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

FORM S-8
REGISTRATION STATEMENT
UNDER
THE SECURITIES ACT OF 1933

MannKind Corporation
(Exact Name of Registrant as Specified in Its Charter)

Delaware
(State or Other Jurisdiction of Incorporation
or Organization)

13-3607736
(I.R.S. Employer Identification No.)

30930 Russell Ranch Road, Suite 301
Westlake Village, California 91362
(818) 661-5000
(Address of Principal Executive Offices, Including Zip Code)

MannKind Corporation Market Price Stock Purchase Plan
(Full Title of the Plan)

Michael E. Castagna
Chief Executive Officer
MannKind Corporation
30930 Russell Ranch Road, Suite 301
Westlake Village, California 91362
(Name and Address of Agent for Service)

(818) 661-5000
(Telephone Number, Including Area Code, of Agent for Service)

Copies to:

David Thomson
Corporate Vice President, General Counsel & Secretary
MannKind Corporation
30930 Russell Ranch Road, Suite 301
Westlake Village, California 91362
(818) 661-5000

L. Kay Chandler, Esq.
Sean M. Clayton, Esq.
Cooley LLP
4401 Eastgate Mall
San Diego, CA 92121
(858) 550-6000

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

Large accelerated filer Accelerated filer
Non-accelerated filer (Do not check if a smaller reporting company) 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 7(a)(2)(B) of the Securities Act.

CALCULATION OF REGISTRATION FEE

Title of securities to be registered	Amount to be registered (1)	Proposed maximum offering price per share	Proposed maximum aggregate offering price	Amount of registration fee
MannKind Corporation Market Price Stock Purchase Plan Common Stock, \$0.01 par value per share	2,000,000 shares	\$1.94 (2)	\$3,880,000.00 (2)	\$483.06

- (1) Pursuant to Rule 416(a) under the Securities Act of 1933, as amended (the "Securities Act"), this Registration Statement shall also cover any additional shares of the Registrant's Common Stock ("Common Stock") that become issuable under the MannKind Corporation Market Price Stock Purchase Plan by reason of any stock dividend, stock split, recapitalization or other similar transaction.
- (2) This estimate is made pursuant to Rule 457(c) and Rule 457(h)(1) of the Securities Act solely for purposes of calculating the registration fee. The price per share and aggregate offering price are based upon the average of the high and low prices of the Common Stock on May 29, 2018, as reported by The Nasdaq Global Market.

PART I

INFORMATION REQUIRED IN THE SECTION 10(a) PROSPECTUS

ITEM 1. PLAN INFORMATION.

Not required to be filed with this Registration Statement.

ITEM 2. REGISTRANT INFORMATION AND EMPLOYEE PLAN ANNUAL INFORMATION.

Not required to be filed with this Registration Statement.

PART II

INFORMATION REQUIRED IN THE REGISTRATION STATEMENT

ITEM 3. INCORPORATION OF DOCUMENTS BY REFERENCE.

The Registrant hereby incorporates by reference into this Registration Statement the following documents previously filed by the Registrant with the Securities and Exchange Commission (the "Commission"):

- (a) The Registrant's Annual Report on Form 10-K for the year ended December 31, 2017, filed with the Commission on February 27, 2018.
- (b) The information specifically incorporated by reference into the Registrant's Annual Report on Form 10-K for the year ended December 31, 2017 from the Registrant's Definitive Proxy Statement on Schedule 14A, filed with the Commission on March 29, 2018.
- (c) The Registrant's Quarterly Report on Form 10-Q for the quarter ended March 31, 2018, filed with the Commission on May 9, 2018.
- (d) The Registrant's Current Reports on Form 8-K (excluding any information and exhibits furnished under either Item 2.02 or Item 7.01 thereof), filed with the Commission on January 19, 2018, March 12, 2018, April 6, 2018, May 17, 2018 and May 25, 2018.
- (e) The description of the Common Stock contained in the Registrant's registration statement on Form 8-A filed on July 23, 2004 (File No. 000-50865) under the Securities Exchange Act of 1934, as amended (the "Exchange Act"), including any amendment or report filed for the purpose of updating such description.

