

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

FORM 8-K

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

Date of Report (Date of earliest event reported): December 22, 2023

MannKind Corporation

(Exact name of registrant as specified in its charter)

Delaware
(State or other jurisdiction of
incorporation or organization)

000-50865
(Commission
File Number)

13-3607736
(IRS Employer
Identification No.)

1 Casper Street
Danbury, Connecticut
(Address of principal executive offices)

06810
(Zip Code)

Registrant's telephone number, including area code: (818) 661-5000

N/A
(Former name or former address, if changed since last report.)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions:

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

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

| Title of each class | Trading Symbol(s) | Name of each exchange on which registered |
|--|----------------------|--|
| Common Stock, par value \$0.01 per share | MNKD | The Nasdaq Stock Market LLC |

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

Emerging growth company

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

Item 1.01 Entry Into a Material Definitive Agreement.

On December 22, 2023, MannKind Corporation (the “Company”) entered into a Seventh Amendment to Supply Agreement (the “Seventh Amendment”) with Amphastar Pharmaceuticals, Inc. pursuant to which the parties amended the Supply Agreement, dated July 31, 2014, as amended (the “Supply Agreement”). Pursuant to the Seventh Amendment, the parties agreed to, among other things, accommodate a change in the source of inclusion bodies (an intermediate product in the production of insulin) by restructuring the annual purchase commitments and implementing a capacity fee for certain future periods. As a result of these changes, the Company’s annual purchase commitments under the Supply Agreement are as follows:

| <u>Calendar Year</u> | <u>Annual Purchase Commitment (as amended)</u> | <u>Capacity Fee</u> |
|--|--|---|
| 2024 | €2.9 million | |
| 2025 | | €1.5 million |
| 2026 | | €750,000 per quarter until purchases resume |
| Year 1 of supply with new inclusion bodies | €4.2 million per year | €2.0 million per year |
| Year 2 – 5 of supply with new inclusion bodies | €6.0 million per year | €1.0 million per year |
| Year 6-8 of supply with new inclusion bodies | €8.0 million per year | €500,000 per year |
| Year 9 of supply with new inclusion bodies | €4.4 million per year | €500,000 |

Prior to the Seventh Amendment, the Company was committed to purchase commitments totaling €58.7 million in the aggregate over calendar years 2024-27.

The parties also agreed to extend the term of the Supply Agreement until the later of (a) December 31, 2035 or (b) until the completion of all purchase commitments.

The foregoing description of the Seventh Amendment does not purport to be complete and is qualified in its entirety by reference to the Seventh Amendment, a copy of which is attached as Exhibit 99.1 to this report.

Item 9.01 Financial Statements and Exhibits.

(d) Exhibits

| <u>Exhibit Number</u> | <u>Description</u> |
|-----------------------|---|
| 99.1# | Seventh Amendment to Supply Agreement, dated December 22, 2023, by and between MannKind Corporation and Amphastar Pharmaceuticals, Inc. |
| 104 | Cover Page Interactive Data File (embedded within the inline XBRL document). |

Pursuant to Item 601(b)(10)(iv) of Regulation S-K promulgated by the SEC, certain portions of this exhibit have been redacted because the Company customarily and actually treats such omitted information as private or confidential and because such omitted information is not material.

SIGNATURE

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

MannKind Corporation

Date: December 27, 2023

By: /s/ David Thomson, Ph.D., J.D.

Name: David Thomson, Ph.D., J.D.

Title: Executive Vice President, General Counsel and Secretary

CERTAIN CONFIDENTIAL INFORMATION CONTAINED IN THIS DOCUMENT, MARKED BY [***],
HAS BEEN OMITTED BECAUSE IT IS BOTH (I) NOT MATERIAL AND (II) IS THE TYPE THAT
MANNKIND CORPORATION TREATS AS PRIVATE OR CONFIDENTIAL.

SEVENTH AMENDMENT TO SUPPLY
AGREEMENT

This seventh amendment (“**Seventh Amendment**”) to the Supply Agreement by and between MannKind Corporation (“**MannKind**”) and Amphastar Pharmaceuticals, Inc. (“**Amphastar**”), originally dated July 31, 2014 and as previously amended on October 31, 2014, November 9, 2016, April 11, 2018, December 24, 2018, August 2, 2019, and May 24, 2021, (collectively, the “**Agreement**”), is hereby made as of the December 22, 2023, by and between MannKind on the one hand, and on the other hand, Amphastar.

RECITALS

WHEREAS, MannKind and Amphastar entered into the Agreement pursuant to which Amphastar is to manufacture and supply the Product to MannKind, and MannKind is to purchase certain minimum quantities of the Product; and

WHEREAS MannKind and Amphastar have determined it to be mutually beneficial to amend the Agreement as set forth herein.

