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

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

biote Corp.

(Exact name of registrant as specified in its charter)

Delaware
(State or other jurisdiction of
incorporation or organization)

1875 W. Walnut Hill Ln #100
Irving, Texas
(Address of Principal Executive Offices)

85-1791125
(I.R.S Employer
Identification No.)

75038
(Zip Code)

biote Corp. 2022 Equity Incentive Plan
biote Corp. 2022 Employee Stock Purchase Plan
(Full Title of the Plan)

Teresa S. Weber
Chief Executive Officer
biote Corp.
1875 W. Walnut Hill Ln #100
Irving, TX 75038
(Name and address of agent for service)

Tel: (312) 212-8079
(Telephone number, including area code, of agent for service)

Copies to:

Ryan Sansom
Peter Byrne
Cooley LLP
500 Boylston Street
Boston, MA 02116-3736
Tel: (617) 937-2300

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	<input type="checkbox"/>	Accelerated filer	<input type="checkbox"/>
Non-accelerated filer	<input checked="" type="checkbox"/>	Smaller reporting company	<input checked="" type="checkbox"/>
		Emerging growth company	<input checked="" type="checkbox"/>

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

Pursuant to General Instruction E of Form S-8, biote Corp. (the “Registrant”) is filing this Registration Statement with the Securities and Exchange Commission (the “Commission”) to register (i) an additional 4,498,916 shares of Class A common stock, par value \$0.0001 (the “common stock”), under the biote Corp. 2022 Equity Incentive Plan (the “2022 Plan”) and (ii) an additional 797,724 shares of common stock under the biote Corp. 2022 Employee Stock Purchase Plan (the “2022 ESPP” and together with the 2022 Plan, the “Plans”), in each case pursuant to the provisions of each Plan which provide for annual automatic increases in the number of shares of common stock reserved for issuance under such Plan. In accordance with the instructional note to Part I of Form S-8 as promulgated by the Commission, the information specified by Part I of the Form S-8 has been omitted from this Registration Statement. Pursuant to General Instruction E to Form S-8, the contents of Registrant’s registration statement on Form S-8 (File No. 333-266490), previously filed with the Commission on August 3, 2022, are incorporated herein by reference, except that the provisions contained in Part II of such earlier Registration Statement are modified as set forth in this Registration Statement.

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 hereby incorporated by reference in this Registration Statement:

- (a) the Registrant’s annual report on [Form 10-K](#) for the fiscal year ended December 31, 2022 filed with the Commission on March 29, 2023;
- (b) the Registrant’s current reports on Form 8-K filed with the Commission on [February 22, 2023](#) and [March 24, 2023](#); and
- (c) the description of the Registrant’s securities contained in the registration statement on [Form 8-A](#) (File No. 333-265714) filed with the Commission on February 26, 2021 and any amendment or report filed with the Commission for the purpose of updating the description.

All reports and other documents filed by the registrant pursuant to Section 13(a), 13(c), 14 or 15(d) of the Securities Exchange Act of 1934, as amended (the “Exchange Act”), other than current reports furnished under Item 2.02 and Item 7.01 of Form 8-K and any exhibits furnished on such form that relate to such items, after the date of this registration statement, and prior to the filing of a post-effective amendment that indicates that all securities offered hereby have been sold or that 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 filing of such reports and documents. Any statement contained in a document incorporated or deemed to be incorporated herein by reference 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 8. Exhibits.

<u>Exhibit No.</u>	<u>Description</u>
4.1	<u>Second Amended and Restated Certificate of Incorporation of biote Corp. (Incorporated by reference to Exhibit 3.1 to the Company's Current Report on Form 8-K (File No. 001-40128) filed by the Company with the Commission on June 2, 2022).</u>
4.2	<u>Amended and Restated Bylaws of biote Corp. (Incorporated by reference to Exhibit 3.1 to the Company's Current Report on Form 8-K (File No. 001-40128), filed by the Company with the Commission on February 22, 2023).</u>
5.1	<u>Opinion of Cooley LLP.</u>
23.1	<u>Consent of Deloitte & Touche LLP.</u>
23.2	<u>Consent of Cooley LLP (included in Exhibit 5.1).</u>
24.1	<u>Power of Attorney (contained on the signature page hereto).</u>
99.1	<u>biote Corp. 2022 Equity Incentive Plan (incorporated by reference to Exhibit 10.17 to the Company's Annual Report on Form 10-K, filed by the Company with the Commission on March 29, 2023).</u>
99.2	<u>biote Corp. 2022 Employee Stock Purchase Plan (incorporated by reference to Exhibit 99.2 of the Company's Registration Statement on Form S-8, filed by the Company with the Commission on August 3, 2022).</u>
99.3	<u>Form of Stock Option Grant Notice (incorporated by reference to Exhibit 99.3 of the Company's Registration Statement on Form S-8, filed by the Company with the Commission on August 3, 2022).</u>
99.4	<u>Form of RSU Award Grant Notice (incorporated by reference to Exhibit 99.4 of the Company's Registration Statement on Form S-8, filed by the Company with the Commission on August 3, 2022).</u>
107	<u>Filing Fee Table</u>



