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

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

Genelux Corporation

(Exact name of registrant as specified in its charter)

Delaware
(State or other jurisdiction of
incorporation or organization)

77-0583529
(I.R.S. Employer
Identification No.)

2625 Townsgate Road, Suite 230
Westlake Village, California 91361
(Address of Principal Executive Offices)

91361
(Zip Code)

Genelux Corporation 2009 Equity Incentive Plan
Genelux Corporation 2019 Equity Incentive Plan
Genelux Corporation 2022 Equity Incentive Plan
Genelux Corporation 2022 Employee Stock Purchase Plan
(Full titles of the plans)

Thomas Zindrick, J.D.
President and Chief Executive Officer
Genelux Corporation
2625 Townsgate Road, Suite 230
Westlake Village, California 91361
(805) 267-9889

(Name, address, including zip code, and telephone number, including area code, of agent for service)

Copies to:
Jason L. Kent
Christine S. Kim
Cooley LLP
10265 Science Center Drive
San Diego, California 92121
(858) 550-6000

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
Non-accelerated filer

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 7(a)(2)(B) of the Securities Act.

PART I

INFORMATION REQUIRED IN THE SECTION 10(a) PROSPECTUS

The information called for by Part I of Form S-8 is omitted from this Registration Statement in accordance with Rule 428 of the Securities Act of 1933, as amended (the "Securities Act"), and the instructions to Form S-8. In accordance with the rules and regulations of the Securities and Exchange Commission (the "Commission") and the instructions to Form S-8, such documents are not being filed with the Commission either as part of this Registration Statement or as prospectuses or prospectus supplements pursuant to Rule 424 of the Securities Act.

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 Commission:

- (a) The Registrant's Registration Statement on [Form S-1](#), as amended (File No. 333-265828), initially filed with the Commission on June 24, 2022, which contains audited financial statements for the Registrant's latest fiscal year for which such statements have been filed; and
- (b) The description of the Registrant's Common Stock contained in the Registrant's Registration Statement on [Form 8-A](#) filed on January 23, 2023 (File No. 001-41599) under Section 12(b) of 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 filed by the Registrant 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 or portions thereof that 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 by reference herein 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 that also is or is deemed to be incorporated by reference herein modifies or supersedes such 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 (the “General Corporation Law”) authorizes a court to award, or a corporation’s board of directors to grant, indemnity to directors and officers in terms sufficiently broad to permit such indemnification under certain circumstances for liabilities, including reimbursement for expenses incurred, arising under the Securities Act. The Registrant’s amended and restated certificate of incorporation that will be in effect upon the closing of the Registrant’s initial public offering permits indemnification of its directors, officers, employees and other agents to the maximum extent permitted by the General Corporation Law, and the Registrant’s amended and restated bylaws that will be in effect upon the closing of the Registrant’s initial public offering provide that the Registrant will indemnify its directors and officers and permit the Registrant to indemnify its employees and other agents, in each case to the maximum extent permitted by the General Corporation Law.

The Registrant has entered into indemnification agreements with its directors and officers, whereby the Registrant has agreed to indemnify its directors and officers to the fullest extent permitted by law, including indemnification against expenses and liabilities incurred in legal proceedings to which the director or officer was, or is threatened to be made, a party by reason of the fact that such director or officer is or was a director, officer, employee, or agent of the Registrant, provided that such director or officer acted in good faith and in a manner that the director or officer reasonably believed to be in, or not opposed to, the best interest of the Registrant.

The Registrant maintains insurance policies that indemnify its directors and officers against various liabilities arising under the Securities Act and the Exchange Act that might be incurred by any director or officer in his or her capacity as such.

Item 7. Exemption from Registration Claimed.

Not applicable.

Item 8. Exhibits.

