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

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

TALPHERA, INC.

(Exact name of registrant as specified in its charter)

Delaware

(State or other jurisdiction of Incorporation or organization)

41-2193603

(I.R.S. Employer Identification No.)

**1850 Gateway Drive, Suite 175
San Mateo, CA 94404**

(Address of principal executive offices) (Zip code)

**Amended and Restated 2020 Equity Incentive Plan
Amended and Restated 2011 Employee Stock Purchase Plan**
(Full title of the plan)

**Raffi Asadorian
Chief Financial Officer
Talpera, Inc.**

**1850 Gateway Drive, Suite 175
San Mateo, CA 94404
(650) 216-3500**

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

**Copy to:
John T. McKenna
Cooley LLP
3175 Hanover Street
Palo Alto, California 94304
(650) 843-5000**

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 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
Emerging growth company

Accelerated filer
Smaller reporting 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

Talpera, Inc. (the “Registrant”) is filing this Registration Statement on Form S-8 with the Securities and Exchange Commission (the “Commission”) for the purpose of registering 1,171,395 additional shares of common stock to be issued pursuant to the Registrant’s Amended and Restated 2020 Equity Incentive Plan (the “2020 Equity Incentive Plan”) and 100,000 additional shares of common stock to be issued pursuant to the Registrant’s Amended and Restated 2011 Employee Stock Purchase Plan (the “2011 Employee Stock Purchase Plan”). The contents of the Registrant’s registration statements on Form S-8 (SEC File Nos. [333-239213](#), [333-258896](#), and [333-275720](#) filed with the Commission on June 16, 2020, August 18, 2021 and November 22, 2023, respectively) are incorporated by reference pursuant to General Instruction E of Form S-8.

PART I

INFORMATION REQUIRED IN THE SECTION 10(a) PROSPECTUS

Information required by Part I of Form S-8 to be contained in the Section 10(a) prospectus is omitted from this Registration Statement in accordance with Rule 428 under the Securities Act of 1933, as amended (the “Securities Act”). The document(s) containing the information specified in Part I will be sent or given to the participant in the 2020 Equity Incentive Plan and 2011 Employee Stock Purchase Plan pursuant to Rule 428(b)(1). These document(s) and the documents incorporated by reference in the Registration Statement pursuant to Item 3 of Part II of this form, taken together, constitute a prospectus that meets the requirements of Section 10(a) of the Securities Act.

PART II

INFORMATION REQUIRED IN THE REGISTRATION STATEMENT

Item 3. Incorporation of Documents by Reference.

The following documents filed by the Registrant with the Commission are incorporated by reference into this Registration Statement:

- (a) the Registrant’s Annual Report on Form 10-K for the year ended December 31, 2023, filed with the Commission on [March 6, 2024](#) (the “2023 10-K”);
 - (b) the Registrant’s Current Reports on Form 8-K, filed with the Commission on [January 9, 2024](#) (other than Item 7.01), [January 18, 2024](#), [January 22, 2024](#) (other than Item 2.02 and Item 7.01), [March 1, 2024](#), [April 19, 2024](#), [June 24, 2024](#), and [August 14, 2024](#) (other than Item 2.02);
 - (c) the Registrant’s information specifically incorporated by reference in the 2023 10-K from the Registrant’s definitive proxy statement on Schedule 14A for the 2024 annual meeting of stockholders, filed with the Commission on [April 29, 2024](#);
 - (d) the Registrant’s Quarterly Reports on Form 10-Q for the quarterly periods ended March 31, 2024 and June 30, 2024, filed with the Commission on [May 14, 2024](#) and [August 14, 2024](#), respectively; and
 - (e) the description of the Registrant’s common stock which is contained in a registration statement on Form 8-A filed with the Commission on [February 1, 2011](#) under the Securities Exchange Act of 1934, as amended (the “Exchange Act”), as updated by [Exhibit 4.1](#) of the Registrant’s Annual Report on Form 10-K for the year ended December 31, 2020, filed with the Commission on March 15, 2021, and any amendment or report filed for the purpose of updating such description.
-

All other reports and documents subsequently filed by the Registrant pursuant to Sections 13(a), 13(c), 14 and 15(d) of the Exchange Act (other than Current Reports furnished under Item 2.02 or Item 7.01 of Form 8-K and exhibits furnished on such form that relate to such items) on or 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 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 of this Registration Statement from the date of the filing of such reports and documents. 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 contained herein or in any subsequently filed document that also is deemed to be incorporated by reference herein 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. Exhibits.