All documents, reports and definitive proxy or information statements filed pursuant to Section 13(a), 13(c), 14 or 15(d) of the Exchange Act after the date of this Registration Statement and prior to the filing of a post-effective amendment which indicates that all securities offered hereby have been sold or which deregisters all securities then remaining unsold, shall be deemed to be incorporated by reference into this Registration Statement and to be a part hereof from the date of filing of such documents; provided, however, that documents, reports and definitive proxy or information statements, or portions thereof, which are furnished and not filed in accordance with the rules of the Commission shall not be deemed incorporated by reference into this Registration Statement. Any statement contained in a document incorporated or deemed to be incorporated herein by reference shall be deemed to be modified or superseded for purposes of this Registration Statement to the extent that a statement herein or in any other subsequently filed document which also is or is deemed to be incorporated by reference herein modifies or supersedes that statement. Any such statement so modified or superseded shall not constitute a part of this Registration Statement, except as so modified or superseded.

ITEM 4. DESCRIPTION OF SECURITIES.

Not applicable.

ITEM 5. INTERESTS OF NAMED EXPERTS AND COUNSEL.

Not applicable.

ITEM 6. INDEMNIFICATION OF DIRECTORS AND OFFICERS.

The Registrant is incorporated under the laws of the State of Delaware. Section 145 of the Delaware General Corporation Law provides that a Delaware corporation may indemnify any persons who were, are, or are threatened to be made, parties to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (other than an action by or in the right of such corporation), by reason of the fact that such person is or was an officer, director, employee or agent of such corporation, or is or was serving at the request of such corporation as an officer, director, employee or agent of another corporation or enterprise. The indemnity may include expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by such person in connection with such action, suit or proceeding, provided that such person acted in good faith and in a manner he or she reasonably believed to be in or not opposed to the corporation's best interests and, with respect to any criminal action or proceeding, had no reasonable cause to believe that his or her conduct was illegal. A Delaware corporation may indemnify any persons who were, are, or are threatened to be made, a party to any threatened, pending or completed action or suit by or in the right of the corporation by reason of the fact that such person is or was a director, officer, employee or agent of such corporation, or is or was serving at the request of such corporation as a director, officer, employee or agent of another corporation or enterprise. The indemnity may include expenses (including attorneys' fees) actually and reasonably incurred

by such person in connection with the defense or settlement of such action or suit provided such person acted in good faith and in a manner he or she reasonably believed to be in or not opposed to the corporation's best interests except that no indemnification is permitted without judicial approval if the officer or director is adjudged to be liable to the corporation. Where an officer or director is successful on the merits or otherwise in the defense of any action referred to above, the corporation must indemnify him or her against the expenses (including attorneys' fees) actually and reasonably incurred.

The Registrant's amended and restated certificate of incorporation, as amended, and amended and restated bylaws provide for the indemnification of the Registrant's directors and officers to the fullest extent permitted under the Delaware General Corporation Law.

Section 102(b)(7) of the Delaware General Corporation Law permits a corporation to provide in its certificate of incorporation that a director of the corporation shall not be personally liable to the corporation or its stockholders for monetary damages for breach of fiduciary duties as a director, except for liability for any:

- transaction from which the director derives an improper personal benefit;
- act or omission not in good faith or that involves intentional misconduct or a knowing violation of law;
- unlawful payment of dividends or redemption of shares; or
- breach of a director's duty of loyalty to the corporation or its stockholders.

The Registrant's amended and restated certificate of incorporation, as amended, includes such a provision. Expenses incurred by any officer or director in defending any such action, suit or proceeding in advance of its final disposition shall be paid by the Registrant upon delivery to it of an undertaking, by or on behalf of such director or officer, to repay all amounts so advanced if it shall ultimately be determined that such director or officer is not entitled to be indemnified by the Registrant.