The exhibits to this Registration Statement are listed below:

<u>Exhibit Number</u>	<u>Description</u>
4.1	<u>Amended and Restated Certificate of Incorporation, as amended, as currently in effect (incorporated herein by reference to Exhibit 3.1 to the Registrant's Registration Statement on Form S-1, as amended (File No. 333-265828), filed with the Commission on June 24, 2022).</u>
4.2	<u>Form of Amended and Restated Certificate of Incorporation, to be in effect upon the closing of the Registrant's initial public offering (incorporated herein by reference to Exhibit 3.2 to the Registrant's Registration Statement on Form S-1, as amended (File No. 333-265828), filed with the Commission on June 24, 2022).</u>
4.3	<u>Amended and Restated Bylaws, as currently in effect (incorporated herein by reference to Exhibit 3.3 to the Registrant's Registration Statement on Form S-1, as amended (File No. 333-265828), filed with the Commission on June 24, 2022).</u>
4.4	<u>Form of Amended and Restated Bylaws, to be in effect upon the closing of the Registrant's initial public offering (incorporated herein by reference to Exhibit 3.4 to the Registrant's Registration Statement on Form S-1, as amended (File No. 333-265828), filed with the Commission on June 24, 2022).</u>
4.5	<u>Form of Common Stock Certificate (incorporated herein by reference to Exhibit 4.1 to the Registrant's Registration Statement on Form S-1, as amended (File No. 333-265828), filed with the Commission on August 29, 2022).</u>
4.6	<u>Investors' Rights Agreement, by and among the Registrant and AbbVie, Inc. and Aladar Szalay, Ph.D., dated January 2010 (incorporated herein by reference to Exhibit 4.2 to the Registrant's Registration Statement on Form S-1, as amended (File No. 333-265828), filed with the Commission on June 24, 2022).</u>
4.7	<u>Form of Warrant to Purchase Common Stock issued to WDC Fund I, dated September 2020 (incorporated herein by reference to Exhibit 4.3 to the Registrant's Registration Statement on Form S-1, as amended (File No. 333-265828), filed with the Commission on June 24, 2022).</u>
4.8	<u>Agreement/Promissory Note, by and among the registrant and Jillian and Curtis Helmer, dated April 2016, as amended (incorporated herein by reference to Exhibit 4.4 to the Registrant's Registration Statement on Form S-1, as amended (File No. 333-265828), filed with the Commission on June 24, 2022).</u>
4.9	<u>Form of Umbrella Agreement Regarding Family Investments (incorporated herein by reference to Exhibit 4.5 to the Registrant's Registration Statement on Form S-1, as amended (File No. 333-265828), filed with the Commission on June 24, 2022).</u>
4.10	<u>Form of Convertible Note Purchase Agreement under the Umbrella Agreement (incorporated herein by reference to Exhibit 4.6 to the Registrant's Registration Statement on Form S-1, as amended (File No. 333-265828), filed with the Commission on June 24, 2022).</u>
4.11	<u>Form of Representative's Warrant (incorporated herein by reference to Exhibit 4.7 to the Registrant's Registration Statement on Form S-1, as amended (File No. 333-265828), filed with the Commission on September 19, 2022).</u>
5.1	<u>Opinion of Cooley LLP.</u>
23.1	<u>Consent of independent registered public accounting firm.</u>
23.2	<u>Consent of Cooley LLP (included in Exhibit 5.1).</u>
24.1	<u>Power of Attorney (included on the signature page).</u>
99.1	<u>Genelux Corporation 2009 Equity Incentive Plan (incorporated herein by reference to Exhibit 10.1 to the Registrant's Registration Statement on Form S-1, as amended (File No. 333-265828), filed with the Commission on June 24, 2022).</u>
99.2	<u>Forms of Grant Notice, Stock Option Agreement and Notice of Exercise under the Genelux Corporation 2009 Equity Incentive Plan (incorporated herein by reference to Exhibit 10.2 to the Registrant's Registration Statement on Form S-1, as amended (File No. 333-265828), filed with the Commission on June 24, 2022).</u>
99.3	<u>Genelux Corporation 2019 Equity Incentive Plan (incorporated herein by reference to Exhibit 10.3 to the Registrant's Registration Statement on Form S-1, as amended (File No. 333-265828), filed with the Commission on June 24, 2022).</u>
99.4	<u>Forms of Grant Notice, Stock Option Agreement and Notice of Exercise under the Genelux Corporation 2019 Equity Incentive Plan (incorporated herein by reference to Exhibit 10.4 to the Registrant's Registration Statement on Form S-1, as amended (File No. 333-265828), filed with the Commission on June 24, 2022).</u>
99.5	<u>Genelux Corporation 2022 Equity Incentive Plan (incorporated herein by reference to Exhibit 10.5 to the Registrant's Registration Statement on Form S-1, as amended (File No. 333-265828), filed with the Commission on January 9, 2023).</u>
99.6	<u>Forms of Grant Notice, Stock Option Agreement and Notice of Exercise under the Genelux Corporation 2022 Equity Incentive Plan (incorporated herein by reference to Exhibit 10.6 to the Registrant's Registration Statement on Form S-1, as amended (File No. 333-265828), filed with the Commission on June 24, 2022).</u>
99.7	<u>Genelux Corporation, Inc. 2022 Employee Stock Purchase Plan (incorporated herein by reference to Exhibit 10.7 to the Registrant's Registration Statement on Form S-1, as amended (File No. 333-265828), filed with the Commission on January 9, 2023).</u>
107	<u>Filing Fee Table.</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; and
 - (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.

