

**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): March 17, 2023**

**UNITY BIOTECHNOLOGY, INC.**

(Exact name of registrant as specified in its charter)

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

**001-38470**  
(Commission  
File Number)

**26-4726035**  
(IRS Employer  
Identification No.)

**285 East Grand Ave.**  
**South San Francisco, CA 94080**  
(Address of principal executive offices, including Zip Code)

**Registrant's telephone number, including area code: (650) 416-1192**

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<br>Symbol(s) | Name of each exchange<br>on which registered |
|--|----------------------|--|
| Common Stock, par value \$0.0001 per share | UBX                  | The Nasdaq Global Select Market              |

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

Emerging growth company

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

**Item 8.01 Other Events.**

On March 17, 2023, Unity Biotechnology, Inc. (the “Company”) entered into Amendment No. 2 (the “Amendment No. 2”) to the Sales Agreement, dated March 15, 2022, as amended by Amendment No. 1 thereto dated August 17, 2022 (together with Amendment No. 2, the “Sales Agreement”), with Cowen and Company, LLC (“Cowen”), in connection with the continuation of the Company’s at-the-market equity offering program (the “Program”). Pursuant to the terms and conditions of Amendment No. 2, the Company may, from time to time, continue to issue and sell through or to Cowen, shares of its common stock, \$0.0001 par value per share (“common stock”), having an aggregate offering price of up to \$25,000,000 (the “ATM Shares”). The purpose of Amendment No. 2 is to add the limitations imposed on the Program by General Instruction I.B.6 of Form S-3 (“Instruction I.B.6”) to the Sales Agreement. At the time of the Company’s entry into Amendment No. 2, approximately \$15.2 million in ATM Shares remained available for issuance under the Program.

Subject to the terms and conditions of the Sales Agreement, Cowen will use its commercially reasonable efforts to sell the ATM Shares from time to time, based upon the Company’s instructions. The Company has provided Cowen with customary indemnification rights, and Cowen will be entitled to a commission of up to 3.0% of the gross proceeds of the ATM Shares sold through it pursuant to the Sales Agreement.

Sales of the ATM Shares will be made pursuant to a previously filed and effective registration statement on Form S-3 (File No. 333-263574). ATM Shares may be offered only by means of a prospectus, including a prospectus supplement, forming a part of the effective registration statement. Sales of the ATM Shares, if any, under the Sales Agreement may be made in transactions that are deemed to be “at the market offerings” as defined in Rule 415 under the Securities Act of 1933, as amended, including sales made by means of ordinary brokers’ transactions, including on the Nasdaq Global Select Market, at market prices or as otherwise agreed with Cowen. The Company has no obligation to sell any of the ATM Shares, and may at any time suspend offers under the Sales Agreement or terminate the Sales Agreement. At the time of the Company’s entry into Amendment No. 2, the Company had sold approximately \$9.8 million of ATM Shares under the Sales Agreement.

Pursuant to Instruction I.B.6, in no event will the Company sell ATM Shares through the Program with a value exceeding more than one-third of the Company’s “public float” (the market value of the Company’s outstanding common stock held by non-affiliates) in any twelve-month period so long as the Company’s public float remains below \$75.0 million. The Company has not offered any securities pursuant to Instruction I.B.6 during the prior twelve calendar month period that ends on and includes the date of this Current Report on Form 8-K.

This Current Report on Form 8-K shall not constitute an offer to sell or the solicitation of an offer to buy nor shall there be any sale of the ATM Shares in any state in which such offer, solicitation or sale would be unlawful prior to registration or qualification under the securities laws of any such state.

The foregoing is only a brief description of the terms of Amendment No. 2, does not purport to be a complete statement of the rights and obligations of the parties under Amendment No. 2 and the transactions contemplated thereby, and is qualified in its entirety by reference to Amendment No. 2, which is filed as Exhibit 1.1 to this Current Report on Form 8-K and is incorporated herein by reference.

**Item 9.01 Financial Statements and Exhibits.**

(d) Exhibits

| <u>Exhibit No.</u> | <u>Description</u>   |
|--------------------|--|
| 1.1                | <a href="#">Amendment No. 2 to Sales Agreement, dated March 17, 2023, by and between Unity Biotechnology, Inc. and Cowen and Company, LLC.</a> |
| 104                | Cover Page Interactive Data File (embedded within the Inline XBRL document)  |

SIGNATURES

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

**UNITY BIOTECHNOLOGY, INC.**

Date: March 17, 2023

By: /s/ Lynne Sullivan  
Lynne Sullivan  
Chief Financial Officer

**AMENDMENT NO. 2 TO SALES AGREEMENT**

March 17, 2023

Unity Biotechnology, Inc.  
285 East Grand Ave.  
South San Francisco, CA 94080

Ladies and Gentlemen:

Unity Biotechnology, Inc., a Delaware corporation (the “**Company**”), and Cowen and Company, LLC (“**Cowen**”) are parties to that certain Sales Agreement dated March 15, 2022 (the “**Original Agreement**”), as amended by Amendment No. 1 thereto dated August 17, 2022 (together with the Original Agreement, the “**Agreement**”). All capitalized terms not defined herein shall have the meanings ascribed to them in the Agreement. The Company and Cowen desire to amend the Agreement as set forth in this Amendment No. 2 thereto (this “**Amendment**”) as follows:

1. Section 6(a) is hereby amended and restated in its entirety as follows:

“(a) Compliance with Registration Requirements. Prior to the issuance of any Placement Notice by the Company, the Registration Statement will have been filed and declared effective by the Commission under the Securities Act, and any required Rule 462(b) Registration Statement will have become effective under the Securities Act. The Company has complied to the Commission’s satisfaction with all requests of the Commission for additional or supplemental information related to the Registration Statement and the Prospectus. No stop order suspending the effectiveness of the Registration Statement or any Rule 462(b) Registration Statement is in effect and no proceedings for such purpose have been instituted or are pending or, to the knowledge of the Company, contemplated or threatened by the Commission. The Company meets the requirements for use of Form S-3 under the Securities Act. The proposed offering of the Placement Shares hereunder meets the requirements of General Instruction I.B.6 of Form S-3. Compliance with the limitation set forth by General Instruction I.B.6 of Form S-3 is the sole responsibility of the Company.”

