sheets based on the estimated royalty payments to be received by HCR in the next 12 months from the financial statement reporting date.

During the **three** **six** months ended **March 31, 2023** **June 30, 2023**, we recognized **\$19.1** **41.2** million of non-cash royalty revenue, and we recorded **\$17.2** **36.8** million of related non-cash interest expense related to the HCR Royalty Purchase Agreement.

As royalties are remitted to HCR from GSK, the balance of the recorded liability will be effectively repaid over the life of the HCR Royalty Purchase Agreement. To determine the amortization of the recorded liability, we are required to estimate the total amount of future royalty payments to be received by HCR. The sum of these amounts less the \$190.0 million proceeds we received will be recorded as interest expense over the life of the HCR Royalty Purchase Agreement. Periodically, we assess the estimated royalty payments to be paid to HCR from GSK, and to the extent the amount or timing of the payments is materially different from our original estimates, we will prospectively adjust the amortization of the liability, and the related recognition of interest expense. During the **three** **six** months ended **March 31, 2023** **June 30, 2023**, our estimate of the effective annual interest rate over the life of the agreement **decreased** **increased** to **26.7** **30.4%**, which results in a life of contract interest rate of **22.9** **23.6%**.

### **Note G - Accrued and Other Current Liabilities**

Accrued liabilities consisted of the following as of **March 31, 2023** **June 30, 2023** and December 31, 2022 (in thousands):

	March 31, 2023	December 31, 2022	June 30, 2023	December 31, 2022
Payroll	\$ 11,686	\$ 15,872	\$ 7,957	\$ 15,872
Professional fees	6,860	6,946	5,771	6,946
Contract manufacturing costs	1,863	1,848	2,857	1,848
Research services	8,012	7,074	8,511	7,074
Other	5,033	6,519	5,098	6,519
Total	<u>\$ 33,454</u>	<u>\$ 38,259</u>	<u>\$ 30,194</u>	<u>\$ 38,259</u>

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Other current liabilities consisted of the following as of March 31, 2023 June 30, 2023 and December 31, 2022 (in thousands):

	March 31, 2023	December 31, 2022	June 30, 2023	December 31, 2022
Finance lease liabilities	\$ 9,273	\$ 7,952	\$ 9,894	\$ 7,952
Other	3,664	3,505	3,374	3,505
Total	<u>\$ 12,937</u>	<u>\$ 11,457</u>	<u>\$ 13,268</u>	<u>\$ 11,457</u>

#### Note H - Fair Value Measurements

Assets and liabilities measured at fair value are summarized below (in thousands):

<u>Description</u>	<u>June 30, 2023</u>	Quoted Prices in		
		Active Markets for Identical Assets	Significant Other Observable	Significant Unobservabl e Inputs Inputs
<u>Assets:</u>				
Cash equivalents (Note C)	\$ 127,020	\$ 127,020	\$ —	\$ —
Short-term investments (Note C)	14,647	14,647	—	—
Long-term investments	5,015	5,015	—	—

Total	\$ 146,682	\$ 146,682	\$ —	\$ —
<b>Liabilities:</b>				
Contingent purchase price considerations	\$ 476	\$ —	\$ —	\$ 476
Total	\$ 476	\$ —	\$ —	\$ 476
<b>Quoted Prices in Markets for</b>				
<b>Active      Significant      Significant</b>				
<b>Other      Observable      Unobservabl</b>				
<b>Identical      Observable      e</b>				
<b>December      Assets      Inputs      Inputs</b>				
<b>31, 2022      (Level 1)      (Level 2)      (Level 3)</b>				
<b>Description</b>				
<b>Assets:</b>				
Cash equivalents (Note C)	\$ 164,694	\$ —	\$ —	\$ —
Short-term investments (Note C)	14,689	—	—	—
Total	\$ 179,383	\$ —	\$ —	\$ —
<b>Liabilities:</b>				
Contingent purchase price consideration	\$ 874	\$ —	\$ —	\$ 874
Total	\$ 874	\$ —	\$ —	\$ 874

We measure our contingent purchase price considerations at fair value. The fair values of our contingent purchase price considerations at June 30, 2023 and December 31, 2022, of \$0.5 million and \$0.9 million, respectively, included in "Other long-term liabilities" in our condensed consolidated balance sheets, are based on significant inputs not observable in the market, which require them to be reported as Level 3 liabilities within the fair value hierarchy. The valuation of these liabilities use assumptions we believe would be made by a market participant and are mainly based on estimates from a Monte Carlo simulation of our share price, as well as other factors impacting the probability of triggering the milestone payments. Share price was evolved using a geometric Brownian motion, calculated daily for the life of the contingent purchase price considerations.

The fair value of our outstanding debt balance at March 31, 2023 and December 31, 2022 was \$13.7 million and \$13.2 million, respectively, based on the Level 2 valuation hierarchy of the fair value measurements standard using a present value methodology that was derived by evaluating the nature and terms of each note and considering the prevailing economic and market conditions at the balance sheet date. The principal amount of our outstanding debt balance at March 31, 2023 and December 31, 2022 was \$14.0 million and \$13.6 million, respectively, million.

## Note I - Revenue from Contracts with Customers

## **Gilead Collaboration Agreement**

On December 20, 2018, we entered into a series of agreements with Gilead Sciences, Inc. ("Gilead") focused on the development and commercialization of up to five novel immuno-oncology therapies. Pursuant to the terms of the license agreement, the option and license agreements and the stock purchase agreement we entered into with Gilead (collectively, the "Gilead

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Collaboration Agreements"), at the closing of the transaction on January 23, 2019, we received an upfront cash payment from Gilead of \$120.0 million and Gilead made a \$30.0 million equity investment in Agenus. On November 6, 2020, we received notice from Gilead that it was returning AGEN1423 to us and voluntarily terminating the applicable license agreement. The termination was effective as of February 4, 2021. In the third quarter of 2021 we ceased development of AGEN1223 and in October 2021 the AGEN1223 option and license agreement was formally terminated. The AGEN2373 option and license agreement and the stock purchase agreement remain in full force and effect. We remain eligible to receive a \$50.0 million exercise fee and, if exercised, up to \$520.0 million in aggregate potential milestones.

### *Collaboration Revenue*

For the three months ended **March 31, 2023** **June 30, 2023** and 2022, we recognized approximately \$2.0 million and \$1.2 million, respectively, of research and development revenue based on the partial satisfaction of the over time performance obligations as of quarter end.

For the six months ended **June 30, 2023**, we recognized approximately \$**2.3** **4.4** million of research and development revenue based on the partial satisfaction of the over time performance obligations as of **quarter** **period** end. For the **three** **six** months ended **March 31, 2022** **June 30, 2022**, we recognized research and development revenue of \$5.0 million related to the achievement of a milestone and \$**1.4** **2.6** million based on the partial satisfaction of the over time performance obligations as of **quarter** **period** end.

We expect to recognize deferred research and development revenue of \$**9.9** **7.8** million for the remainder of 2023 related to performance obligations that are unsatisfied or partially unsatisfied as of **March 31, 2023** **June 30, 2023**.

### *Disaggregation of Revenue*

The following table presents revenue (in thousands) for the three and six months ended **March 31, 2023** **June 30, 2023** and 2022, disaggregated by geographic region and revenue type. Revenue by geographic region is allocated based on the domicile of our respective business operations.