Section 174 of the Delaware General Corporation Law provides, among other things, that a director who willfully or negligently approves of an unlawful payment of dividends or an unlawful stock purchase or redemption may be held liable for such actions. A director who was either absent when the unlawful actions were approved, or dissented at the time, may avoid liability by causing his or her dissent to such actions to be entered in the books containing minutes of the meetings of the board of directors at the time such action occurred or immediately after such absent director receives notice of the unlawful acts.

As permitted by the Delaware General Corporation Law, the Registrant has entered into indemnity agreements with each of its directors and executive officers that require the Registrant to indemnify such persons against any and all costs and expenses (including attorneys', witness or other professional fees) actually and reasonably incurred by such person in connection with any action, suit or proceeding (including derivative actions), whether actual or threatened, to which any such person may be made a party by reason of the fact that such person is or was a director or officer or is or was acting or serving as an officer, director, employee or agent of the Registrant or any of its affiliated enterprises, provided that such person acted in good faith and in a manner such person reasonably believed to be in or not opposed to the Registrant's best interests and, with respect to any criminal proceeding, had no reasonable cause to believe his or her conduct was unlawful. The indemnification agreements also set forth certain procedures that will apply in the event of a claim for indemnification thereunder.

The Registrant has an insurance policy in place that covers its officers and directors with respect to certain liabilities, including liabilities arising under the Securities Act or otherwise.

ITEM 7. EXEMPTION FROM REGISTRATION CLAIMED.

Not applicable.

ITEM 8. EXHIBITS.

Exhibit Number	Description
4.1	<u>Amended and Restated Certificate of Incorporation (incorporated by reference to Exhibit 3.1 to the Registrant's Quarterly Report on Form 10-Q (File No. 000-50865), filed with the SEC on August 9, 2016).</u>
4.2	<u>Certificate of Amendment of Amended and Restated Certificate of Incorporation of MannKind Corporation (incorporated by reference to Exhibit 3.1 to the Registrant's Current Report on Form 8-K (File No. 000-50865), filed with the SEC on March 2, 2017).</u>
4.3	<u>Certificate of Amendment of Amended and Restated Certificate of Incorporation of MannKind Corporation (incorporated by reference to Exhibit 3.1 to the Registrant's Current Report on Form 8-K (File No. 000-50865), filed with the SEC on December 13, 2017).</u>
4.4	<u>Amended and Restated Bylaws (incorporated by reference to the Registrant's Current Report on Form 8-K (File No. 000-50865), filed with the SEC on November 19, 2007).</u>
4.5	<u>Form of common stock certificate (incorporated by reference to Exhibit 4.2 to the Registrant's Annual Report on Form 10-K (File No. 000-50865), filed with the SEC on March 16, 2017).</u>
5.1	<u>Opinion of Cooley LLP.</u>
23.1	<u>Consent of Deloitte & Touche LLP.</u>
23.2	<u>Consent of Cooley LLP. Reference is made to Exhibit 5.1.</u>
24.1	<u>Power of Attorney. Reference is made to the signature page hereto.</u>
99.1	<u>MannKind Corporation Market Price Stock Purchase Plan.</u>

ITEM 9. UNDERTAKINGS.

(a) The undersigned Registrant hereby undertakes:

- (1) To file, during any period in which offers or sales are being made, a post-effective amendment to this Registration Statement:
 - (i) To include any prospectus required by Section 10(a)(3) of the Securities Act;
 - (ii) To reflect in the prospectus any facts or events arising after the effective date of the Registration Statement (or the most recent post-effective amendment thereof) which, individually or in the aggregate, represent a fundamental change in the information set forth in the Registration Statement. Notwithstanding the foregoing, any increase or decrease in volume of securities offered (if the total dollar value of securities offered would not exceed that which was registered) and any deviation from the low or high end of the estimated maximum offering range may be reflected in the form of prospectus filed with the Commission pursuant to Rule 424(b) if, in the aggregate, the changes in volume and price represent no more than a 20% change in the maximum aggregate offering price set forth in the "Calculation of Registration Fee" table in the effective Registration Statement;
 - (iii) To include any material information with respect to the plan of distribution not previously disclosed in the Registration Statement or any material change to such information in the Registration Statement;

Provided, however, that paragraphs (a)(1)(i) and (a)(1)(ii) do not apply if the Registration Statement is on Form S-8, and the information required to be included in a post-effective amendment by those paragraphs is contained in reports filed with or furnished to the Commission by the Registrant pursuant to Section 13 or Section 15(d) of the Exchange Act that are incorporated by reference in the Registration Statement; and

- (2) That, for the purpose of determining any liability under the Securities Act, each such post-effective amendment shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial *bona fide* offering thereof.
- (3) To remove from registration by means of a post-effective amendment any of the securities being registered which remain unsold at the termination of the offering.