NOW, THEREFORE, for good and valuable consideration, MannKind and Amphastar hereby agree to amend the Agreement as follows:

1. Definitions. Unless otherwise defined herein, each of the capitalized terms used in this Seventh Amendment shall have the definition and meaning ascribed to it in the Agreement.

2. The definitions in Section 1 of the Agreement are amended by adding the following provisions at the end of Section 1 and not in alphabetical order:

2.1. New Section 1.16 is added as follows: “**Capacity Fee**” means the amount MannKind will pay to Amphastar France Pharmaceuticals (“AFP”) every calendar quarter. The “**Capacity Fee**” is for a full calendar quarter, including the calendar quarter that MannKind receives FDA approval for MannKind to use the **Product** produced with inclusion bodies that are manufactured by Amphastar. For example, if FDA approval is on Feb. 15, 2026, then the full Capacity Fee for the first calendar quarter is due in accordance with the table in Section 6.1, following which Year 1 would start on April 1, 2026.

2.2. New Section 1.17 is added as follows: “**Year 1**” means the year that starts on the first day of the calendar quarter after MannKind receives FDA approval to use the **Product** produced with inclusion bodies that are manufactured by Amphastar. For example, if such FDA approval is on February 15, then **Year 1** will commence on the subsequent April 1 and will end on March 31 of the following year. **Year 2, 3**, and so on, will be 12-month periods that commence on each anniversary of **Year 1**.

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3. The table in Section 6.1 of Agreement, shall be deleted and replaced in its entirety with the following:

| No. | Period | Annual Purchase Commitment Quantities (kg) | Purchase Price (per gram) | RHI | Delivery/Payment | Capacity Fee |
|-----|---|--|---------------------------|--|--------------------------------------|---|
| 1 | Q1-2024 | [***] | EURO [***] | Product produced with inclusion bodies manufactured by Amphastar | Q1-2024 | 0 |
| 2 | Q2-2024 | [***] | EURO [***] | Current FDA Approved Product | Q2-2024 | 0 |
| 3 | Q3-2024 | 0 | | | | 0 |
| 4 | Q4-2024 | 0 | | | | 0 |
| 5 | Q1-2025 | 0 | | | | €375,000 |
| 6 | Q2-2025 | 0 | | | | €375,000 |
| 7 | Q3-2025 | 0 | | | | €375,000 |
| 8 | Q4-2025 | 0 | | | | €375,000 |
| 9 | Q1-2026 and each quarter until FDA approval | 0 | | | | €750,000/quarter until MannKind resumes purchasing Product |
| 10 | Year 1 | [***] kg per Year | EURO [***] | Product produced with inclusion bodies manufactured by Amphastar | Purchased in equal quarterly amounts | €2,000,000 per Year, payable in equal quarterly installments |
| 11 | Year 2 to Year 5 | [***] kg per Year | EURO [***] | Product produced with inclusion bodies manufactured by Amphastar | Purchased in equal quarterly amounts | €1,000,000 per Year, payable in equal quarterly installments |
| 12 | Year 6 to Year 9 | [***] kg per Year for Year 6-8; [***] kg per Year in Year 9 | EURO [***] | Product produced with inclusion bodies manufactured by Amphastar | Purchased in equal quarterly amounts | €500,000 per Year, payable in equal quarterly installments |

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4. Section 10.1 of the Agreement shall be extended until the later of (a) December 31, 2035 or (b) until the completion of total Purchase Commitment Quantities as provided in the table of Section 6.1. All other terms and conditions in Section 10.1 shall remain in full force and effect.

5. **Final Agreement.** From and after the execution of this Seventh Amendment, all references in the Agreement (or in the Seventh Amendment) to “this Agreement,” “hereof,” “herein,” “hereto,” and similar words or phrases shall mean and refer to the Agreement as amended by this Seventh Amendment. The Agreement as amended by this Seventh Amendment constitutes the entire agreement by and between the Parties as to the subject matter hereof. Except as expressly modified by this Seventh Amendment, all other terms and conditions of the Agreement shall remain in full force and effect.

IN WITNESS WHEREOF, each of MannKind and Amphastar has caused this Seventh Amendment to be executed by their duly authorized officers.

MannKind Corporation

By: /s/ Michael Castagna
Name: Michael Castagna
Title: CEO

Amphastar Pharmaceuticals, Inc.

By: /s/ Jacob Liawatidewi
Name: Jacob Liawatidewi
Title: EVP Corporate Administration