Exhibit Number	Exhibit Description	Incorporation by Reference			
		Form	SEC File No.	Exhibit	Filing Date
3.1	Amended and Restated Certificate of Incorporation of the Registrant.	8-K	001-35068	3.1	2/18/2011
3.2	Certificate of Amendment of Amended and Restated Certificate of Incorporation of the Registrant.	8-K	001-35068	3.1	1/9/2024
3.3	Certificate of Amendment of Amended and Restated Certificate of Incorporation of the Registrant.	8-K	001-35068	3.1	6/25/2019
3.4	Certificate of Amendment of Amended and Restated Certificate of Incorporation of the Registrant.	8-K	001-35068	3.1	10/25/2022
3.5	Amended and Restated Bylaws of the Registrant.	8-K	001-35068	3.2	1/9/2024
4.1	Reference is made to Exhibits 3.1 through 3.5.				
4.2	Specimen Common Stock Certificate of the Registrant.	S-1/A	333-170594	4.2	1/31/2011
5.1	Opinion of Cooley LLP.				
23.1	Consent of BPM LLP, Independent Registered Public Accounting Firm.				
23.2	Consent of WithumSmith+Brown PC, Independent Registered Public Accounting Firm.				
23.3	Consent of Cooley LLP (included in Exhibit 5.1).				
24.1	Power of Attorney (included on the signature page of this Form S-8).				
99.1+	Amended and Restated 2020 Equity Incentive Plan.	8-K	001-35068	10.1	6/24/2024
99.4+	Amended and Restated 2011 Employee Stock Purchase Plan.	8-K	001-35068	10.2	6/24/2024
107	Filing Fee Table				

+ Indicates management contract or compensatory plan.

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 the City of San Mateo, State of California, on August 14, 2024.

TALPHERA, INC.

By: /s/ Vincent J. Angotti

Vincent J. Angotti
Chief Executive Officer

POWER OF ATTORNEY

KNOW ALL PERSONS BY THESE PRESENTS, that each person whose signature appears below constitutes and appoints Vincent J. Angotti and Raffi Asadorian, and each or any one of them, his true and lawful attorney-in-fact and agent, with full power of substitution and resubstitution, for him and in his 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 file the same, with all exhibits thereto, and other documents in connection therewith, with the Securities and Exchange Commission, granting unto said attorneys-in-fact and agents, and each of them, 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 attorneys-in-fact and agents, or any of them, or their or his substitutes or 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.

<u>Signature</u>	<u>Title</u>	<u>Date</u>
<u>/s/ Vincent J. Angotti</u> Vincent J. Angotti	Chief Executive Officer and Director <i>(Principal Executive Officer)</i>	August 14, 2024
<u>/s/ Raffi Asadorian</u> Raffi Asadorian	Chief Financial Officer <i>(Principal Financial and Accounting Officer)</i>	August 14, 2024
<u>/s/ Adrian Adams</u> Adrian Adams	Chairman	August 14, 2024
<u>/s/ Marina Bozilenko</u> Marina Bozilenko	Director	August 14, 2024
<u>/s/ Jill Broadfoot</u> Jill Broadfoot	Director	August 14, 2024
<u>/s/ Stephen J. Hoffman</u> Stephen J. Hoffman	Director	August 14, 2024
<u>/s/ Abhinav Jain</u> Abhinav Jain	Director	August 14, 2024
<u>/s/ Mark Wan</u> Mark Wan	Director	August 14, 2024



John T. McKenna
T: +1 650 843 5059
jmckenna@cooley.com

August 14, 2024

Talpera, Inc.
1850 Gateway Drive, Suite 175
San Mateo, CA 94404

Ladies and Gentlemen:

We have acted as counsel to Talpera, Inc., 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 (the “*Commission*”) covering the offering of up to 1,271,395 shares (the “*Shares*”) of the Company’s Common Stock, par value \$0.001 per share (“*Common Stock*”), consisting of (i) 1,171,395 shares of Common Stock issuable pursuant to the Company’s Amended and Restated 2020 Equity Incentive Plan (the “*2020 EIP*”) and (ii) 100,000 shares of Common Stock issuable pursuant to the Company’s Amended and Restated 2011 Employee Stock Purchase Plan (together with the 2020 EIP, the “*Plans*”).

