

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

**FORM S-8
REGISTRATION STATEMENT
under the
SECURITIES ACT OF 1933**

DERMTECH, INC.
(Exact Name of Registrant as Specified in Its Charter)

Delaware
*(State or Other Jurisdiction
of Incorporation or Organization)*

84-2870849
*(I.R.S. Employer
Identification No.)*

**12340 El Camino Real
San Diego, CA 92130**
(Address, Including Zip Code, of Principal Executive Offices)

DermTech, Inc. Second Amended and Restated 2022 Inducement Equity Incentive Plan
(Full Title of the Plan)

**Kevin Sun
Chief Financial Officer
DermTech, Inc.**

**12340 El Camino Real
San Diego, CA 92130
(858) 450-4222**
*(Name, Address and Telephone Number, Including
Area Code, of Agent For Service)*

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 definition 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.

EXPLANATORY NOTE

On May 6, 2023, DermTech, Inc. (the “Registrant”) amended and restated the DermTech, Inc. Amended and Restated 2022 Inducement Equity Incentive Plan to increase the number of shares reserved for issuance pursuant to awards granted thereunder by 500,000 shares (the “Additional Inducement Shares”) of common stock, par value \$0.0001 per share, as set forth in the DermTech, Inc. Second Amended and Restated 2022 Inducement Equity Incentive Plan (the “Second A&R Inducement Plan”) filed as [Exhibit 10.2](#) to the Current Report on Form 8-K filed with the SEC on May 9, 2023 and incorporated herein by reference. This registration statement on Form S-8 (this “Registration Statement”) registers the Additional Inducement Shares reserved for issuance under the Second A&R Inducement Plan to employees of the Registrant as an inducement material to entry into employment with the Registrant, in accordance with Nasdaq Listing Rule 5635(c)(4). This Registration Statement registers additional securities of the same class as other securities for which registration statements filed on Form S-8 of the Registrant relating to an employee benefit plan are effective (File Nos. 333-263484 and 333-267469). The information contained in the Registrant’s registration statements on Form S-8 (File Nos. 333-263484 and 333-267469) is hereby incorporated by reference pursuant to General Instruction E of Form S-8.

PART II

INFORMATION REQUIRED IN THE REGISTRATION STATEMENT

Item 3. Incorporation of Documents by Reference.

The following documents filed by the Registrant with the Securities and Exchange Commission (the “Commission”) are incorporated herein by reference:

- our Annual Report on [Form 10-K](#) for the year ended December 31, 2022 filed with the SEC on March 2, 2023;
- our Quarterly Reports on Form 10-Q for the quarter ended March 31, 2023 filed with the SEC on [May 4, 2023](#) and the quarter ended June 30, 2023 filed with the SEC on [August 3, 2023](#);
- our Current Reports on Form 8-K filed with the SEC on [March 2, 2023](#), [March 13, 2023](#), [May 4, 2023](#), [May 9, 2023](#), [June 5, 2023](#), [June 28, 2023](#), [July 13, 2023](#), and [August 3, 2023](#) (except, in each case, for the information furnished under Items 2.02 or 7.01 and the exhibits thereto); and
- the description of our common stock contained in [Exhibit 4.12](#) of our Annual Report on Form 10-K for the year ended December 31, 2020 filed with the SEC on March 5, 2021, and any amendment or report filed with the SEC for the purpose of updating such description.

All reports and other documents filed by the Registrant with the Commission after the date hereof pursuant to Sections 13(a), 13(c), 14 and 15(d) of the Securities Exchange Act of 1934, as amended (the “Exchange Act”), after the date of this Registration Statement and prior to the filing of a post-effective amendment to this Registration Statement 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 herein and to be a part hereof from the respective dates of filing of such reports and documents, or the Incorporated Documents.

Any statement contained herein or in any Incorporated Document shall be deemed to be modified or superseded for purposes of this Registration Statement to the extent that a statement contained in any subsequently filed Incorporated Document modifies or supersedes such statement. Any such statement so modified or superseded shall not be deemed, except as so modified or superseded, to constitute a part of this Registration Statement.

Item 4. Description of Securities.

Not applicable.

Item 5. Interests of Named Experts and Counsel.

None.

Item 6. Indemnification of Directors and Officers.

Registrant’s existing certificate of incorporation, as amended to date, or the Amended and Restated Certificate of Incorporation, provides that the Registrant shall indemnify its directors and officers, provided that they have acted in good faith and in a manner which they reasonably believed to be in or not opposed to the best interests of the Registrant and, with respect to any criminal action or proceeding, had no reasonable cause to believe their conduct was unlawful.