- (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.

- (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 herein, 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 Westlake Village, State of California, on January 26, 2023.

GENELUX CORPORATION

By: /s/ Thomas Zindrick, J.D.

Thomas Zindrick, J.D.
President and Chief Executive Officer

POWER OF ATTORNEY

KNOW ALL PERSONS BY THESE PRESENTS, that each person whose signature appears below constitutes and appoints Thomas Zindrick, J.D. as his or her true and lawful attorney-in-fact and agent, with full power of substitution and resubstitution, for him or her and in their name, place and stead, in any and all capacities, to sign any and all amendments (including post-effective amendments) to this Registration Statement, and to sign any registration statement for the same offering covered by this Registration Statement that is to be effective on filing pursuant to Rule 462(b) under the Securities Act of 1933, as amended, and all post-effective amendments thereto, and to file the same, with all exhibits thereto and other documents in connection therewith, with the Securities and Exchange Commission, granting unto said attorney-in-fact and agent full power and authority to do and perform each and every act and thing requisite and necessary to be done in connection therewith, as fully to all intents and purposes as he might or could do in person, hereby ratifying and confirming all that said attorney-in-fact and agent, or his 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/ Thomas Zindrick, J.D.</u> Thomas Zindrick, J.D.	President, Chief Executive Officer and Chairman <i>(Principal Executive and Financial Officer)</i>	January 26, 2023
<u>/s/ Doug Samuelson</u> Doug Samuelson	Chief Financial Officer <i>(Principal Accounting Officer)</i>	January 26, 2023
<u>/s/ Mary Mirabelli</u> Mary Mirabelli	Director	January 26, 2023
<u>/s/ James L. Tyree</u> James L. Tyree	Director	January 26, 2023
<u>/s/ John Thomas, Ph.D.</u> John Thomas, Ph.D.	Director	January 26, 2023
<u>/s/ Gabe Woodward</u> Gabe Woodward	Director	January 26, 2023



Jason L. Kent
T: +1 858 550 6044
jkent@cooley.com

January 26, 2023

Genelux Corporation
2625 Townsgate Road, Suite 230
Westlake Village, California 91361

Re: Genelux Corporation

Ladies and Gentlemen:

We have acted as counsel to Genelux Corporation, a Delaware corporation (the "*Company*"), in connection with the filing of a Registration Statement on Form S-8 (the "*Registration Statement*") with the Securities and Exchange Commission covering the offering of up to 7,701,018 shares (the "*Shares*") of the Company's common stock, par value \$0.001 per share (the "*Common Stock*"), consisting of (i) 2,360,313 shares of Common Stock issuable pursuant to the Company's 2009 Equity Incentive Plan (the "*2009 Plan*"), (ii) 1,840,705 shares of Common Stock issuable pursuant to the Company's 2019 Equity Incentive Plan (the "*2019 Plan*," and together with the 2009 Plan, the "*Prior Plans*"), (iii) 2,800,000 shares of Common Stock issuable pursuant to the Company's 2022 Equity Incentive Plan (the "*2022 Plan*"), and (iv) 700,000 shares of Common Stock issuable pursuant to the Company's 2022 Employee Stock Purchase Plan (the "*2022 ESPP*," and together with the Prior Plans and the 2022 Plan, the "*Plans*").

In connection with this opinion, we have examined and relied upon (a) the Registration Statement and related prospectuses, (b) the Company's Amended and Restated Certificate of Incorporation and Amended and Restated Bylaws, each as currently in effect, (c) the forms of the Company's Amended and Restated Certificate of Incorporation and Amended and Restated Bylaws, each of which is to be in effect immediately prior to the closing of the Company's initial public offering, in the forms filed as Exhibits 3.2 and 3.4, respectively, to the Company's registration statement (No. 333-265828) on Form S-1, (d) the Plans, and (e) 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 of all signatures, the authenticity of all documents submitted to us as originals, the conformity to originals of all documents submitted to us as copies, the accuracy, completeness and authenticity of certificates of public officials and the due authorization, execution and delivery by all persons other than by the Company of all documents where authorization, execution and delivery are prerequisites to the effectiveness thereof. As to certain factual matters, we have relied upon a certificate of an officer of the Company and have not independently verified such matters.

Our opinion is expressed only with respect to the General Corporation Law of the State of Delaware. We express no opinion to the extent that any other laws are applicable to the subject matter hereof and express no opinion and provide no assurance as to compliance with any federal or state securities law, rule or regulation.

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 Plans, the Registration Statement and related prospectuses, 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).



January 26, 2023

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

Sincerely

Cooley LLP

By: /s/ Jason L. Kent

Jason L. Kent

Consent of Independent Registered Public Accounting Firm

We consent to the incorporation by reference in this Registration Statement on Form S-8 pertaining to the 2009 Equity Incentive Plan, 2019 Equity Incentive Plan, 2022 Equity Incentive Plan and 2022 Employee Stock Purchase Plan of Genelux Corporation of our report dated March 4, 2022, except for Notes 1 and 15, as to which the date is August 29, 2022 (which report contains an explanatory paragraph describing conditions that raise substantial doubt about Genelux Corporation's ability to continue as a going concern), included in Genelux Corporation's Registration Statement on Form S-1 (File No. 333-265828) filed with the Securities and Exchange Commission.

/s/ Weinberg & Company, P.A.
Los Angeles, California
January 26, 2023

Calculation of Filing Fee Table

Form S-8
(Form Type)

Genelux Corporation
(Exact Name of Registrant as Specified in its Charter)

Table 1: Newly Registered Securities

Security Type	Security Class Title	Fee Calculation Rule	Amount Registered(1)	Proposed Maximum Offering Price Per Share	Maximum Aggregate Offering Price	Fee Rate	Amount of Registration Fee
Equity	Common Stock, \$0.001 par value per share, reserved for issuance pursuant to the 2009 Equity Incentive Plan	Other(2)	2,360,313 shares(3)	\$9.86	\$23,272,686.18	0.0001102	\$2,564.65
Equity	Common Stock, \$0.001 par value per share, reserved for issuance pursuant to the 2019 Equity Incentive Plan	Other(2)	1,840,705 shares(3)	\$10.47	\$19,272,181.35	0.0001102	\$2,123.79
Equity	Common Stock, \$0.001 par value per share, reserved for issuance pursuant to the 2022 Equity Incentive Plan	Other(4)	2,800,000 shares(5)	\$6.00	\$16,800,000.00	0.0001102	\$1,851.36
Equity	Common Stock, \$0.001 par value per share, reserved for issuance pursuant to the 2022 Employee Stock Purchase Plan	Other(6)	700,000 shares(7)	\$5.10	\$3,570,000.00	0.0001102	\$393.41
Total Offering Amounts				—	\$62,914,867.53	—	\$6,933.22
Total Fee Offsets				—	—	—	—
Net Fee Due				—	—	—	\$6,933.22