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Revenue Type	Three months ended March 31, 2023			Three months ended June 30, 2023		
	United States	Rest of World	Total	United States	Rest of World	Total
Research and development services	267	—	267	444	—	444
			1,18			
Other services	—	1,184	4	—	739	739
Recognition of deferred revenue	2,345	—	2,34	2,045	—	2,04
Non-cash royalties	19,106	—	06	22,068	—	22,0
			22,9			
	\$ 21,718	\$ 1,184	\$ 02	\$ 24,557	\$ 739	\$ 96
<b>Revenue Type</b>						
Three months ended March 31, 2022			Three months ended June 30, 2022			
License fees and milestones			5,00			
	\$ 5,000	\$ —	\$ 0			
Royalty sales milestone				\$ 17,316	\$ —	\$ 16
Research and development services	373	—	373	660	—	660
			1,56			
Other services	—	1,567	7	—	1,559	9
Recognition of deferred revenue	1,367	—	7	1,247	—	7
Non-cash royalties	17,634	—	34	144	—	144
			25,9			
	\$ 24,374	\$ 1,567	\$ 41	\$ 19,367	\$ 1,559	\$ 26

Revenue Type	Six months ended June 30, 2023				
	United States		Rest of World		Total
Research and development services	711		—	—	711
Other services	—		1,923	1,923	1,923
Recognition of deferred revenue	4,390		—	—	4,390
Non-cash royalties	41,174		—	—	41,174
	\$ 46,275		\$ 1,923	\$ 1,923	\$ 48,198

  

Revenue Type	Six months ended June 30, 2022				
	United States		Rest of World		Total
License fees and milestones	\$ 5,000	\$ —	—	—	\$ 5,000
Royalty sales milestone	17,316		—	—	17,316
Research and development services	1,032		—	—	1,032
Other services	—		3,126	3,126	3,126
Recognition of deferred revenue	2,615		—	—	2,615
Non-cash royalties	17,778		—	—	17,778
	\$ 43,741		\$ 3,126	\$ 3,126	\$ 46,867

### Contract Balances

Contract assets primarily relate to our rights to consideration for work completed in relation to our research and development services performed but not billed at the reporting date. The contract assets are transferred to receivables when the rights become unconditional. Currently, we do not have any contract assets which have not transferred to a receivable. We had no asset impairment charges related to contract assets in the period. Contract liabilities primarily relate to contracts where we received payments but have not yet satisfied the related performance obligations. The advance consideration received from customers for research and development services or licenses bundled with other promises is a contract liability until the underlying performance obligations are transferred to the customer.

The following table provides information about contract liabilities from contracts with customers (in thousands):

Three months ended	Balance at beginning of period	Additi ons	Deduct ions	Balance at end of period
March 31, 2023				

Six months ended June 30, 2023	Balance at beginning of period			Balance at end of period		
	Additions	Deductions				
Contract liabilities:						
Deferred revenue	\$ 13,412	\$ 6	\$ (2,3)	\$ 11,029	\$ 13,412	\$ 6
						\$ (4,4)
						\$ 8,971

The change in contract liabilities is primarily related to the recognition of \$2.3 million of revenue related to the Gilead Collaboration Agreements during the three six months ended March 31, 2023 June 30, 2023. Deferred revenue related to the Gilead Collaboration Agreements of \$9.9 million as of March 31, 2023 June 30, 2023, which was comprised of the \$142.5 million initial transaction price, less \$132.6 million of license and collaboration revenue recognized from the effective date of the contract, will be recognized as the combined performance obligation is satisfied.

We also recorded a \$1.4 million receivable as of March 31, 2023 June 30, 2023, for research and development and other services provided.

During the three six months ended March 31, 2023 June 30, 2023, we did not recognize any revenue from amounts included in the contract asset or the contract liability balances from performance obligations satisfied in previous periods. None of the costs to obtain or fulfill a contract were capitalized.

#### Note J - Share-based Compensation Plans

We primarily use the Black-Scholes option pricing model to value stock options granted to employees and non-employees, including stock options granted to members of our Board of Directors. However, the fair value of stock option market-based awards is

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calculated based on a Monte Carlo simulation as of the date of issuance. All stock options have 10-year terms and generally vest ratably over a 3 or 4-year period.

A summary of option activity for the three six months ended March 31, 2023 June 30, 2023 is presented below:

	Weighted Average				Weighted Average			
	Weighted	Remaining	Weighted	Remaining				
	Average	Contractual	Average	Contractual				
	Exercise	Term	Intrinsic	Value				
	Rate	(in years)	Value					
	Options	Price	Value		Options	Price	Value	
Outstanding at December 31, 2022	35,984				35,984			
	4,967	\$ 3.51			4,967	\$ 3.51		
	7,944,				9,439,			
Granted	447	2.42			902	2.35		
	(46,750)				(46,750)			
Exercised	0	1.68			50	1.68		
	(121,809)				(532,835)			
Forfeited	09	2.87			(448,			
	(83,189)				863)	3.78		
Expired								
Outstanding at March 31, 2023	43,677							
	7,666	\$ 3.31	7.05	\$ —				
Vested or expected to vest at March 31, 2023	43,677							
	7,666	\$ 3.31	7.05	\$ —				
Exercisable at March 31, 2023	25,859							
	9,623	\$ 3.62	5.97	\$ —				
Outstanding at June 30, 2023					44,396,421	\$ 3.27	6.91	\$ 47
Vested or expected to vest at June 30, 2023					44,396,421	\$ 3.27	6.91	\$ 47
Exercisable at June 30, 2023					26,931,597	\$ 3.60	5.88	\$ 6

The weighted average grant-date fair values of stock options granted during the **three** **six** months ended **March 31, 2023** **June 30, 2023** and 2022 were **\$1.53** **1.49** and **\$1.81** **1.76**, respectively.

As of **March 31, 2023** **June 30, 2023**, there was approximately **\$37.5** **32.7** million of total unrecognized share-based compensation expense related to these stock options and stock options granted under subsidiary plans which, if all milestones are achieved, will be recognized over a weighted average period of **2.2** **2.0** years.

Certain employees and consultants have been granted non-vested stock. The fair value of non-vested market-based awards is calculated based on a Monte Carlo simulation as of the date of issuance. The fair value of other non-vested stock is calculated based on the closing sale price of our common stock on the date of issuance.

A summary of non-vested stock activity for the **three** **six** months ended **March 31, 2023** **June 30, 2023** is presented below:

	Weighted		Weighted	
	Average		Average	
	Non-vested	Grant Date	Non-vested	Grant Date
	Shares	Fair Value	Shares	Fair Value
Outstanding at December 31, 2022	355,802	\$ 2.50	355,802	\$ 2.50
Granted	4,911,652	2.44	4,971,652	2.41
Vested	(2,721,176)	2.45	(4,665,474)	2.45
Forfeited	—	—	(120,000)	1.88
Outstanding at March 31, 2023	<u>2,546,278</u>	\$ 2.42		
Outstanding at June 30, 2023			541,980	\$ 2.37

As of **March 31, 2023** **June 30, 2023**, there was approximately **\$1.7** **1.2** million of unrecognized share-based compensation expense related to these non-vested shares and non-vested shares granted under subsidiary plans which will be recognized over a period of 2.0 years.

During the **three** **six** months ended **March 31, 2023** **June 30, 2023**, 150,291 shares were issued under the 2019 Employee Stock Purchase Plan, 46,750 shares were issued as a result of stock option exercises and **5,000** **21,666** shares were issued as a result of the vesting of non-vested stock. Additionally, **2,716,176** **4,643,808** shares were issued as payment for certain employee bonuses, with **995,658** **1,668,767** of those shares being withheld to cover taxes, resulting in a net share issuance of **1,720,518** **2,975,041**.

