

**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION**

Washington, D.C. 20549

FORM S-8

REGISTRATION STATEMENT UNDER THE SECURITIES ACT OF 1933

SmartKem, Inc.

(Exact name of registrant as specified in its charter)

Delaware
(State or other jurisdiction of
incorporation or organization)

85-1083654
(I.R.S. Employer
Identification No.)

Manchester Technology Center, Hexagon Tower
Delaunays Road, Blackley
Manchester, M9 8GQ U.K.

(Address of Principal Executive Offices) (Zip Code)

SmartKem, Inc. 2021 Equity Incentive Plan and
2021 United Kingdom Sub-Plan to the SmartKem, Inc. 2021 Equity Incentive Plan
(Full titles of the plans)

Ian Jenks
Chief Executive Officer
Manchester Technology Center, Hexagon Tower
Delaunays Road, Blackley
Manchester, M9 8GQ U.K.
011-44-161-721-1514

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

Please send a copy of all communications to:

John D. Hogoboom, Esq.
Lowenstein Sandler LLP
1251 Avenue of the Americas
New York, New York 10020
(646) 414-6846

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 definitions of "large accelerated filer," "accelerated filer," "smaller reporting company," and "emerging growth company" in Rule 12b-2 of the Exchange Act. (Check one):

Large accelerated filer	<input type="checkbox"/>	Accelerated filer	<input type="checkbox"/>
Non-accelerated filer	<input 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.

EXPLANATORY NOTE

Pursuant to General Instruction E to Form S-8 under the Securities Act, this Registration Statement is filed by SmartKem, Inc. (the "**Company**") for the purpose of registering additional shares of the Company's common stock, par value \$0.0001 per share (the "**Common Stock**"), under the Company's 2021 Equity Incentive Plan and the UK Tax-Advantaged Sub-Plan (the "**2021 Plan**"). The number of shares of Common Stock available for issuance under the 2021 Plan is subject to an automatic annual increase on January 1 of each year beginning in 2022 and ending on (and including) January 1, 2031 in an amount equal to the least of: 1) 2,275,000 shares of the Company's common stock; 2) four percent (4%) of the outstanding shares of the Company's common stock on the last day of the immediately preceding fiscal year; or 3) such number of shares of the Company's common stock as the administrator of the 2021 Plan may determine. (the "**Evergreen Provision**"). This Registration Statement registers an aggregate of 1,079,399 additional shares of Common Stock available for issuance under the 2021 Plan as a result of the Evergreen Provision.

The shares of Common Stock registered pursuant to this Registration Statement are of the same class of securities as the 2,275,000 shares of Common Stock registered for issuance under the 2021 Plan pursuant to the currently effective Registration Statement on Form S-8 (Registration No. 333-254904) filed on March 31, 2021 and the 1,022,172 shares of Common Stock registered for issuance under the 2021 Plan pursuant to the currently effective Registration Statement on Form S-8 (Registration No. 333-264184) filed on April 7, 2022. The information contained in the Company's Registration Statements on Form S-8 (Registration Nos. 333-254904 and 333-264184) is hereby incorporated by reference pursuant to General Instruction E. Any items in the Company's Registration Statements on Form S-8 (Registration Nos. 333-254904 and 333-264184) not expressly changed hereby shall be as set forth in the Company's Registration Statements on Form S-8 (Registration Nos. 333-254904 and 333-264184).

PART II

Information Required in the Registration Statement

Item 3. Incorporation of Documents by Reference.

The following documents filed by the Company with the Commission pursuant to the Securities Act and the Securities Exchange Act of 1934, as amended (the "*Exchange Act*"), are incorporated herein by reference:

- (a) The Company's Annual Report on Form 10-K for the fiscal year ended December 31, 2021 filed with the Commission on [March 28, 2022](#) as amended by [Amendment No. 1](#) to the Annual Report on Form 10-K for the fiscal year ended December 31, 2022 filed with the Commission on August 23, 2022;
- (b) The Company's Quarterly Reports on Form 10-Q for (i) the quarter ended March 31, 2022 filed with the Commission on [May 13, 2022](#) as amended by [Amendment No. 1](#) to the Quarterly Report on Form 10-Q for the quarter ended March 31, 2022 filed with the Commission on August 23, 2022, (ii) the quarter ended June 30, 2022 filed with the Commission on [August 22, 2022](#) and (iii) the quarter ended September 30, 2022 filed with the Commission on [November 14, 2022](#);
- (c) The Company's Current Reports on Form 8-K filed with the Commission on [January 27, 2022](#), [June 30, 2022](#), [August 15, 2022](#), [September 8, 2022](#), [September 19, 2022](#) and [December 20, 2022](#) (other than any portions thereof deemed furnished and not filed); and
- (d) The description of the Company's Common Stock contained in Company's Current Report on Form 8-K filed with the Commission on [February 24, 2021](#), as updated by the Description of Securities set forth on Exhibit 4.4 to our Annual Report on Form 10-K filed with the Commission on [March 28, 2022](#), including any amendments or reports filed for the purpose of updating such description.