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- (b) The undersigned Registrant hereby undertakes that, for purposes of determining any liability under the Securities Act, each filing of the Registrant's annual report pursuant to Section 13(a) or Section 15(d) of the Exchange Act (and, where applicable, each filing of an employee benefit plan's annual report pursuant to Section 15(d) of the Exchange Act) that is incorporated by reference in the Registration Statement shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial *bona fide* offering thereof.
- (c) Insofar as indemnification for liabilities arising under the Securities Act may be permitted to directors, officers and controlling persons of the Registrant pursuant to the foregoing provisions, or otherwise, the Registrant has been advised that in the opinion of the Commission such indemnification is against public policy as expressed in the Securities Act and is, therefore, unenforceable. In the event that a claim for indemnification against such liabilities (other than the payment by the Registrant of expenses incurred or paid by a director, officer or controlling person of the Registrant in the successful defense of any action, suit or proceeding) is asserted by such director, officer or controlling person in connection with the securities being registered, the Registrant will, unless in the opinion of its counsel the matter has been settled by controlling precedent, submit to a court of appropriate jurisdiction the question whether such indemnification by it is against public policy as expressed in the Securities Act and will be governed by the final adjudication of such issue.

SIGNATURES

Pursuant to the requirements of the Securities Act of 1933, as amended, the Registrant certifies that it has reasonable grounds to believe that it meets all of the requirements for filing on Form S-8 and has duly caused this Registration Statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Westlake Village, State of California, on June 4, 2018.

MANNKIND CORPORATION

By: /s/ Michael E. Castagna
Michael E. Castagna
Chief Executive Officer

POWER OF ATTORNEY

KNOW ALL BY THESE PRESENTS, that each person whose signature appears below constitutes and appoints Michael E. Castagna and David Thomson, and each of them, as his true and lawful attorneys-in-fact and agents, each with the full power of substitution, for him and in his name, place or stead, in any and all capacities, to sign any and all amendments to this Registration Statement, and to file the same, with exhibits thereto and other documents in connection therewith, with the Securities and Exchange Commission, granting unto said attorneys-in-fact and agents, and each of them, full power and authority to do and perform each and every act and thing requisite and necessary to be done in and about the premises, as fully to all intents and purposes as he might or could do in person, hereby ratifying and confirming all that said attorneys-in-fact and agents, or his or their substitute or substitutes, may lawfully do or cause to be done by virtue hereof.

Pursuant to the requirements of the Securities Act of 1933, as amended, this Registration Statement has been signed by the following persons in the capacities and on the dates indicated.

<u>Signature</u>	<u>Title</u>	<u>Date</u>
<u>/s/ Michael E. Castagna</u> Michael E. Castagna	Chief Executive Officer and Director <i>(Principal Executive Officer)</i>	June 4, 2018
<u>/s/ Steven B. Binder</u> Steven B. Binder	Chief Financial Officer <i>(Principal Financial and Accounting Officer)</i>	June 4, 2018
<u>/s/ Kent Kresa</u> Kent Kresa	Chairman of the Board of Directors	June 4, 2018
<u>/s/ Ronald J. Consiglio</u> Ronald J. Consiglio	Director	June 4, 2018
<u>/s/ Michael Friedman</u> Michael Friedman, M.D.	Director	June 4, 2018
<u>/s/ David H. MacCallum</u> David H. MacCallum	Director	June 4, 2018
<u>/s/ Henry L. Nordhoff</u> Henry L. Nordhoff	Director	June 4, 2018
<u>/s/ James S. Shannon</u> James S. Shannon	Director	June 4, 2018