The impact on our results of operations from share-based compensation for the **three** **and** **six** months ended **March 31, 2023** **June 30, 2023** and 2022, was as follows (in thousands):

	Three Months Ended March	Three Months Ended June	Six Months Ended June 30,
	31,	30,	

	2023	2022	2023	2022	2023	2022
Research and development	\$ 1,733	\$ 1,339	\$ 1,656	\$ 1,192	\$ 3,389	\$ 2,531
General and administrative	3,752	3,608	4,386	3,423	8,138	7,031
Total share-based compensation expense	<u>\$ 5,485</u>	<u>\$ 4,947</u>	<u>\$ 6,042</u>	<u>\$ 4,615</u>	<u>\$ 11,527</u>	<u>\$ 9,562</u>

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#### Note K – Restricted Cash

As of both **March 31, 2023** **June 30, 2023**, and December 31, 2022, we maintained non-current restricted cash of \$2.7 million. This amount is included within “Other long-term assets” in our condensed consolidated balance sheets and is comprised of letters of credit required under two of our facility leases.

The following table provides a reconciliation of cash, cash equivalents and restricted cash that sums to the total of the same such amounts shown in the condensed consolidated statements of cash flows (in thousands):

	Three Months Ended		Three Months Ended		Six Months Ended June		Six Months Ended June	
	March 31, 2023		March 31, 2022		30, 2023		30, 2022	
	Beginning of Period	End of Period	Beginning of Period	End of Period	Beginning of Period	End of Period	Beginning of Period	End of Period
Cash and cash equivalents	178,67 \$ 4	164, \$ 819	291,93 \$ 1	247, \$ 709	178,6 \$ 74	143, \$ 205	291,9 \$ 31	228, \$ 385
Restricted cash	2,669	9	2,669	9	2,669	9	2,669	9
Cash, cash equivalents and restricted cash	181,34 \$ 3	167, \$ 488	294,60 \$ 0	250, \$ 378	181,3 \$ 43	145, \$ 874	294,6 \$ 00	231, \$ 054

#### Note L – Equity

##### At the Market Offerings

On **March 1, 2022** **June 23, 2023**, we filed an Automatic Shelf Registration Statement on Form S-3ASR (file no. 333-272911) (the “Registration Statement”). The Registration Statement included both a base prospectus that covered the potential offering, issuance and sale from time to time of common stock, preferred stock, warrants, debt securities and units of Agenus and a prospectus supplement with the SEC for the potential offer and sale of up to **100,000,000** **184,638,269** shares of common stock (the “Placement Shares”) in “at the market” offerings pursuant to an At Market Issuance Sales

Agreement by and between Agenus and B. Riley Securities, Inc. (the "Sales Agent"), dated as of July 22, 2020 (the "Sales Agreement"). Sales pursuant to the Sales Agreement will be made only upon our instruction to the Sales Agent, and we cannot provide assurances that we will issue any additional Placement Shares pursuant to the Sales Agreement.

During the quarter three and six months ended March 31, 2023 June 30, 2023, we received net proceeds of approximately \$60.6 42.2 million and \$102.8 million from the sale of approximately 33.8 24.6 million and 58.3 million shares of our common stock, respectively, in at-the-market offerings under the Sales Agreement.

#### Note M – Non-controlling Interest

Non-controlling interest recorded in our condensed consolidated financial statements as of June 30, 2023 and December 31, 2022, relates to the following approximate interests in certain consolidated subsidiaries, which we do not own.

	June 30, 2023	December 31, 2022
MiNK Therapeutics, Inc.	38 %	22 %
SaponiQx, Inc.	30 %	30 %

Changes in non-controlling interest for the periods ended June 30, 2023 and December 31, 2022, were as follows (in thousands):

	June 30, 2023	December 31, 2022
Beginning balance	\$ 6,376	\$ 13,469
Net loss attributable to non-controlling interest	(7,053)	(10,582)
Other items:		
Distribution of subsidiary shares to Agenus stockholders	14,888	—
Purchase of subsidiary shares	(640)	—
Issuance of subsidiary shares for employee bonus	1,011	294
Issuance of subsidiary shares under employee stock purchase plan	45	—
Subsidiary share-based compensation	1,807	3,195
Total other items	17,111	3,489
Ending balance	<u>\$ 16,434</u>	<u>\$ 6,376</u>

#### ***Distribution of subsidiary shares to Agenus stockholders***

On March 29, 2023, our Board of Directors declared a stock dividend (the "Dividend") consisting of an aggregate of 5.0 million shares (the "Dividend Stock") of common stock, par value \$0.00001 per share, of MiNK held by Agenus to record holders of Agenus' common stock, par value \$0.01 per share as of the close of business on April 17, 2023 (the "Record Date").

On May 1, 2023, we paid the Dividend and distributed 0.0146 of a share of the Dividend Stock for each share of Agenus Common Stock outstanding as of the close of business on the Record Date. No fractional shares were issued in connection with the Dividend and the shareholders of Agenus who were entitled to receive fractional shares of the Dividend Stock received cash (without interest) in lieu of such fractional shares. Subsequent to the distribution of the Dividend Stock, we maintained a controlling voting interest in MiNK.

#### ***Purchase of subsidiary shares***

In May 2023, we purchased 195,788 shares of MiNK common stock in multiple open market transactions.

#### **Note N – Related Party Transactions**

In 2023, our Audit and Finance Committee approved a contract between Avillion Life Sciences LTD ("Avillion") and Agenus for the performance of up to \$450,000 of clinical consulting services. Allison Jeynes, a member of our Board of Directors, is chief executive officer of Avillion. For the three and six months ended **March 31, 2023** **June 30, 2023**, approximately **\$228,000** **222,000** and **\$450,000**, respectively, related to these services is included in "Research and development" expense in our condensed consolidated statements of operations.

#### **Note N O - Recent Accounting Pronouncements**

##### ***Recently Issued and Adopted***

In January 2017, the **FASB** **Financial Accounting Standards Board** issued ASU 2017-04, Intangibles – Goodwill and Other (Topic 350) that will eliminate the requirement to calculate the implied fair value of goodwill to measure a goodwill impairment charge. Instead, an impairment charge will be based on the excess of a reporting unit's carrying amount over its fair value. We adopted the standard on January 1, 2023. The adoption did not have a material impact on our consolidated financial statements.

No other new accounting pronouncement issued or effective during the **three** **six** months ended **March 31, 2023** **June 30, 2023** had or is expected to have a material impact on our consolidated financial statements or disclosures.

#### **Note O P – Subsequent Events**

##### ***At the Market Offerings***

During the period of April 1, 2023 July 1, 2023 through May 5, 2023 August 4, 2023, we sold approximately 9.2 13.2 million shares of our common stock under the Sales Agreement, totaling net proceeds of approximately \$13.6 20.3 million.

### **MiNK Stock Dividend**

On March 29, 2023, our Board of Directors declared a stock dividend (the "Dividend") consisting of an aggregate of 5.0 million shares (the "Dividend Stock") of common stock, par value \$0.00001 per share, of MiNK held by Agenus to record holders of Agenus' common stock, par value \$0.01 per share as of the close of business on April 17, 2023 (the "Record Date").

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On May 1, 2023, we paid the Dividend and distributed 0.0146 of a share of the Dividend Stock for each share of Agenus Common Stock outstanding as of the close of business on the Record Date. No fractional shares were issued in connection with the Dividend and the shareholders of Agenus who were entitled to receive fractional shares of the Dividend Stock received cash (without interest) in lieu of such fractional shares. Subsequent to the distribution of the Dividend Stock, we owned approximately 62% of MiNK's common stock and maintained a controlling voting interest in MiNK.

