

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

**FORM 8-K/A
(Amendment No. 1)**

CURRENT REPORT

**Pursuant to Section 13 or 15(D)
of the Securities Exchange Act of 1934**

June 25, 2024
Date of report (Date of earliest event reported)

Agile Therapeutics, Inc.
(Exact name of registrant as specified in its charter)

Delaware
(State or other jurisdiction
of incorporation)

001-36464
(Commission
File Number)

23-2936302
(IRS Employer
Identification No.)

**500 College Road East, Suite 310
Princeton, New Jersey**
(Address of principal executive offices)

08540
(Zip Code)

Registrant's telephone number, including area code **(609) 683-1880**
(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
N/A	N/A	None

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.

Explanatory Note

On June 26, 2024, Agile Therapeutics, Inc. (the “Company”) filed a Current Report on Form 8-K (the “Original 8-K”) with the Securities Exchange Commission, in which the Company reported, among other events, its entry into Amendment No. 3 (the “Amendment”) to that certain Manufacturing and Commercialization Agreement, dated April 30, 2020, by and between the Company and Corium, Inc. (“Corium”), as amended on July 25, 2022 and on May 15, 2024, which is designed to amend the Agreement to account for Insud’s current projected production requirements for Twirla and the associated cost of goods and is conditioned upon the consummation of the Merger, and will become effective at the Effective Time.

This Current Report on Form 8-K/A amends and supplements the Original 8-K filed by the Company, and is being filed solely to file certain exhibits to the Original 8-K. This amendment does not otherwise modify any other portions of the disclosure in the Original 8-K. Interested parties should refer to the Original 8-K, as supplemented by this Current Report on Form 8-K/A. Capitalized terms used herein but not otherwise defined have the meaning set forth in the Original 8-K. The foregoing description of the Amendment in this Current Report on Form 8-K/A and the Original 8-K does not purport to be complete and is qualified in its entirety by the full text of the Amendment which is filed as Exhibit 10.3 and is incorporated herein by reference.

Item 9.01. Financial Statements and Exhibits.

(d) Exhibits.

<u>Exhibit Number</u>	<u>Description</u>
2.1	Agreement and Plan of Merger, dated June 25, 2024, by and among Insud Pharma, S.L., Exeltis Project, Inc. and the Company. (Incorporated by reference, Exhibit 2.1 to the Company’s Current Report on Form 8-K, file number 001-36464, filed on June 26, 2024.)
4.1	Cash-Out Acknowledgement and Cancellation Agreement, dated June 25, 2024, by and between Armistice Master Fund Ltd. and the Company. (Incorporated by reference, Exhibit 4.1 to the Company’s Current Report on Form 8-K, file number 001-36464, filed on June 26, 2024.)
10.1	Revolving Promissory Note dated June 25, 2024, by and between the Company and Exeltis USA, Inc. (Incorporated by reference, Exhibit 10.1 to the Company’s Current Report on Form 8-K, file number 001-36464, filed on June 26, 2024.)
10.2	Intellectual Property Security Agreement dated June 25, 2024 by and between the Company and Exeltis USA, Inc. (Incorporated by reference, Exhibit 10.2 to the Company’s Current Report on Form 8-K, file number 001-36464, filed on June 26, 2024.)
10.3*	Amendment No. 3 to Manufacturing and Commercialization Agreement, by and between Corium, Inc. and Agile Therapeutics, Inc., dated as of June 25, 2024.
99.1	Press Release, dated June 26, 2024. (Incorporated by reference, Exhibit 99.1 to the Company’s Current Report on Form 8-K, file number 001-36464, filed on June 26, 2024.)
104	Cover Page Interactive Data File (Embedded within the Inline XBRL Document).

* Portions of this exhibit have been redacted in accordance with Regulation S-K Item 601(b)(10).

SIGNATURES

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

Agile Therapeutics, Inc.