This indemnity shall not extend to a suit by or in the right of the Registrant in which any director or officer has been adjudged to be liable to the Registrant, unless and to the extent that the court making such adjudication determines that the director or officer in question is fairly and reasonably entitled to indemnity for expenses that the court deems proper.

The Registrant shall not indemnify any director or officer in respect of a proceeding initiated by such director or officer unless such proceeding was authorized by the Registrant's board of directors.

Any indemnification of its directors or officers by the Registrant is conditioned on the director or officer in question notifying the Registrant in writing as soon as possible of any proceeding for which indemnity will or could be sought, unless the Registrant has confirmed to the director or officer that it is aware of such proceeding. The Registrant may elect to participate in or assume the defense of any such proceeding at its own expense. The Registrant shall not be required to indemnify for any amounts paid in settlement without its written consent, which consent will not be unreasonably withheld.

Any indemnified director or officer will have the right to advancement of expenses upon the Registrant's receipt of written notice therefor and an undertaking by or on behalf of any such director or officer to repay all amounts advanced if it shall ultimately be judicially determined that such person is not entitled to be indemnified.

The Registrant shall not indemnify any director or officer to the extent such director or officer is reimbursed from the proceeds of insurance. In the event the Registrant makes any indemnification payments and the director or officer in question is subsequently reimbursed from the proceeds of insurance, such director or officer shall promptly refund the Registrant to the extent of such insurance reimbursement.

Insofar as indemnification for liabilities arising under the Securities Act of 1933, as amended (the "Securities Act"), may be permitted to our directors, officers and controlling persons pursuant to the foregoing, or otherwise, we have 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 us of expenses incurred or paid by a director, officer or controlling person of ours 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, we will, unless in the opinion of our 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.

Item 7. Exemption from Registration Claimed.

Not applicable.

Item 8. Exhibits.

The following exhibits are filed as a part of or incorporated by reference into this Registration Statement:

Exhibit Number	Exhibit Description	Filed Herewith	Incorporated by Reference herein from Form or Schedule	Filing Date	SEC File/ Reg. Number
4.1	Amended and Restated Certificate of Incorporation of the Registrant, as amended		10-Q	8/3/2023	001-38118
4.2	Bylaws of the Registrant		10-K	3/11/2020	001-38118
5.1	Opinion of Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C. as to the legality of the securities being registered	X			
10.1	Second Amended and Restated 2022 Inducement Equity Incentive Plan		8-K	05/09/2023	001-38118
23.1	Consent of KPMG LLP	X			
23.2	Consent of Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C. (included in Exhibit 5.1)	X			
24.1	Powers of Attorney (included on signature page to this Registration Statement)	X			
107	Filing Fee Table	X			

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, represents 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 this 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 that is incorporated by reference in this 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

The Registrant. Pursuant to the requirements of the Securities Act of 1933, 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 San Diego, California on August 7, 2023.

DERMTECH, INC.

By: /s/ Kevin Sun

Name: Kevin Sun
Title: Chief Financial Officer

Each person whose signature appears below constitutes and appoints Bret Christensen and Kevin Sun, and each of them singly, his or her true and lawful attorneys-in-fact and agents, with full power of substitution and resubstitution in each of them singly, for him or her and in his or her name, place and stead, and in any and all capacities, to sign any and all amendments (including post-effective amendments) to this Registration Statement on Form S-8 of DermTech, Inc., and to file the same, with all exhibits thereto and other documents in connection therewith, with the Securities and Exchange Commission, granting to the attorneys-in-fact and agents, and each of them, full power and authority to do and perform each and every act and thing requisite or necessary to be done in or about the premises, as full to all intents and purposes as he or she might or could do in person, hereby ratifying and confirming all that the attorneys-in-fact and agents or any of each of them or their substitute may lawfully do or cause to be done by virtue hereof.

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

Signature	Title	Date
<hr/> <div>/s/ Bret Christensen</div> <hr/> Bret Christensen	Chief Executive Officer and Director (Principal Executive Officer)	August 7, 2023
<hr/> <div>/s/ Kevin Sun</div> <hr/> Kevin Sun	Chief Financial Officer and Treasurer (Principal Financial and Accounting Officer)	August 7, 2023
<hr/> <div>/s/ Cynthia Collins</div> <hr/> Cynthia Collins	Director	August 7, 2023
<hr/> <div>/s/ Nathalie Gerschtein Keraudy</div> <hr/> Nathalie Gerschtein Keraudy	Director	August 7, 2023
<hr/> <div>/s/ Matthew Posard</div> <hr/> Matthew Posard	Director	August 7, 2023
<hr/> <div>/s/ Herm Rosenman</div> <hr/> Herm Rosenman	Director	August 7, 2023
<hr/> <div>/s/ Mark Capone</div> <hr/> Mark Capone	Director	August 7, 2023
<hr/> <div>/s/ Kirk Malloy</div> <hr/> Kirk Malloy	Director	August 7, 2023