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

### **Forward Looking Statements**

This Quarterly Report on Form 10-Q and other written and oral statements we make from time to time contain certain "forward-looking" statements within the meaning of Section 27A of the Securities Act of 1933 and Section 21E of the Securities Exchange Act of 1934 (the "Exchange Act"). You can identify these forward-looking statements by the fact they use words such as "could," "expect," "anticipate," "estimate," "target," "may," "project," "guidance," "intend," "plan," "believe," "will," "potential," "opportunity," "future" and other words and terms of similar meaning and expression in connection with any discussion of future operating or financial performance. You can also identify forward-looking statements by the fact that they do not relate strictly to historical or current facts. Such forward-looking statements are based on current expectations and involve inherent risks and uncertainties, including factors that could delay, divert or change any of them, and could cause actual outcomes to differ materially from current expectations. These statements relate to, among other things, our business strategy, our research and development, our product development efforts, our ability to commercialize our product candidates, the activities of our licensees, our prospects for initiating partnerships or collaborations, the timing of the introduction of products, the effect of new accounting pronouncements, uncertainty regarding our future operating results and our profitability, anticipated sources of funds as well as our plans, objectives, expectations, and intentions.

More detailed descriptions of these risks and uncertainties and other risks and uncertainties applicable to our business that we believe could cause actual results to differ materially from any forward-looking statements are included in Part I-Item 1A "Risk Factors" of our Annual Report on Form 10-K for the fiscal year ended December 31, 2022. We encourage you to read those descriptions carefully. Although we believe we have been prudent in our plans and assumptions, no assurance can be given that any goal or plan set forth in forward-looking statements can be achieved. We caution investors not to place significant reliance on forward-looking statements contained in this document; such statements need to be evaluated in light of all the information contained in this document. Furthermore, the statements speak only as of the date of this document, and we undertake no obligation to update or revise these statements.

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## Overview

We are a clinical-stage company with a pipeline of focused on developing therapies designed to activate that harness the body's immune system to fight combat cancer and infections, including infections. Our pipeline includes immune-modulatory antibodies, adoptive cell therapies (through through our subsidiary MiNK Therapeutics, Inc. ("MiNK")), and vaccine adjuvants (through through our subsidiary SaponiQx, Inc. ("SaponiQx")). Our business is designed approach to drive success in Immuno-oncology ("I-O") through emphasizes speed, innovation, and effective combination therapies. therapies to drive success. We believe that combination therapies and a deep understanding of each patient's cancer will drive substantial expansion of significantly expand the patient population benefiting from current and potential new I-O therapies. treatments.

In addition to our diverse pipeline, we have assembled built fully integrated end-to-end capabilities including encompassing novel target discovery, antibody generation, cell line development, and current good manufacturing practice ("cGMP") clinical manufacturing. We believe that these fully integrated capabilities enable us to produce develop novel candidates on accelerated timelines that are shorter than the compared to industry standard. Leveraging standards. Through strategic partnerships, we leverage our science scientific expertise and capabilities we have forged important partnerships to advance our innovation, innovation in the field.

We are developing a comprehensive Our I-O portfolio is driven by the following several platforms and programs, which we intend plan to utilize individually and in combination:

- our multiple Multiple antibody discovery platforms, including our proprietary display technologies, designed to dr the discovery of identify future antibody candidates; candidates.
- our antibody Antibody candidate programs, including our lead asset, botensilimab, an Fc-enhanced CTLA-4 for wh data was antibody. Data presented at the 2023 American Society of Clinical Oncology – ESMO World Congress Gastrointestinal Cancers Symposium demonstrating in combination with balstilimab (PD-1) Cancer conference ("ESMO GI") demonstrated significant activity in "cold tumors," such as microsatellite stable colorectal cancer ("MS CRC"); when combined with balstilimab (PD-1). In a late-breaking presentation at ESMO GI, the combination of botensilimab/balstilimab showed a median Overall Survival of 20.9 months for patients without active liver metastases, surpassing the recently reported 12.9 month benchmark with standard of care in this population.

- Our saponin-based vaccine adjuvant platform, under SaponiQx, principally including primarily centered around our STIMULON cultured plant cell ("cpc") QS-21 STIMULON adjuvant ("QS-21 STIMULON" STIMULON cpc QS-21"); and
- A pipeline of novel allogeneic invariant natural killer T cell ("iNKT") therapies to treat for treating cancer and other immune-mediated diseases, controlled by MiNK.

We assess regularly evaluate development, commercialization, and partnering strategies for each of our product candidates periodically candidate based on several various factors, including pre-clinical and clinical trial results, competitive positioning, and funding requirements, and available resources. Our lead program, botensilimab (AGEN1181), is advancing in progressing through multiple clinical programs which we have designed to support regulatory

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pathways for accelerated development with botensilimab as a monotherapy and in combination with balstilimab. We In 2022, we initiated worldwide global Phase 2 trials for botensilimab in

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microsatellite stable colorectal cancer, melanoma, and pancreatic cancer. In April 2023, the botensilimab/balstilimab combination received Fast Track designation from the United States Food and Drug Administration ("FDA") for the treatment of non-MSI-H/deficient mismatch repair (dMMR) metastatic colorectal cancer patients without active liver involvement. We intend to file our first biologics license application for the botensilimab/balstilimab combination in colorectal cancer in 2022, 2024.

We have formed established collaborations with several companies, such as including Bristol-Myers Squibb Company ("BMS"), Betta Pharmaceuticals Co., Ltd. ("Betta"), Gilead Sciences, Inc. ("Gilead"), Incyte Corporation ("Incyte"), and Merck Sharpe & Dohme ("Merck"). Through these alliances, as well as These collaborations, along with our own internal programs, we currently have more than resulted in over a dozen antibody programs currently in pre-clinical or clinical development.

Pursuant to our Our collaboration agreement with Incyte we have exclusively licensed to grants Incyte exclusive licenses for monospecific antibodies targeting GITR, OX40, TIM-3, LAG-3, and LAG-3, which an undisclosed target. Incyte has been advancing these antibodies in various clinical trials, as well as an additional undisclosed target that trials. Incyte was advancing in preclinical studies. In October 2022, Incyte has notified us of their intent to terminate the OX40 program, effective October 2023, and in May 2023, Incyte notified us of their intent to terminate both the GITR program and the undisclosed program, effective May 2024. On Upon termination, the rights to the OX40, GITR, and undisclosed programs revert back to us. Under the terms of our agreement, Incyte is responsible for all future development expenses for the remaining programs, and we are eligible to receive up to an additional \$315.0 million in potential milestone payments, plus along with royalties on any future sales. Pursuant to

Under our collaboration and license agreement with Merck, we have exclusively licensed to Merck a monospecific antibody targeting ILT4 to them, which Merck is advancing currently being advanced in a Phase 2 clinical trial. Under the

terms of our agreement, Merck is responsible for all future development expenses, and we are eligible to receive up to an additional \$85.0 million in potential milestone payments, plus as well as royalties on any future sales.

In September 2018, we, through our wholly-owned subsidiary Agenus Royalty Fund, LLC, we entered into a royalty purchase agreement (the "XOMA Royalty Purchase Agreement") with XOMA (US) LLC ("XOMA" ("XOMA")). Pursuant to the terms of the XOMA Royalty Purchase Agreement, agreement, XOMA purchased 33% of all future royalties and 10% of all future milestone payments that we are entitled to receive from Incyte and Merck, net of certain of after satisfying our obligations to a third party. After taking into account our obligations under the XOMA Royalty Purchase Agreement, as As of March 31, 2023 June 30, 2023, we remain eligible to receive up to \$283.5 million and \$76.5 million in potential development, regulatory, and commercial milestones from Incyte and Merck, respectively, respectively, after accounting for our obligations under the XOMA Royalty Purchase Agreement.