Dated: July 16, 2024

By: /s/ Alfred Altomari

Name: Alfred Altomari

Title: Chairperson and Chief Executive Officer

**CONDITIONAL AMENDMENT NO. 3 TO
MANUFACTURING AND COMMERCIALIZATION AGREEMENT**

This Conditional Amendment No. 3 (“Amendment”) to the Agreement (as defined below) is made and entered into as of June 24, 2024 (“Amendment Effective Date”), by and between Corium Innovations, Inc., a Delaware corporation having its principal place of business at 4558 50th Street, S.E., Grand Rapids, MI 49512, including its Affiliates (“Corium”), Agile Therapeutics, Inc., a Delaware corporation, having its principal place of business at 500 College Rd. East, Suite 310 Princeton, NJ 08540, including its Affiliates (“Agile”), and Exeltis USA Inc., a New Jersey having its principle place of business at 180 Park Avenue, Suite 101, Florham Park, NJ, 07932 (“Exeltis”), in its capacity as the prospective purchaser of Agile (together, the “Parties”), and amends that certain Manufacturing and Commercialization Agreement, entered into as of April 30, 2020, by and between Corium and Agile (the “Original Agreement”), as amended by Amendment No. 1 entered into as of July 25, 2022 (“Amendment 1”) and Amendment No. 2 entered into as of May 13, 2024 (“Amendment 2”; the Original Agreement as amended by Amendment 1 and Amendment 2, the “Agreement”). All capitalized terms used herein and not otherwise defined herein shall have the meanings assigned to them in the Agreement.

WHEREAS, Agile engaged Corium to Manufacture and supply Product to Agile in accordance with the Agreement;

WHEREAS, Corium, Agile and its prospective purchaser, Exeltis, desire to amend the Agreement, in accordance with Section 12.1 of the Agreement, to account for Exeltis’s current projected production requirements for the Product and the associated cost of goods, amongst other matters;

WHEREAS, the Parties agree that this Amendment is conditional on the closing of the Acquisition (as defined below) and that the terms recited herein will only become binding and effective at the time of the closing of the Acquisition.

NOW, THEREFORE, THE PARTIES HERETO AGREE AS FOLLOWS:

1. Conditional Effectiveness of Amendment. Other than Sections 3, 4, 6, 7, and 8 below, which shall become effective as of the Amendment Effective Date, this Amendment shall not become effective unless and until the occurrence of the closing of the acquisition of a controlling, voting majority of the outstanding shares of capital stock (at least 50% plus one share) of Agile by Exeltis (such acquisition, the “Acquisition”; and such closing, the “Closing”), provided, however, that in the event that the Closing occurs, the Amendment shall be effective and apply as of the Amendment Effective Date. If the Closing has not occurred by December 31, 2024, this Amendment shall, upon written notice from Corium to Agile at any time thereafter, become null and void and of no further force or effect, notwithstanding any Closing of the Acquisition that may occur following such notice.

2. Amendment of Exhibits of Agreement. Exhibit A of the Agreement shall be deleted and replaced in its entirety with the version of Exhibit A in Attachment 1 hereto. Exhibit B of the Agreement shall be deleted and replaced in its entirety with the version of Exhibit B in Attachment 2 hereto. Any capitalized terms defined in this Amendment shall have the meanings established herein for purposes of the Agreement as well as this Amendment.