Sean M. Clayton
+1 858 550 6034
sclayton@cooley.com

June 4, 2018

MannKind Corporation
30930 Russell Ranch Road, Suite 301
Westlake Village, California 91362

Ladies and Gentlemen:

You have requested our opinion, as counsel to MannKind Corporation, a Delaware corporation (the "Company"), with respect to certain matters in connection with the filing by the Company of a Registration Statement on Form S-8 (the "Registration Statement") with the Securities and Exchange Commission, covering the offering of up to 2,000,000 shares of the Company's Common Stock, \$0.01 par value (the "Shares"), pursuant to the Company's Market Price Stock Purchase Plan (the "Plan").

In connection with this opinion, we have examined and relied upon the Registration Statement and related prospectus, the Plan, the Company's Amended and Restated Certificate of Incorporation, as amended, its Amended and Restated Bylaws and the originals or copies certified to our satisfaction of such records, documents, certificates, memoranda and other instruments as in our judgment are necessary or appropriate to enable us to render the opinion expressed below. We have assumed the genuineness and authenticity of all documents submitted to us as originals and the conformity to originals of all documents submitted to us as copies thereof.

Our opinion is expressed only with respect to the General Corporation Law of the State of Delaware

On the basis of the foregoing, and in reliance thereon, we are of the opinion that the Shares, when sold and issued in accordance with the Plan, the Registration Statement and the related prospectus, will be validly issued, fully paid and nonassessable (except as to shares issued pursuant to certain deferred payment arrangements, which will be fully paid and nonassessable when such deferred payments are made in full).

We consent to the filing of this opinion as an exhibit to the Registration Statement.

Sincerely,

Cooley LLP

By: /s/ Sean M. Clayton
Sean M. Clayton

Cooley LLP 4401 Eastgate Mall San Diego, CA 92121
t: (858) 550-6000 f: (858) 550-6420 cooley.com

CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

We hereby consent to the incorporation by reference in this Registration Statement on Form S-8 of our reports dated February 27, 2018, relating to (1) the consolidated financial statements of MannKind Corporation and subsidiaries (the "Company") (which report expresses an unqualified opinion and includes an explanatory paragraph relating to the Company's ability to continue as a going concern) and (2) the effectiveness of the Company's internal control over financial reporting, appearing in the Annual Report on Form 10-K of MannKind Corporation for the year ended December 31, 2017.

/s/ Deloitte & Touche LLP

Stamford, CT

June 4, 2018

**MANNKIND CORPORATION
MARKET PRICE STOCK PURCHASE PLAN**

ADOPTED BY THE BOARD OF DIRECTORS: MAY 29, 2018

1. GENERAL.

(a) The purpose of the Plan is to provide a means by which Eligible Individuals may be given an opportunity to purchase shares of Common Stock from the Company at Fair Market Value.

(b) The Company, by means of the Plan, seeks to retain the services of such Eligible Individuals and to provide incentives for such persons to exert maximum efforts for the success of the Company and its Affiliates.

(c) The Plan is intended to qualify for the limited exemption from stockholder approval pursuant to Nasdaq Listing Rule 5635(c)(2), as a plan that merely provides a convenient way to purchase shares from the Company at market value.

2. ADMINISTRATION.

(a) The Board shall administer the Plan unless and until the Board delegates administration of the Plan to a Committee or Committees, as provided in Section 2(c).

(b) The Board shall have the power, subject to, and within the limitations of, the express provisions of the Plan:

(i) To designate from time to time which employees and consultants of the Company shall be eligible to participate in the Plan.

(ii) To approve each purchase of shares of Common Stock under the Plan.

(iii) To construe and interpret the Plan, and to establish, amend and revoke rules and regulations for its administration. The Board, in the exercise of this power, may correct any defect, omission or inconsistency in the Plan, in a manner and to the extent it shall deem necessary or expedient to make the Plan fully effective.

(iv) To settle all controversies regarding the Plan and purchases under the Plan.

(v) To suspend or terminate the Plan at any time as provided in Section 9.