In December 2018, we entered into a series of collaboration agreements with Gilead to collaborate on for the development and commercialization of up to five novel I-O therapies (the "Gilead Collaboration Agreements"). Pursuant to the Gilead Collaboration Agreements, Gilead received worldwide exclusive rights to our bispecific antibody, AGEN1423, as well as and the exclusive option to exclusively license AGEN1223, a bispecific antibody, and AGEN2373, a monospecific antibody. All three assets have entered are currently in clinical development. In November 2020, Gilead elected to return AGEN1423 to us in November 2020 and to voluntarily terminate terminated the license agreement effective as agreement. We ceased development of February 4, 2021. In AGEN1223 in the third quarter of 2021, we ceased development of AGEN1223 and in October 2021 the AGEN1223 option and license agreement was for AGEN1223 were formally terminated. terminated in October 2021. The AGEN2373 option agreement remains in place, and we are responsible for developing the program up to until the option decision point, at which time point. If Gilead may acquire exclusive rights to exercises the program on option, exercise. We have the right to we may opt-in to share Gilead's development and commercialization costs in the United States in exchange for a 50:50 profit (loss) share on a 50:50 basis and revised milestone payments. In March 2022, we received a \$5.0 million clinical milestone under the AGEN2373 option agreement. Pursuant to the terms of the AGEN2373 option agreement, we remain eligible to receive a \$50.0 million option exercise fee and if exercised, up to an additional \$520.0 million in aggregate milestone payments, as well as royalties on any future sales.

In June 2020, we entered into a license and collaboration agreement (the "Betta License Agreement") with Betta, pursuant to which we granted Betta an exclusive license to develop, manufacture and commercialize balstilimab and zalifrelimab in Republic of China, Hong Kong, Macau and Taiwan ("Greater China"). Under the terms of the Betta License Agreement, we received \$15.0 million upfront and are eligible to receive up to \$100.0 million in milestone payments plus royalties on any future sales in Greater China.

In May 2021, we entered into a License, Development, and Commercialization Agreement ("BMS License Agreement") with BMS to collaborate on the development and commercialization of for our pre-clinical proprietary anti-TIGIT bispecific antibody program, AGEN1777. Under the BMS License Agreement, we granted BMS received an exclusive worldwide license under certain of our intellectual property rights to develop, manufacture, and commercialize AGEN1777 and its derivatives in all fields; provided, we derivatives. We retained an option to access the licensed antibodies for use in clinical studies in combination with certain of our other pipeline assets subject to certain restrictions. Pursuant to the BMS License

Agreement, we assets. We received a non-refundable upfront cash payment of \$200.0 million in July 2021 and are eligible to receive up to \$1.36 billion in aggregate development, regulatory, and commercial milestone payments, plus along with tiered royalties. In exchange, BMS is responsible for all of the development, regulatory approval, manufacturing associated costs, and commercialization costs with respect to products containing AGEN1777. We we have the option but not the obligation, to co-fund a minority of the global development costs of products containing AGEN1777 or its derivatives, in exchange for increased tiered royalties. Finally, we We also have the option to co-promote AGEN1777 in the U.S. In October 2021, we announced that achieved a \$20.0 million milestone upon the dosing of the first patient was dosed in the AGEN1777 Phase 1 clinical trial, triggering the achievement of a \$20.0 million milestone trial.

In September 2021, we announced the launch of launched SaponiQx to spearhead lead innovation in novel adjuvant discovery and vaccine design, including in relation to focusing on our saponin-based adjuvants. We also announced our partnership are particularly dedicated to the development of the next-generation cultured plant cell QS-21. To support this initiative, we partnered with Ginkgo Bioworks, Inc. to

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develop SaponiQx's novel saponin products from sustainably sourced raw materials, with a materials. Our goal is to meet the current demands placed on of the vaccine industry, especially for pandemic vaccines.

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Our bark extract QS-21 STIMULON adjuvant is partnered with GlaxoSmithKline ("GSK") and is plays a key component vital role in multiple GSK vaccine programs. These programs are in at various stages, with the most advanced being including GSK's approved shingles vaccine, Shingrix, SHINGRIX, which was approved received FDA approval in the United States by the FDA in October 2017.

In January 2018, we entered into a Royalty Purchase Agreement with Healthcare Royalty Partners III, L.P. and certain of its affiliates (together, "HCR" ("HCR")), pursuant to which HCR purchased 100% of our worldwide rights to receive royalties from GSK on GSK's sales of vaccines containing our QS-21 STIMULON adjuvant. We do not incur clinical development costs for products partnered with GSK. We

Under the agreement with HCR, we were also entitled to receive up to \$40.35 million in milestone payments from HCR based on sales of GSK's vaccines as follows: (i) vaccine sales. These milestones include \$15.1 million upon GSK reaching \$2.0 billion in last-twelve-months net sales any time prior to 2024 (the "First HCR Milestone") and (ii) \$25.25 million upon GSK reaching \$2.75 billion in last-twelve-months net sales any time prior to 2026 (the "Second HCR Milestone"). We received the First HCR Milestone after GSK's net sales of Shingrix SHINGRIX for the twelve months ended December 31, 2019, exceeded \$2.0 billion, and we received the Second HCR Milestone after GSK's net sales of Shingrix SHINGRIX for the twelve months ended June 30, 2022, exceeded \$2.75 billion.

Our business activities include encompass various areas such as product research, and preclinical and clinical development, intellectual property prosecution, manufacturing, regulatory and clinical affairs, corporate finance and development activities, and support of our collaborations. Our strategy includes developing and commercializing product candidates require successful clinical trials through existing and approvals from regulatory agencies, as well as acceptance in the marketplace. Part of our strategy is to develop and commercialize some of our product candidates by continuing our existing arrangements with academic and corporate collaborators and licensees and by entering into new collaborations.

Agenus' subsidiary MiNK completed a successful Initial Public Offering in October 2021 and is publicly traded on Nasdaq under the symbol INKT. MiNK is focused on the development of a clinical-stage precision oncology company developing unmodified iNKT and engineered invariant natural killer T cell therapies for the treatment of cancer and other life-threatening immune-mediated diseases. MiNK's most advanced Their lead product candidate, agenT-797, is an off-the-shelf, allogeneic, native iNKT cell therapy. MiNK has commenced and enrolled a A Phase 1 clinical trial for the treatment of solid tumors as a monotherapy and in combination with commercially approved checkpoint inhibitors (KEYTRUDA® (KEYTRUDA® and OPDIVO® OPDIVO®), has been initiated and enrolled, and data was presented in April at the American Association for Cancer Research Annual Meeting. The presentation showcased the activity of agenT-797 alone and in combination with anti-PD-1, with a 42% tumor reduction in a patient with metastatic gastric cancer who had no response to prior anti-PD-1 therapy or standard chemotherapy. Benefit was seen in additional solid tumor types, including durable disease stabilization and biomarker responses in NSCLC, testicular, and appendiceal cancers, that were refractory to anti-PD-1. MiNK is also evaluating agenT-797 as a variant-agnostic therapy for patients with viral acute respiratory distress syndrome, and published top-line data from this a Phase 1 clinical trial in the fourth quarter of 2021, reporting demonstrated a 77% survival rate in older, mechanically ventilated patients with COVID-19 respiratory failure. Pursuant to Through an assignment and license agreement with Agenus, MiNK owns the INKT technology including and has the rights to develop and expand a proprietary pipeline of engineered CAR-INKTs, TCRs, and INKT bispecific engagers.

## Historical Results of Operations

**Three months ended March 31, 2023 June 30, 2023 compared to the three months ended March 31, 2022 June 30, 2022**

### *Research and development revenue*

We recognized research and development revenue of approximately \$2.6 million \$2.5 million and \$6.7 million \$1.9 million during the three months ended March 31, 2023 June 30, 2023 and 2022, respectively. Research and development revenues in the first second quarter of 2023 primarily consisted of \$2.3 million \$2.0 million related to the recognition of deferred revenue earned under our Gilead Collaboration Agreements. Research and development revenues in the first second quarter of 2022 primarily consisted of a \$5.0 million milestone and \$1.4 million \$1.2 million related to the recognition of deferred revenue both earned under our Gilead Collaboration Agreements.