In connection with this opinion, we have examined and relied upon (a) the Registration Statement and the related prospectuses, (b) the Plans, (c) the Company’s certificate of incorporation and bylaws, each as currently in effect, and (d) such other documents, records, opinions, certificates, memoranda and 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 of all documents by all persons other than the Company 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 the related prospectuses, will be validly issued, fully paid, and nonassessable (except as to the Shares issued pursuant to deferred payment arrangements, which will be fully paid and nonassessable when such deferred payments are made in full).

This opinion is limited to the matters set forth in this letter, and no opinion has been or should be implied, or may be inferred, beyond the matters expressly stated. This opinion speaks only as to law and facts in effect or existing as of the date hereof and we have no obligation or responsibility to update or supplement this opinion to reflect any facts or circumstances that may hereafter come to our attention or any changes in law that may hereafter occur.

We consent to the filing of this opinion as an exhibit to the Registration Statement. In giving such consent, we do not thereby admit that we are in the category of persons whose consent is required under Section 7 of the Securities Act of 1933, as amended, or the rules and regulations of the Commission thereunder.

Cooley LLP 3175 Hanover Street Palo Alto, CA 94304
t: (650) 843-5000 f: (650) 849-7400 cooley.com

Sincerely,

COOLEY LLP

By: /s/ John T. McKenna
John T. McKenna

Consent of Independent Registered Public Accounting Firm

We consent to the incorporation by reference in this Registration Statement on Form S-8 of our report dated March 6, 2024 (which report includes an explanatory paragraph relating to Talphera, Inc.'s ability to continue as a going concern), relating to the consolidated financial statements of Talphera, Inc. as of and for the year ended December 31, 2023, which appears in the Annual Report on Form 10-K of Talphera, Inc., for the year ended December 31, 2023.

/s/ BPM LLP

Walnut Creek, California

August 14, 2024

CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

We hereby consent to the incorporation by reference in this Registration Statement on Form S-8 of our report dated March 31, 2023, except for the effects of the discontinued operations disclosed in Note 3, as to which the date is July 31, 2023, which includes an explanatory paragraph relating to Talphera, Inc.'s ability to continue as a going concern, relating to the consolidated financial statements as of and for the year ended December 31, 2022, which appears in Talphera, Inc.'s Annual Report on Form 10-K for the year ended December 31, 2023.

/s/ WithumSmith+Brown, PC

San Francisco, California
August 14, 2024

Calculation of Filing Fee

Table Form S-8

Talpher, Inc.

Table 1: Newly Registered Securities

Security Type	Security Class Title	Fee Calculation Rule	Amount Registered ⁽¹⁾	Proposed Maximum Offering Price Per Unit	Maximum Aggregate Offering Price	Fee Rate	Amount of Registration Fee
Equity	Common Stock, \$0.001 par value per share, 2020 Equity Incentive Plan	Other	1,171,395 ⁽³⁾	\$0.93 ⁽²⁾	\$1,089,397	0.00014760	\$161
Equity	Common Stock, \$0.001 par value per share, 2011 Employee Stock Purchase Plan	Other	100,000 ⁽⁴⁾	\$0.93 ⁽²⁾	\$93,000	0.00014760	\$14
Total Offering Amounts					\$1,182,397		\$175
Total Fee Offsets							—
Net Fee Due							\$175

- (1) Pursuant to Rule 416(a) promulgated under the Securities Act, as amended (the “Securities Act”), this Registration Statement shall also cover any additional shares of common stock that become issuable under the Registrant’s 2020 Equity Incentive Plan and 2011 Employee Stock Purchase Plan by reason of any stock dividend, stock split, recapitalization, or other similar transaction effected that results in an increase to the number of outstanding shares of the Registrant’s common stock, as applicable.
- (2) Estimated pursuant to Rules 457(c) and 457(h) under the Securities Act, solely for the purposes of calculating the registration fee and based on the average of the high and low prices of the Registrant’s common stock as reported on The Nasdaq Global Market on August 7, 2024 rounded up to the nearest cent, which date is within five business days prior to the filing of this Registration Statement.
- (3) Represents 1,171,395 additional shares of the Registrant’s common stock that are or that may become issuable under the Registrant’s 2020 Equity Incentive Plan.
- (4) Represents 100,000 additional shares of the Registrant’s common stock that are or that may become issuable under the Registrant’s 2011 Employee Stock Purchase Plan.