(vi) To amend the Plan at any time as provided in Section 9.

(vii) Generally, to exercise such powers and to perform such acts as it deems necessary or expedient to promote the best interests of the Company and its Affiliates and to carry out the intent that the Plan be treated as a stock purchase plan exempt from the stockholder approval requirements of Nasdaq Listing Rule 5635(c).

(c) Delegation to Committee.

(i) **General.** The Board may delegate some or all of the administration of the Plan to a Committee or Committees. If administration is delegated to a Committee, the Committee shall have, in connection with the administration of the Plan, the powers theretofore possessed by the Board that have been delegated to the Committee, including the power to delegate to a subcommittee any of the administrative powers the Committee is authorized to exercise (and references in this Plan to the Board shall thereafter be deemed to refer to the Committee or subcommittee), subject, however, to such resolutions, not inconsistent with the provisions of the Plan, as may be adopted from time to time by the Board. The Board may retain the authority to concurrently administer the Plan with the Committee and may, at any time, revert in the Board some or all of the powers previously delegated. Whether or not the Board has delegated administration of the Plan to a Committee, the Board shall have the final power to determine all questions of policy and expediency that may arise in the administration of the Plan.

(ii) **Rule 16b-3 Compliance.** Unless otherwise provided by the Board, the Committee must consist solely of two (2) or more Non-Employee Directors, in accordance with Rule 16b-3.

(d) All determinations, interpretations and constructions made by the Board in good faith shall not be subject to review by any person and shall be final, binding and conclusive on all persons.

3. SHARES OF COMMON STOCK SUBJECT TO THE PLAN.

(a) Subject to the provisions of Section 8(a) relating to Capitalization Adjustments, the aggregate number of shares of Common Stock that may be issued under the Plan shall not exceed 2,000,000 shares of Common Stock. Any shares of Common Stock that are approved for purchase under the Plan but are not actually purchased will again become available for issuance under the Plan.

(b) The stock purchasable under the Plan shall be shares of authorized but unissued or reacquired Common Stock, including shares repurchased by the Company on the open market.

4. ELIGIBILITY.

Section 16 Insiders shall be eligible to participate in the Plan. In addition, any other employee or consultant who is designated by the Board shall be eligible to participate in the Plan. Notwithstanding the foregoing, (a) an individual shall not be eligible to purchase shares of Common Stock under the Plan unless, on the Purchase Date, such individual is actually providing services to the Company as an employee, consultant and/or Director, and (b) the Board may impose other conditions on eligibility and purchasing shares of Common Stock under the Plan as it determines appropriate, in its sole discretion. In all events, the Board must approve, in advance, each purchase of Common Stock by an Eligible Individual.

5. PURCHASE PRICE.

(a) Purchase Price. The purchase price of shares of Common Stock acquired pursuant to the Plan shall be the Fair Market Value of the Common Stock on the Purchase Date. The purchase price must be paid in cash, check, wire transfer or such other method permitted by the Board (such funds submitted for payment of the purchase price are referred to herein as the “*Payment Contributions*”).

(b) Maximum Number of Shares. If the purchase of shares of Common Stock on a Purchase Date would exceed the maximum number of shares remaining available under the Plan or otherwise determined allowable by the Board, then, the number of shares to be purchased shall be reduced to such extent the Board determines permissible and, if there is more than one Participant for which shares are to be purchased on such Purchase Date, a pro rata allocation of the shares of Common Stock available under the Plan shall be made in as nearly a uniform manner as shall be practicable and equitable, as determined in the discretion of the Board.

6. PARTICIPATION; TERMINATION; TRANSFERABILITY.

(a) A Participant may request to purchase shares of Common Stock under the Plan by submitting to the Company a written election form (in such form as the Company may provide, which may be electronic). Each such election form shall specify the number of shares of Common Stock the Participant wishes to purchase, as well as such other terms required by the Company. The Participant shall be responsible for payment of the purchase price for the shares of Common Stock to the Company, which payment must be made by Payment Contributions prior to the purchase of shares. Each Participant’s Payment Contributions, if submitted prior to the Purchase Date, shall be credited to a bookkeeping account for such Participant under the Plan and shall be deposited with the general funds of the Company, except where applicable law requires otherwise. The Company shall not pay interest on Payment Contributions. If the Board does not approve a purchase, as provided in Section 7(a) below, the Company shall refund all Payment Contributions to such Participant for such purchase as soon as administratively practicable following such denial, unless otherwise agreed to between the Participant and the Company.