### *Non-cash royalty revenue related to the sale of future royalties*

In January 2018, we sold 100% of our worldwide rights to receive royalties from GSK on sales of GSK's vaccines containing our QS-21 STIMULON adjuvant to HCR. As described in Note F to our Condensed Consolidated Financial Statements, this transaction has been recorded as a liability that amortizes over the estimated life of our Royalty Purchase

Agreement with HCR. As a result of this liability accounting, even though the royalties are remitted directly to HCR, we record these royalties from GSK as revenue. Non-cash royalty revenue related to our agreement with GSK increased \$1.5 million \$22.0 million, to approximately \$19.1 million \$22.1 million for the three months ended March 31, 2023 June 30, 2023, from \$17.6 million \$0.1 million for the three months ended March 31, 2022 June 30, 2022, mainly due to increased net the achievement of the final sales milestone under the HCR agreement and the recognition of GSK's vaccines containing our QS-21 STIMULON adjuvant, these royalties as royalty milestone revenue in the three months ended June 30, 2022.

#### *Research and development expense*

Research and development expense includes the costs associated with our internal research and development activities, including compensation and benefits, occupancy costs, manufacturing costs, costs of consultants, and administrative costs. Research and development expense increased 35% 32% to \$57.1 million \$59.3 million for the three months ended March 31, 2023 June 30, 2023 from \$42.4 million \$45.0 million for the three months ended March 31, 2022 June 30, 2022. Increased expenses in the three months ended March 31, 2023 June 30, 2023 primarily relate to a \$11.4 million \$10.5 million increase in third-party services and other expenses, largely due to the timing of expenses related to the advancement of our antibody programs,

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a \$1.4 million \$2.1 million increase in personnel related expenses, primarily due to increased headcount, a \$1.4 million \$1.2 million increase in expenses attributable to the activities of our subsidiaries and a \$0.5 million increase in other research and development expenses.

#### *General and administrative expense*

General and administrative expense consists primarily of personnel costs, facility expenses, and professional fees. General and administrative expenses decreased 4% increased 8% to \$18.2 million \$20.4 million for the three months ended March 31, 2023 June 30, 2023 from \$19.0 million \$18.9 million for the three

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months ended March 31, 2022 June 30, 2022. Decreased Increased expenses in the three months ended March 31, 2023 June 30, 2023 primarily relate to a \$1.2 million decrease \$2.0 million increase in professional fees, primarily personnel related expenses, largely due to reduced consulting increased headcount, and external legal costs. These decreases were partially offset by a \$0.5 million \$0.2 million increase in other general and administrative expenses. These increases were partially offset \$0.6 million decrease in expenses attributable to the activities of our subsidiaries.

#### *Contingent purchase price consideration fair value adjustment Non-operating income (expense)*

Contingent purchase price consideration fair value adjustment represents Non-operating expense increased \$9.3 million for the change three months ended June 30, 2023, from income of \$9.1 million for the three months ended June 30, 2022 to expense of \$0.2 million for the three months ended June 30, 2023, primarily due to de minimis activity in the fair value three months ended June 30, 2023, compared to the recognition of our purchase price considerations, which resulted

from changes in our share price a \$6.6 million gain on the sale of property, plant and changes equipment and a \$2.8 million gain on the partial forgiveness of a liability in the credit spread since each reporting period end. The fair value of our contingent purchase price considerations is mainly based on estimates from a Monte Carlo simulation of our share price. three months ended June 30, 2022.

#### *Interest expense, net*

Interest expense, net increased to approximately \$16.6 million \$18.5 million for the three months ended March 31, 2023 June 30, 2023 from \$15.2 million \$13.7 million for the three months ended March 31, 2022 June 30, 2022, mainly due to increased non-cash interest recorded in connection with our Royalty Purchase Agreement with HCR and increased interest expense recorded in connection with our finance leases, partially offset by increased interest income earned on our cash equivalents and short-term investments.

#### ***Six months ended June 30, 2023 compared to the six months ended June 30, 2022***

##### *Research and development revenue*

We recognized research and development revenue of approximately \$5.1 million and \$8.6 million during the six months ended June 30, 2023 and 2022, respectively. Research and development revenues in the first half of 2023 primarily consisted of \$4.4 million related to the recognition of deferred revenue earned under our Gilead Collaboration Agreements. Research and development revenues in the first half of 2022 primarily consisted of a \$5.0 million milestone and \$2.6 million related to the recognition of deferred revenue, both earned under our Gilead Collaboration Agreements.

##### *Non-cash royalty revenue related to the sale of future royalties*

In January 2018, we sold 100% of our worldwide rights to receive royalties from GSK on sales of GSK's vaccines containing our QS-21 STIMULON adjuvant to HCR. As described in Note F to our Condensed Consolidated Financial Statements, this transaction has been recorded as a liability that amortizes over the estimated life of our Royalty Purchase Agreement with HCR. As a result of this liability accounting, even though the royalties are remitted directly to HCR, we record these royalties from GSK as revenue. Non-cash royalty revenue related to our agreement with GSK increased \$23.4 million, to approximately \$41.2 million for the six months ended June 30, 2023, from \$17.8 million for the six months ended June 30, 2022, due to increased net sales of GSK's vaccines containing our QS-21 STIMULON adjuvant and the achievement of the final sales milestone under the HCR agreement and the recognition of these royalties as royalty milestone revenue in the six months ended June 30, 2022.

##### *Research and development expense*

Research and development expense includes the costs associated with our internal research and development activities, including compensation and benefits, occupancy costs, manufacturing costs, costs of consultants, and administrative costs. Research and development expense increased 33% to \$116.4 million for the six months ended June 30, 2023 from \$87.4 million for the six months ended June 30, 2022. Increased expenses in the six months ended June 30, 2023 primarily relate to a \$21.8 million increase in third-party services and other expenses, largely due to the timing of expenses related to the advancement of our antibody programs, a \$3.5 million increase in personnel related expenses,

primarily due to increased headcount, a \$2.6 million increase in expenses attributable to the activities of our subsidiaries and a \$1.0 million increase in other research and development expenses.

#### *General and administrative expense*

General and administrative expense consists primarily of personnel costs, facility expenses, and professional fees. General and administrative expenses increased 2% to \$38.7 million for the six months ended June 30, 2023 from \$37.9 million for the six months ended June 30, 2022. Increased expenses in the six months ended June 30, 2023 primarily relate to a \$2.0 million increase in personnel related expenses, largely due to increased headcount, and a \$0.8 million increase in other general and administrative expenses. These increases were partially offset by a \$1.3 million decrease in professional fees, primarily due to reduced consulting and external legal costs, and a \$0.7 million decrease in expenses attributable to the activities of our subsidiaries.

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#### *Non-operating income (expense)*

Non-operating expense increased \$9.3 million for the six months ended June 30, 2023, from income of \$9.1 million for the six months ended June 30, 2022 to expense of \$0.2 million for the six months ended June 30, 2023, primarily due to de minimis activity in the six months ended June 30, 2023, compared to the recognition of a \$6.6 million gain on the sale of property, plant and equipment and a \$2.8 million gain on the partial forgiveness of a liability in the six months ended June 30, 2022.

#### *Interest expense, net*

Interest expense, net increased to approximately \$35.1 million for the six months ended June 30, 2023 from \$28.9 million for the six months ended June 30, 2022, mainly due to increased non-cash interest recorded in connection with our Royalty Purchase Agreement with HCR and increased interest expense recorded in connection with our finance leases, partially offset by increased interest income earned on our cash equivalents and short-term investments.

### **Research and Development Programs**

For the **three** **six** months ended **March 31, 2023** **June 30, 2023**, our research and development programs consisted largely of our antibody programs as indicated in the following table (in thousands).