Peter Bryne
+1 212 479 6778
pbryne@cooley.com

April 24, 2023

biote Corp.
1875 W. Walnut Hill Ln.
Suite 100
Irving, Texas 75038

Re: biote Corp. – Registration Statement on Form S-8

Ladies and Gentlemen:

We have acted as counsel to biote Corp., 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 5,296,640 shares (the “*Shares*”) of the Company’s Class A common stock, par value \$0.0001 per share (“*Class A Common Stock*”), consisting of 4,498,916 shares of Class A Common Stock issuable pursuant to the Company’s 2022 Equity Incentive Plan (the “*2022 Plan*”), and (b) 797,724 shares of Class A Common Stock issuable pursuant to the Company’s 2022 Employee Stock Purchase Plan (together with 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 certificate of incorporation and bylaws, each as currently in effect, (c) the Plans and (d) 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 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 related prospectuses, will be validly issued, fully paid, and nonassessable (except as to shares issued pursuant to deferred payment arrangements, which will be fully paid and nonassessable when such deferred payments are made in full).

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 1299 55 Hudson Yards, New York, NY, 10001-2157
t: (212) 479-6000 f: (212) 479-6275 cooley.com



April 24, 2023

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Sincerely,

Cooley LLP

By: /s/ Peter Byrne

Peter Byrne

Cooley LLP 1299 55 Hudson Yards, New York, NY, 10001-2157
t: (212) 479-6000 f: (212) 479-6275 cooley.com

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 29, 2023, relating to the consolidated financial statements of biote Corp. and subsidiaries, appearing in the Annual Report on Form 10-K of biote Corp. for the year ended December 31, 2022.

/s/ Deloitte & Touche LLP
Dallas, TX
April 24, 2023

Calculation of Filing Fee Tables

Registration Statement on Form S-8

BIOTE CORP.

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	2022 Equity Incentive Plan (Class A common stock, \$0.0001 par value per share)	Other(2)	4,498,916(3)(4)	\$5.985	\$26,926,012.26	\$0.00011020	\$2,967.25
Equity	2022 Employee Stock Purchase Plan (Class A common stock, \$0.0001 par value per share)	Other(2)	797,724(5)(6)	\$5.985	\$4,774,378.14	\$0.00011020	\$526.14
Total Offering Amounts					\$31,700,390.40		\$3,493.39
Total Fees Previously Paid							—
Total Fee Offsets							—
Net Fee Due							\$3,493.39

- (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 biote Corp.’s (the “Registrant”) the Registrant’s Class A common stock, \$0.0001 par value (the “Class A common stock), that become issuable under the 2022 Equity Incentive Plan (the “2022 Plan”) or the 2022 Employee Stock Purchase Plan (the “2022 ESPP”) by reason of any stock dividend, stock split, recapitalization or other similar transaction effected without receipt of consideration which results in an increase in the number of shares of the Registrant’s outstanding Class A common stock.
- (2) Estimated pursuant to Rules 457(c) and 457(h) solely for the purpose of calculating the registration fee. The proposed maximum offering price per share and proposed maximum aggregate offering price are based on the average of the high and low sale prices of the Class A common stock as reported on the Nasdaq Stock Market LLC on April 19, 2023.
- (3) Represents additional shares of Class A common stock reserved for issuance pursuant to future awards under the 2022 Plan. To the extent that any awards outstanding under the 2022 Plan are forfeited, are cancelled, are held back upon exercise or settlement of an award to cover any exercise price, as applicable, or tax withholding, are reacquired by the Registrant prior to vesting, are satisfied without the issuance of stock or are otherwise terminated (other than by exercise) subsequent to the date of this Registration Statement, the shares reserved for issuance pursuant to such awards will become available for issuance as shares of Class A common stock under the 2022 Plan.
- (4) The number of shares reserved for issuance under the 2022 Plan automatically increases on January 1 of each year for a period of ten years commencing on January 1, 2023 and ending on (and including) January 1, 2032, in an amount equal to 5% of the total number of shares of the Registrant’s capital stock outstanding on a fully diluted basis and securities convertible into or exchangeable for the Registrant’s capital stock on December 31st 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 Class A common stock; provided, further, however, that the 3,877,750 shares of Class A common stock in the Phantom Share Reserve (as defined in the 2022 Plan) will not be subject to such automatic annual increases.
- (5) Represents additional shares of Class A common stock reserved for issuance pursuant to future awards under the 2022 ESPP. Any Purchase Right (as defined in the 2022 ESPP) granted under the 2022 ESPP that terminates without having been exercised in full, the shares of Class A common stock not purchased under such Purchase Right will again become available for issuance under the 2022 ESPP.
- (6) The number of shares reserved for issuance under the 2022 ESPP automatically increase January 1st of each year for a period of ten years commencing on January 1, 2023 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 capital stock outstanding and securities convertible into or exchangeable for the Registrant’s capital stock on December 31st of the preceding calendar year (inclusive of the share reserve for the 2022 ESPP and the 2022 Plan), and (ii) 797,724 shares of Class A 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 Class A common stock.