(b) The right to purchase shares of Common Stock under the Plan shall not be transferable by an Eligible Individual.

7. APPROVAL AND PURCHASES.

(a) The Board, in its sole discretion, shall review and approve each Eligible Individual’s request to purchase shares of Common Stock pursuant to the Plan; *provided, however*, that the Board may deny all or any portion of any request to purchase shares of Common Stock under the Plan for any reason or for no reason.

(b) On each Purchase Date, the Participant's Payment Contributions shall be applied to the purchase of shares of Common Stock up to the maximum number of shares of Common Stock approved by the Board for purchase, subject to the limitations and other terms of the Plan, at the purchase price specified in the Plan. No fractional shares shall be issued. If any amount of Payment Contributions remains in a Participant's account after the purchase of shares of Common Stock, then such remaining amount shall be distributed to the Participant as soon as administratively practicable, unless otherwise agreed to between the Participant and the Company.

(c) No Common Stock may be issued under the Plan unless the shares of Common Stock are covered by an effective registration statement pursuant to the Securities Act and the Plan is in material compliance with all applicable federal, state, foreign and other securities and other laws applicable to the Plan. If on a Purchase Date the shares of Common Stock are not so registered or the Plan is not in such compliance, no purchases shall be consummated on such Purchase Date, and all Payment Contributions pertaining to unapproved purchases shall be distributed to the Participants without interest, as soon as administratively practicable, unless otherwise agreed to between the Participant and the Company.

8. ADJUSTMENTS UPON CHANGES IN COMMON STOCK.

In the event of a Capitalization Adjustment, the Board shall appropriately and proportionately adjust: (i) the class(es) and maximum number of securities subject to the Plan pursuant to Section 3(a) and (ii) the class(es) and number of securities under any outstanding elections to purchase shares of Common Stock that have been submitted for Board approval, but have not yet been approved. The Board shall make such adjustments, and its determination shall be final, binding and conclusive.

9. AMENDMENT, TERMINATION OR SUSPENSION OF THE PLAN.

The Board, in its sole discretion, may amend the Plan at any time in any respect the Board deems necessary or advisable. No stockholder approval shall be required for any amendment of the Plan for so long as the Plan is qualified for the limited exemption from stockholder approval under Nasdaq Listing Rule 5635(c)(2) and except as otherwise required by applicable law or listing requirements. The Board may suspend or terminate the Plan at any time. No purchase under the Plan may be approved while the Plan is suspended or after it is terminated. Any amendment, suspension or termination of the Plan by the Board shall not require the consent of any Participant. If the Board elects to terminate the Plan to be effective before a Purchase Date, the Company shall distribute to each Participant all of his or her accumulated Payment Contributions, without interest, as soon as administratively practicable, unless otherwise agreed to between the Participant and the Company.

10. EFFECTIVE DATE OF PLAN.

This Plan shall become effective on the Effective Date.

11. MISCELLANEOUS PROVISIONS.

(a) A Participant shall not be deemed to be the holder of, or to have any of the rights of a holder with respect to, shares of Common Stock unless and until shares of Common Stock are purchased through such Participant's Payment Contributions and are recorded in the books of the Company (or its transfer agent).

(b) The Plan does not constitute an employment or service contract. Nothing in the Plan shall in any way alter the at will nature of a Participant's employment or service or be deemed to create in any way whatsoever any obligation on the part of any Participant to continue in the employ or service of the Company or an Affiliate, or on the part of the Company or an Affiliate to continue the employment or service of a Participant.

(c) The provisions of the Plan shall be governed by the laws of the State of Delaware without resort to that state's conflicts of laws rules.