Research and Development Program	Three Months Ended March 31,				Six Months Ended June 30,					
	Product	2023	2022	2021	2020	Product	2023	2022	2021	2020

Antibody programs	Vario us	13 \$ 41,835	14 \$ 08	11 \$ 66	Vario us	13 \$ 82,402	14 \$ 08	11 \$ 66
Vaccine adjuvant	QS-21				QS-21			
	STIM	10,			STIM	10,		
	ULO	78	5,9	30	ULO	78	5,9	30
	N	4,088	9	12	4	N	7,816	9
Cell therapies	Vario us	24, 30	15, 50	11, 02	Vario us	24, 30	15, 50	11, 02
Other research and development programs	Vario us	18, 49	15, 92	13, 09	Vario us	18, 49	15, 92	13, 09
Total research and development expenses		6,869	4	3	1	16,892	4	3
		<u>\$ 57,118</u>	<u>\$ 91</u>	<u>\$ 08</u>	<u>\$ 17</u>	<u>\$ 2</u>	<u>\$ 91</u>	<u>\$ 08</u>
								<u>\$ 17</u>

Research and development program costs include compensation and other direct costs plus an allocation of indirect costs, based on certain assumptions and our review of the status of each program. Our product candidates are in various stages of development and significant additional expenditures will be required if we start new clinical trials, encounter delays in our programs, apply for regulatory approvals, continue development of our technologies, expand our operations, and/or bring our product candidates to market. The total cost of any particular clinical trial is dependent on a number of factors such as trial design, length of the trial, number of clinical sites, number of patients, and trial sponsorship. The process of obtaining and maintaining regulatory approvals for new therapeutic products is lengthy, expensive, and uncertain. Because of the current stage of our product candidates, among other factors, we are unable to reliably estimate the cost of completing our research and development programs or the timing for bringing such programs to various markets or substantial partnering or out-licensing arrangements, and, therefore, when, if ever, material cash inflows are likely to commence.

## Liquidity and Capital Resources

We have incurred annual operating losses since inception, and we had an accumulated deficit of \$1.8 billion as of **March 31, 2023** **June 30, 2023**. We expect to incur significant losses over the next several years as we continue development of our technologies and product candidates, manage our regulatory processes, initiate and continue clinical trials, and prepare for potential commercialization of products. To date, we have financed our operations primarily through corporate partnerships, advance royalty sales and the issuance of equity. From our inception through **March 31, 2023** **June 30, 2023**,

we have raised aggregate net proceeds of approximately \$1.8 billion through the sale of common and preferred stock, the exercise of stock options and warrants, proceeds from our Employee Stock Purchase Plan, royalty monetization transactions, and the issuance of convertible and other notes.

We maintain an effective registration statement (the "Registration Statement"), covering common stock, preferred stock, warrants, debt securities and units. The Registration Statement includes prospectuses covering the offer, issuance and sale of up to 200 million 184.6 million shares of our common stock from time to time in "at-the-market offerings" pursuant to an At Market Issuance Sales Agreement (the "Sales Agreement") with B. Riley Securities, Inc. as our sales agent. We sold approximately 33.8 million 58.3 million and 9.2 million 13.2 million shares of our common stock pursuant to the Sales Agreement during the three six months ended March 31, 2023 June 30, 2023 and the period of

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April 1, 2023 July 1, 2023 through May 5, 2023 August 4, 2023, respectively, for aggregate net proceeds totaling \$74.2 million \$123.1 million. As of May 5, 2023 August 4, 2023, approximately 50.0 million 171.4 million shares remained available for sale under the Sales Agreement.

We have funded our operations largely from cash received from partners, royalty financing transactions and equity offerings. We transact at-the-market sales from time to time in order to manage our cash balances to make sure cash balances do not drop below

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a certain level based on our anticipated uses of cash. We execute at-the-market offerings based on market conditions and our stock price. We do not have in place a program whereby at-the-market offerings are executed automatically based on our trading volume.

As of March 31, 2023 June 30, 2023, we had debt outstanding of \$14.0 million \$13.6 million in principal. In November 2022, we amended all of the outstanding 2015 Subordinated Notes, extending the due date by two years to February 2025.

Our cash, cash equivalents and short-term investments at March 31, 2023 June 30, 2023 were \$189.2 million \$157.9 million, a decrease of \$4.1 million \$35.5 million from December 31, 2022. Cash and cash equivalents of our subsidiary, MiNK, at December 31, 2022 March 31, 2023, were \$19.6 million \$14.9 million. MiNK cash can only be accessed by Agenus through a declaration of a dividend by the MiNK Board of Directors or through settlement of intercompany balances.

Based on our current plans and projections, we believe our cash resources of \$189.2 million \$157.9 million as of March 31, 2023 June 30, 2023, will be sufficient to satisfy our liquidity needs for more than one year from when these financial statements were issued.

Management consistently monitors our liquidity position and has the flexibility to adjust spending as necessary to preserve and extend liquidity. We regularly assess the likelihood of success of our programs, and our funding decisions are

based on these evaluations. We are prepared to discontinue funding of any activities that do not impact our core priorities and to restrict capital expenditures and/or reduce the scale of our operations. Potential funding sources may include collaborations, out-licensing and/or partnering opportunities for our portfolio programs and product candidates with multiple parties, milestone payments from our existing partnerships, additional third-party agreements, asset sales, project financing, and/or sales of equity securities.

Our future cash requirements include, but are not limited to, supporting clinical trial and regulatory efforts and continuing our other research and development programs. Since inception, we have entered into various agreements with contract manufacturers, institutions, and clinical research organizations (collectively "third party providers") to perform pre-clinical activities and to conduct and monitor our clinical studies and trials. Under these agreements, subject to the enrollment of patients and performance by the applicable third-party provider, we have estimated our total payments to be \$581.4 million \$600.0 million over the term of the related activities. Through March 31, 2023 June 30, 2023, we have expensed \$479.0 million \$500.9 million as research and development expenses and \$454.2 million \$480.6 million has been paid under these agreements. The timing of expense recognition and future payments related to these agreements is subject to the enrollment of patients and performance by the applicable third-party provider. We plan to enter into additional agreements with third party providers and we anticipate significant additional expenditures will be required to initiate and advance our various programs.

Part of our strategy is to develop and commercialize some of our product candidates by continuing our existing collaboration arrangements with academic and collaboration partners and licensees and by entering into new collaborations. As a result of our collaboration agreements, we will not completely control the efforts to attempt to bring those product candidates to market. For example, our collaboration with Incyte for the development, manufacture and commercialization of CPM antibodies against certain targets is managed by a joint steering committee, which is controlled by Incyte.

Net cash used in operating activities for the three six months ended March 31, 2023 June 30, 2023 and 2022 was \$58.5 million \$118.6 million and \$52.4 million \$95.8 million, respectively. Our future ability to generate cash from operations will depend on achieving regulatory approval and market acceptance of our product candidates, achieving benchmarks as defined in existing collaboration agreements, and our ability to enter into new collaborations. See "Management's Discussion and Analysis of Financial Condition and Results of Operations—Forward Looking Statements" in Part I, Item 2 of this Quarterly Report on Form 10-Q and the risks highlighted in Part I, Item 1A "Risk Factors" of our 2022 Form 10-K.