- (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 Common Stock (“Common Stock”) of Genelux Corporation (the “Registrant”) that become issuable under the Registrant’s 2009 Equity Incentive Plan (the “2009 Plan”), the Registrant’s 2019 Equity Incentive Plan (the “2019 Plan”, and together with the 2009 Plan, the “Prior Plans”), the Registrant’s 2022 Equity Incentive Plan (the “2022 Plan”), or the Registrant’s 2022 Employee Stock Purchase Plan (the “2022 ESPP”) by reason of any stock dividend, stock split, recapitalization or other similar transaction.
- (2) Estimated solely for the purpose of calculating the amount of the registration fee pursuant to Rule 457(h) of the Securities Act. The proposed maximum aggregate offering price per share and proposed maximum aggregate offering price for the 2,360,313 shares of Common Stock reserved for issuance upon the exercise of outstanding stock options granted under the 2009 Plan are calculated using the weighted-average exercise price of \$9.86 per share for such stock options. The proposed maximum aggregate offering price per share and proposed maximum aggregate offering price for the 1,840,705 shares of Common Stock reserved for issuance upon the exercise of outstanding stock options granted under the 2019 Plan are calculated using the weighted-average exercise price of \$10.47 per share for such stock options.
- (3) Represents shares of Common Stock reserved for issuance upon the exercise of outstanding stock options granted under the Prior Plans. No additional stock awards will be granted under the Prior Plans.
- (4) Estimated solely for the purpose of calculating the amount of the registration fee pursuant to Rule 457(h) of the Securities Act. The proposed maximum aggregate offering price per share and proposed maximum aggregate offering price are calculated on the basis of \$6.00 per share (the “IPO Price”), which is the initial public offering price per share of the Registrant’s Common Stock set forth in the Registrant’s prospectus filed with the Securities and Exchange Commission on January 26, 2023 pursuant to Rule 424(b) of the Securities Act.
- (5) Represents 2,800,000 shares of Common Stock reserved for future grant under the 2022 Plan. The 2022 Plan also provides that an additional number of shares will automatically be added annually to the shares authorized for issuance under the 2022 Plan on January 1st of each year, commencing on January 1, 2024 and ending on (and including) January 1, 2032, in an amount equal to 5% of the total number of shares of Common Stock outstanding on December 31 of the preceding year; provided, however, that the Registrant’s board of directors may act prior to January 1st of a given year to provide that the increase for such year will be a lesser number of shares of Common Stock. This explanation is provided for information purposes only. The issuance of such additional shares is not being registered on this Registration Statement.
- (6) Estimated solely for the purpose of calculating the amount of the registration fee pursuant to Rule 457(h) of the Securities Act. The proposed maximum aggregate offering price per share and proposed maximum aggregate offering price are calculated on the basis of the IPO Price, multiplied by 85%, which is the percentage of the price per share applicable to purchases under the 2022 ESPP.
- (7) Represents 700,000 shares of Common Stock reserved for future grant under the 2022 ESPP. The 2022 ESPP provides that an additional number of shares of Common Stock will automatically be added annually to the shares authorized for issuance under the 2022 ESPP on January 1st of each year, commencing on January 1, 2024 and ending on (and including) January 1, 2032, in an amount equal to the lesser of (i) 1% of the total number of shares of Common Stock outstanding on December 31st of the preceding calendar year and (ii) 2,100,000 shares of Common Stock; provided, however, that the Registrant’s board of directors may act prior to January 1st of a given year to provide that the increase for such year will be a lesser number of shares of Common Stock. This explanation is provided for information purposes only. The issuance of such additional shares is not being registered on this Registration Statement.