Calculation of Filing Fee Table

Form S-8
(Form Type)

DermTech, Inc.
(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 Unit (2)	Maximum Aggregate Offering Price (2)	Fee Rate	Amount of Registration Fee
Equity	Common Stock, par value \$0.0001 per share	457(h)	500,000 shares (3)	\$2.49	\$1,245,000	\$0.0001102	\$137.20
Total Offering Amounts					\$1,245,000		\$137.20
Total Fees Previously Paid							—
Total Fee Offsets							—
Net Fee Due							\$137.20

- (1) Pursuant to Rule 416(a) under the Securities Act of 1933, as amended (the “Securities Act”), this Registration Statement also covers an indeterminate number of additional shares of common stock, par value \$0.0001 per share (“Common Stock”), of DermTech, Inc. (the “Registrant”), which may be subject to grant or otherwise issuable after the operation of any anti-dilution and other provisions of the Registrant’s Second Amended and Restated 2022 Inducement Equity Incentive Plan (the “Second A&R Inducement Plan”).
- (2) This calculation is made solely for the purpose of determining the registration fee pursuant to the provisions of Rule 457 (h) under the Securities Act as follows: the fee is calculated on the basis of the price at which the options may be exercised.
- (3) Represents increase in authorized shares of Common Stock reserved for issuance under the Inducement Plan, as approved by the Registrant’s Board of Directors in May 2023, all of which are issuable upon the exercise of an outstanding option granted under the Second A&R Inducement Plan to the Registrant’s chief executive officer, Bret Christensen, as previously disclosed in the Registrant’s Current Report on Form 8-K filed with the Securities and Exchange Commission on May 9, 2023, at an exercise price of \$2.49 per share.



August 7, 2022

DermTech, Inc.
11099 N. Torrey Pines Road, Suite 100
La Jolla, CA 92037

Ladies and Gentlemen:

We have acted as legal counsel to DermTech, Inc., a Delaware corporation (the "Company"), in connection with the preparation and filing with the Securities and Exchange Commission (the "Commission") of a Registration Statement on Form S-8 (the "Registration Statement"), pursuant to which the Company is registering the issuance under the Securities Act of 1933, as amended (the "Securities Act"), of 500,000 shares (the "Shares") of the Company's common stock, \$0.0001 par value per share, in accordance with the terms of the DermTech, Inc. Second Amended and Restated 2022 Inducement Equity Incentive Plan (the "Plan"). This opinion is being rendered in connection with the filing of the Registration Statement with the Commission.

In connection with this opinion, we have examined the Company's Amended and Restated Certificate of Incorporation and Bylaws, each as currently in effect; such other records of the corporate proceedings of the Company and certificates of the Company's officers as we have deemed relevant; and the Registration Statement and the exhibits thereto.

In our examination, we have assumed the genuineness of all signatures, the legal capacity of natural persons, the authenticity of all documents submitted to us as originals, the conformity to original documents of all documents submitted to us as copies, the authenticity of the originals of such copies, and the truth and correctness of any representations and warranties contained therein. In addition, we have assumed that the Company will receive any required consideration in accordance with the terms of the Plan.

Our opinion expressed herein is limited to the General Corporation Law of the State of Delaware and we express no opinion with respect to the laws of any other jurisdiction. No opinion is expressed herein with respect to the qualification of the Shares under the securities or blue sky laws of any state or any foreign jurisdiction.

Please note that we are opining only as to the matters expressly set forth herein, and no opinion should be inferred as to any other matters. This opinion is based upon currently existing statutes, rules, regulations and judicial decisions, and we disclaim any obligation to advise you of any change in any of these sources of law or subsequent legal or factual developments which might affect any matters or opinions set forth herein.

Based upon the foregoing, we are of the opinion that the Shares, when issued and delivered in accordance with the terms of the Plan, will be validly issued, fully paid and non-assessable.

We understand that you wish to file this opinion with the Commission as an exhibit to the Registration Statement in accordance with the requirements of Item 601(b)(5) of Regulation S-K promulgated under the Securities Act, and we hereby consent thereto. In giving this consent, we do not admit that we are within the category of persons whose consent is required under

Section 7 of the Securities Act or the rules and regulations of the Commission promulgated thereunder.

Very truly yours,

/s/ Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C.

Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C.

Consent of Independent Registered Public Accounting Firm

We consent to the use of our report dated March 2, 2023, with respect to the consolidated financial statements of DermTech, Inc., incorporated herein by reference.

/s/ KPMG LLP

San Diego, California
August 7, 2023