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

Our primary market risk exposure is foreign currency exchange rate risk. International revenues and expenses are generally transacted by our foreign subsidiaries and are denominated in local currency. Approximately 4.1% 1.6% and 1.7% of our cash used in operations for the three six months ended March 31, 2023 June 30, 2023 and the year ended December 31, 2022, respectively, was from our foreign subsidiaries. We are exposed to foreign currency exchange rate fluctuation risk related to our transactions denominated in foreign currencies. We do not currently employ specific strategies, such as the use of derivative instruments or hedging, to manage these exposures. Our currency exposures vary but are primarily

concentrated in the British Pound, Euro, and Swiss Franc, in large part due to our subsidiaries, Agenus UK Limited and AgenTus Therapeutics Limited, both with operations in England, AgenTus Therapeutics SA, a company formerly with operations in Belgium, and Agenus Switzerland a company formerly with operations in Switzerland.

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We had cash, cash equivalents and short-term investments at **March 31, 2023** **June 30, 2023** of **\$189.2 million** **\$157.9 million**, which are exposed to the impact of interest rate changes, and our interest income fluctuates as interest rates change. Additionally, in the normal course of business, we are exposed to fluctuations in interest rates as we seek debt financing and invest excess cash. Due to the short-term nature of our investments in money market funds and U.S. Treasury Bills, our carrying value approximates the fair value of these investments at **March 31, 2023** **June 30, 2023**.

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There has been no material change to our interest rate exposure and our approach toward interest rate and foreign currency exchange rate exposures, as described in our Annual Report on Form 10-K for the year ended December 31, 2022.

We invest our cash and cash equivalents in accordance with our investment policy. The primary objectives of our investment policy are to preserve principal, maintain proper liquidity to meet operating needs, and maximize yields. We review our investment policy **annually** **periodically** and amend it as deemed necessary. Currently, the investment policy prohibits investing in any structured investment vehicles and asset-backed commercial paper. Although our investments are subject to credit risk, our investment policy specifies credit quality standards for our investments and limits the amount of credit exposure from any single issue, issuer, or type of investment. We do not invest in derivative financial instruments. Accordingly, we do not believe that there is currently any material market risk exposure with respect to derivatives or other financial instruments that would require disclosure under this item.

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

##### **Evaluation of Disclosure Controls and Procedures**

Under the supervision and with the participation of our management, including our Principal Executive Officer and Principal Financial Officer, we conducted an evaluation of the effectiveness of our disclosure controls and procedures, as such term is defined under Rule 13a-15(e) and Rule 15d-15(e) promulgated under the Exchange Act. Based on this evaluation, our Principal Executive Officer and our Principal Financial Officer concluded that, as of the end of the period covered by this Quarterly Report on Form 10-Q, our disclosure controls and procedures were effective and were designed to ensure that information we are required to disclose in the reports that we file or submit under the Exchange Act is accumulated and communicated to management, including our Principal Executive Officer and Principal Financial Officer, as appropriate, to allow timely decisions regarding required disclosure, and is recorded, processed, summarized and reported within the time periods specified in the Securities and Exchange Commission's rules and forms. It should be noted that any system of controls is designed to provide reasonable, but not absolute, assurances that the system will achieve its stated goals under all reasonably foreseeable circumstances. Our Principal Executive Officer and Principal Financial Officer

have each concluded that our disclosure controls and procedures as of the end of the period covered by this report are effective at a level that provides such reasonable assurances.

### ***Changes in Internal Control Over Financial Reporting***

There was no change in our internal control over financial reporting (as defined in Rules 13a-15(f) and 15d-15(f) under the Exchange Act) that occurred during the three months ended March 31, 2023June 30, 2023 that have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

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## **PART II - OTHER INFORMATION**

### ***Item 1. Legal Proceedings***

We are not party to any material legal proceedings.

### ***Item 1A. Risk Factors***

Our results of operations and financial condition are subject to numerous risks and uncertainties described in our Annual Report on Form 10-K for the fiscal year ended December 31, 2022. There have been no material changes to the risk factors described in Part I, Item 1A "Risk Factors" of our 2022 Form 10-K.

### ***Item 5. Other Information***

#### ***Trading Plans of Our Directors and Officers***

During the quarter ended June 30, 2023, none of our directors or executive officers adopted or terminated a "Rule 10b5-1 trading arrangement" or "non-Rule 10b5-1 trading arrangement," as each item is defined in Item 408 of Regulation S-K.

### ***Item 6. Exhibits***

#### Exhibit No. Description

- 31.1 [Certification of Principal Executive Officer pursuant to Rules 13a-14\(a\) and 15d-14\(a\) under the Securities Exchange Act of 1934, as amended. Filed herewith.](#)
  
- 31.2 [Certification of Principal Financial Officer pursuant to Rules 13a-14\(a\) and 15d-14\(a\) under the Securities Exchange Act of 1934, as amended. Filed herewith.](#)

32.1 [Certification of Principal Executive Officer and Principal Financial Officer pursuant to 18 U.S.C. Section 1350 as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002. Submitted herewith.](#)

101.INS XBRL Instance Document (the instance document does not appear in the Interactive Data File because its XBRL tags are embedded within the Inline XBRL document)

101.SCH Inline XBRL Taxonomy Extension Schema Document

101.CAL Inline XBRL Taxonomy Extension Calculation Linkbase Document

101.DEF Inline XBRL Taxonomy Extension Definition Linkbase Document

101.LAB Inline XBRL Taxonomy Extension Label Linkbase Document

101.PRE Inline XBRL Taxonomy Extension Presentation Linkbase Document

104 Cover Page Interactive Data File (embedded within the Inline XBRL document and included in Exhibit 101)

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**AGENUS INC.**

**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.

Date: **May 9, August 8, 2023**

AGENUS INC.

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/s/ CHRISTINE M. KLASKIN

**Christine M. Klaskin**

**VP, Finance, Principal Financial Officer,  
Principal Accounting Officer**

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**Exhibit 31.1**

Certification Pursuant to Rules 13a-14(a) and 15d-14(a) under the Securities Exchange Act of 1934, as amended

I, Garo H. Armen, certify that:

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

Date: May 9, 2023 August 8,  
2023

/s/ GARO H. ARMEN, PH.D.

**Garo H. Armen, Ph.D.**

**Chief Executive Officer and Principal Executive  
Officer**

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**Exhibit 31.2**

Certification Pursuant to Rules 13a-14(a) and 15d-14(a) under the Securities Exchange Act of 1934, as amended

I, Christine M. Klaskin, certify that:

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

that has materially affected, or is reasonably likely to materially affect, the Registrant's internal control over financial reporting; and

5. The Registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the Registrant's auditors and the audit committee of the Registrant's board of directors (or persons performing the equivalent function):
  - a. all significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the Registrant's ability to record, process, summarize and report financial information; and
  - b. any fraud, whether or not material, that involves management or other employees who have a significant role in the Registrant's internal control over financial reporting.

Date: **May 9, 2023** **August 8, 2023**

/s/ CHRISTINE M. KLASKIN

**Christine M. Klaskin**

**VP, Finance and Principal Financial Officer**

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**Exhibit 32.1**

**Certification**

Pursuant to 18 U.S.C. Section 1350,

As Adopted Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002

In connection with the Quarterly Report on Form 10-Q of Agenus Inc. (the "Company") for the quarterly period ended **March 31, 2023** **June 30, 2023** as filed with the Securities and Exchange Commission on the date hereof (the "Report"), each of the undersigned to his/her knowledge hereby certifies, pursuant to 18 U.S.C. Section 1350, that:

- (i) The Report fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934, as amended; and
- (ii) The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

/s/ GARO H. ARMEN, PH.D.

**Garo H. Armen, Ph.D.**

**Chief Executive Officer and Principal Executive Officer**

/s/ CHRISTINE M. KLASKIN

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**Christine M. Klaskin**

**VP, Finance and Principal Financial Officer**

Date: **May 9, 2023** **August 8, 2023**

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

The foregoing certification is being furnished to the Securities and Exchange Commission as an exhibit to the Report and should not be considered filed as part of the Report.

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## DISCLAIMER

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