12. DEFINITIONS.

As used in the Plan, the following definitions shall apply to the capitalized terms indicated below:

(a) "**Affiliate**" means, at the time of determination, any "parent" or "subsidiary" as such terms are defined in Rule 405 of the Securities Act. The Board shall have the authority to determine the time or times at which "parent" or "subsidiary" status is determined within the foregoing definition.

(b) "**Board**" means the Board of Directors of the Company.

(c) "**Capitalization Adjustment**" means any change that is made in, or other events that occur with respect to, the Common Stock subject to the Plan after the Effective Date without the receipt of consideration by the Company (through merger, consolidation, reorganization, recapitalization, reincorporation, stock dividend, dividend in property other than cash, stock split, liquidating dividend, combination of shares, exchange of shares, change in corporate structure or other transaction not involving the receipt of consideration by the Company). Notwithstanding the foregoing, the conversion of any convertible securities of the Company shall not be treated as a Capitalization Adjustment.

(d) "**Committee**" means a committee of two (2) or more members of the Board to whom authority has been delegated by the Board in accordance with Section 2(c).

(e) "**Common Stock**" means the common stock of the Company.

(f) "**Company**" means MannKind Corporation, a Delaware corporation.

(g) "**Director**" means a member of the Board of Directors of the Company.

(h) "**Effective Date**" means the date this Plan is first approved by the Board.

(i) “**Eligible Individual**” means a Section 16 Insider and, if designated by the Board, any other employee or consultant of the Company, subject to the requirements set forth in Section 4 for eligibility to participate in the Plan.

(j) “**Exchange Act**” means the U.S. Securities Exchange Act of 1934, as amended, and the rules and regulations promulgated thereunder.

(k) “**Fair Market Value**” of a share of Common Stock means, as of any determination time, the value of the Common Stock determined as follows:

(i) If the Common Stock is listed on The Nasdaq Stock Market, the Fair Market Value of a share of Common Stock shall be the consolidated closing bid price per share of Common Stock immediately preceding the Board’s approval of the applicable purchase of shares of Common Stock under the Plan, as reported by The Nasdaq Stock Market.

(ii) If the Common Stock is not listed on The Nasdaq Stock Market, the Fair Market Value shall be determined by the Board in good faith.

(l) “**Non-Employee Director**” means a Director who either (i) is not a current employee or officer of the Company or an Affiliate, does not receive compensation, either directly or indirectly, from the Company or an Affiliate for services rendered as a consultant or in any capacity other than as a Director (except for an amount as to which disclosure would not be required under Item 404(a) of Regulation S-K promulgated pursuant to the Securities Act (“**Regulation S-K**”)), does not possess an interest in any other transaction for which disclosure would be required under Item 404(a) of Regulation S-K, and is not engaged in a business relationship for which disclosure would be required pursuant to Item 404(b) of Regulation S-K; or (ii) is otherwise considered a “non-employee director” for purposes of Rule 16b-3.

(m) “**Participant**” means an Eligible Individual who elects to purchase shares of Common Stock pursuant to the terms of the Plan.

(n) “**Payment Contributions**” has the meaning set forth in Section 5(a).

(o) “**Plan**” means this MannKind Corporation Market Price Stock Purchase Plan.

(p) “**Purchase Date**” means the date for which the Board has approved a purchase of shares of Common Stock pursuant to the Plan. The Board may approve a purchase of shares of Common Stock to be made on a future date. In the event that a Purchase Date falls on a day that is not a Trading Day, then such Purchase Date will instead fall on the next subsequent Trading Day.

(q) “**Rule 16b-3**” means Rule 16b-3 promulgated under the Exchange Act or any successor to Rule 16b-3, as in effect from time to time.

(r) “**Section 16 Insider**” means any Director, and any individual designated by the Board of Directors of the Company as an officer of the Company for purposes of Section 16 of the Exchange Act.

(s) "**Securities Act**" means the Securities Act of 1933, as amended.

(t) "**Trading Day**" means any day on which the exchange(s) or market(s) on which shares of Common Stock are listed, including the Nasdaq Global Market, is open for trading.