3. Outstanding Invoices. Upon the sooner of (i) Agile’s or any of its Affiliates’ receipt of any funding, debt financing, or loan proceeds from Exeltis, any Affiliate thereof, or any Third Party at the direction or request of Exeltis or any Affiliate thereof or (ii) Closing of the Acquisition, Agile will pay Corium the amounts set forth for the Outstanding Invoices defined below. The Parties acknowledge that Agile and Exeltis are currently negotiating a revolving promissory note to be signed concurrently with an Agreement and Plan of Merger, and that this would constitute relevant financing pursuant to paragraph (i) above. The invoices that are outstanding under the Agreement as at the Amendment Effective Date are:

[***]	\$ [***]
[***]	[***]
[***]	[***]
Subtotal	\$ 5,062,998.84

(together, “the Outstanding Invoices”)

If the amounts set forth above for the Outstanding Invoices have not been paid in full by July 15, 2024, Corium shall be entitled to terminate this Amendment, and render it null, void, and of no force or effect, upon written notice to Agile and Exeltis. For clarity, notwithstanding anything to the contrary, and without limitation of the preceding portion of this Section 3, to the extent the amounts set forth in the Outstanding Invoices have not been paid before Closing, the balance thereof shall be paid by Agile upon Closing.

4. Additional Batches/[***] Purchase Order. The Parties agree that (i) Additional Batches [***] will only be placed into production upon full payment from Agile for each batch, priced at [***], (ii) Corium shall not have any obligation with respect to such batches unless and until such payment is made by Agile, and (iii) Exeltis will be responsible to Corium for payment in respect of the below purchase order to be issued to [***] by Agile on [***] relating [***], and in the event that the Transaction does not Close then Exeltis will take possession of all right, title and interest [***] to be supplied to Agile in fulfillment of the below referenced purchase order.

Part Number	Item	Qty	Total Cost
[***]	[***]	[***]	[***]

5. Waiver and Release. Corium hereby represents and warrants that (i) it is not aware of any material breach by Agile of the Agreement prior to the Amendment Effective Date and (ii) the Outstanding Invoices constitute the sole outstanding payments due by Agile to Corium as of the Amendment Effective Date under Article 4 of the Agreement. Accordingly, Corium hereby releases Agile and Exeltis from any liability, and waives any right to claim, demand or seek remedies from Agile and/or Exeltis, regarding (i) any material breach of the Agreement by Agile prior to the Amendment Effective Date of which Corium is aware and (ii) outstanding payments due by Agile to Corium as of the Amendment Effective Date under Article 4 of the Agreement, including but not limited to compliance with Guaranteed Minimum Bill Revenue to which Agile might have been obliged under the Agreement.

6. Integration. This Amendment supersedes all proposals, oral or written, all negotiations, conversations, and discussions between the parties relating to the subject matter of



this Amendment and all past dealing and industry custom. This Amendment shall be integrated in and form part of the Agreement upon execution, which Agreement the Parties acknowledge and agree remains in full force and effect as of the Amendment Effective Date.

7. Survival. All terms and conditions of the Agreement shall remain unchanged except as modified in this Amendment; and the terms of the Agreement, as modified by this Amendment, are hereby ratified and confirmed. Except as set forth in Sections 2 and 5 (which shall become effective only upon Closing (but with effectiveness upon such Closing to the Amendment Effective Date) and Section 3 and 4 (which are immediately effective upon the Amendment Effective Date), no other term of the Agreement is amended or modified in any manner. Where the terms of the Agreement conflict with those of this Amendment, however, the terms of this Amendment shall control only with respect to the conflict.

8. Applicable Law. This Amendment shall be governed by and construed in accordance with the laws of the State of New York.

[Signature page to follow.]

IN WITNESS WHEREOF, the duly authorized representatives of the parties hereto have caused this Amendment to be duly executed.

Exeltis USA, Inc.

By: /s/ Robert Spina
Name: Robert Spina
Title: President
Date: 6/25/24

Corium, Inc.

By: /s/ Mark Sirgo
Name: Mark Sirgo
Title: President
Date: 6/25/24

Agile Therapeutics, Inc.

By: /s/ Al Altomari
Name: Al Altomari
Title: Chairperson and CEO
Date: 6/25/24

ATTACHMENT 1

Exhibit A
Guaranteed Minimum Billed Revenue

[***]

ATTACHMENT 2

Exhibit B
Commercial Terms

[***]