2. The Company hereby represents and warrants to Cowen as follows: as of the closing of trading on the Trading Day immediately prior to the date of this Amendment, the aggregate market value of the outstanding voting and non-voting common equity (as defined in Securities Act Rule 405) of the Company held by persons other than affiliates of the Company (pursuant to Securities Act Rule 144, those that directly, or indirectly through one or more intermediaries, control, or are controlled by, or are under common control with, the Company) (the “**Non-Affiliate Shares**”), was equal to approximately \$72,372,924 (calculated by multiplying (x) the highest price at which the common equity of the Company closed on Nasdaq within sixty (60) days of the date of this Amendment times (y) the number of Non-Affiliate Shares).

3. A new Section 21 is added to the Agreement as set forth below:

Recognition of the U.S. Special Resolution Regimes.

- a. In the event that Cowen is a Covered Entity and becomes subject to a proceeding under a U.S. Special Resolution Regime, the transfer from Cowen of this Agreement, and any interest and obligation in or under this Agreement, will be effective to the same extent as the transfer would be effective under the U.S. Special Resolution Regime if this Agreement, and any such interest and obligation, were governed by the laws of the United States or a state of the United States.
- b. In the event that Cowen is a Covered Entity and Cowen or a BHC Act Affiliate of Cowen becomes subject to a proceeding under a U.S. Special Resolution Regime, Default Rights under this Agreement that may be exercised against Cowen are permitted to be exercised to no greater extent than such Default Rights could be exercised under the U.S. Special Resolution Regime if this Agreement were governed by the laws of the United States or a state of the United States.

- c. For purposes of this Section 21; (a) “**BHC Act Affiliate**” has the meaning assigned to the term “affiliate” in, and shall be interpreted in accordance with, 12 U.S.C. § 1841(k), (b) “**Covered Entity**” means any of the following: (i) a “covered entity” as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 252.82(b); (ii) a “covered bank” as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 47.3(b); or (iii) a “covered FSI” as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 382.2(b), (c) “**Default Right**” has the meaning assigned to that term in, and shall be interpreted in accordance with, 12 C.F.R. §§ 252.81, 47.2 or 382.1, as applicable, and (d) “**U.S. Special Resolution Regime**” means each of (i) the Federal Deposit Insurance Act and the regulations promulgated thereunder and (ii) Title II of the Dodd-Frank Wall Street Reform and Consumer Protection Act and the regulations promulgated thereunder.
4. With respect to issuances of Placement Shares that occur on or after the date this Amendment become effective, reference to the “Prospectus Supplement” in the Agreement shall refer to the prospectus supplement filed with the Commission by the Company on March 17, 2023.
5. All references to “March 15, 2022” set forth in Schedule 1 and Exhibit 7(m) of the Agreement are revised to read “March 15, 2022 (as amended by Amendment No. 1, dated August 17, 2022, and Amendment No. 2, dated March 17, 2023)”.
6. Except as specifically set forth herein, all other provisions of the Agreement shall remain in full force and effect.
7. This Amendment together with the Agreement (including all exhibits attached hereto and thereto and Placement Notices issued pursuant thereto) constitutes the entire agreement and supersedes all other prior and contemporaneous agreements and undertakings, both written and oral, among the parties hereto with regard to the subject matter hereof. Neither this Amendment nor any term hereof may be amended except pursuant to a written instrument executed by the Company and Cowen. In the event that any one or more of the provisions contained herein, or the application thereof in any circumstance, is held invalid, illegal or unenforceable as written by a court of competent jurisdiction, then such provision shall be given full force and effect to the fullest possible extent that it is valid, legal and enforceable, and the remainder of the terms and provisions herein shall be construed as if such invalid, illegal or unenforceable term or provision was not contained herein, but only to the extent that giving effect to such provision and the remainder of the terms and provisions hereof shall be in accordance with the intent of the parties as reflected in this Amendment. All references in the Agreement to the “Agreement” shall mean the Agreement as further amended by this Amendment; *provided, however*, that all references to “date of this Agreement” in the Original Agreement shall continue to refer to the date of the Original Agreement.
8. This Amendment shall be governed by, and construed in accordance with, the internal laws of the State of New York without regard to the principles of conflicts of laws.
9. This Amendment may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Counterparts may be delivered via facsimile, electronic mail (including any electronic signature covered by the U.S. federal ESIGN Act of 2000, Uniform Electronic Transactions Act, the Electronic Signatures and Records Act or other applicable law, e.g., [www.docusign.com](http://www.docusign.com)) or other transmission method and any counterpart so delivered shall be deemed to have been duly and validly delivered and be valid and effective for all purposes.

**Remainder of Page Intentionally Blank.**

If the foregoing correctly sets forth the understanding between the Company and Cowen, please so indicate in the space provided below for that purpose, whereupon this Amendment shall constitute a binding amendment to the Agreement between the Company and Cowen.

Very truly yours,

**COWEN AND COMPANY, LLC**

By: /s/ Michael J. Murphy

Name: Michael J. Murphy

Title: Managing Director

**ACCEPTED as of the date first-above written:**

**UNITY BIOTECHNOLOGY, INC.**

By: /s/ Lynne Sullivan

Name: Lynne Sullivan

Title: Chief Financial Officer