All documents filed by the Company pursuant to Section 13(a), 13(c), 14, or 15(d) of the Exchange Act subsequent to the filing 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 such documents, except as to specific sections of such documents as set forth therein. 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 in any subsequently filed document, which also is deemed to be incorporated by reference herein, modifies or supersedes such statement.

Item 8. Exhibits.

For a list of exhibits, see the Exhibit Index in this Registration Statement, which is incorporated into this Item by reference.

EXHIBIT INDEX

<u>Exhibit Number</u>	<u>Description of Exhibit</u>
5.1	Opinion of Lowenstein Sandler LLP.*
23.1	Consent of BDO LLP, independent registered public accounting firm*
23.2	Consent of Lowenstein Sandler LLP (filed as part of Exhibit 5.1).*
24.1	Power of Attorney (included on the signature page to this registration statement on Form S-8).*
99.1	2021 Equity Incentive Plan (incorporated by reference to Exhibit 10.2 to the Company's Current Report on Form 8-K filed on February 24, 2021)
99.2	U.K. Tax Advantaged Sub-Plan (incorporated by reference to Exhibit 10.3 to the Company's Current Report on Form 8-K filed on February 24, 2021)
107	Filing Fee Table*

* Filed herewith.

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 in the City of Manchester, Great Britain, the United Kingdom on February 3, 2023.

SmartKem, Inc.

By: /s/ Ian Jenks
Ian Jenks
Chief Executive Officer

POWER OF ATTORNEY AND SIGNATURES

KNOW ALL PERSONS BY THESE PRESENTS, that the undersigned officers and directors of SmartKem, Inc., a Delaware corporation, do hereby constitute and appoint each of Ian Jenks and Barbra C. Keck as his true and lawful attorney-in-fact and agent, with full power of substitution and re-substitution, for him and in his name, place, and stead, in any and all capacities, to sign any and all amendments to this registration statement (including post-effective amendments to this Registration Statement on Form S-8), 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 on behalf of the registrant in the capacities and on the dates indicated.

<u>Person</u>	<u>Capacity</u>	<u>Date</u>
<u>/s/ Ian Jenks</u> Ian Jenks	Chief Executive Officer and Director <i>(Principal Executive Officer)</i>	February 3, 2023
<u>/s/ Barbra C. Keck</u> Barbra C. Keck	Chief Financial Officer and Director <i>(Principal Financial Officer)</i>	February 3, 2023
<u>/s/ Nigel Prue</u> Nigel Prue	Chief Accounting Officer <i>(Principal Accounting Officer)</i>	February 3, 2023
<u>/s/ Klaas de Boer</u> Klaas de Boer	Director	February 3, 2023
<u>/s/ Steven DenBaars</u> Steven DenBaars	Director	February 3, 2023

February 3, 2023

SmartKem, Inc.
Manchester Technology Center, Hexagon Tower
Delaunays Road, Blackley
Manchester, M9 8GQ U.K.

Re: Form S-8 Registration Statement of SmartKem Inc.

We have acted as counsel for SmartKem, Inc., a Delaware corporation (the “Company”), in connection with the Company’s Registration Statement on Form S-8 (the “Registration Statement”) under the Securities Act of 1933, as amended (the “Securities Act”). The Registration Statement relates to the registration of an aggregate of 1,079,399 shares (the “Shares”) of the Company’s common stock, par value \$0.0001 per share (the “Common Stock”), issuable pursuant to awards under: (i) the SmartKem, Inc. 2021 Equity Incentive Plan and (ii) the 2021 United Kingdom Sub-Plan to the SmartKem, Inc. 2021 Equity Incentive Plan (collectively, the “Plans”).

In connection with rendering this opinion, we have examined: (i) the Plans; (ii) the Certificate of Incorporation of the Company (the “Certificate”); (iii) the Bylaws of the Company; and (iv) such corporate records, agreements, documents and other instruments, and such certificates or comparable documents of public officials and of officers and representatives of the Company, and have made such inquiries of such officers and representatives, as we have deemed relevant and necessary as a basis for the opinion hereinafter set forth.

In such examination, we have assumed the genuineness of all signatures, the legal capacity of all natural persons, the authenticity of all documents submitted to us as originals, the conformity of original documents of all documents submitted to us as certified, conformed or photostatic copies and the authenticity of the originals of such latter documents. As to all questions of fact material to these opinions that have not been independently established, we have relied upon certificates or comparable documents of officers and representatives of the Company.

Based on the foregoing, and subject to the qualifications stated herein, we are of the opinion that the Shares being registered pursuant to the Registration Statement have been duly authorized and, when issued and delivered upon the grant or exercise of awards in accordance with the terms of the respective Plans, will be validly issued, fully paid and non-assessable.

The opinion expressed herein is limited to the corporate laws of the State of Delaware, and we express no opinion as to the effect on the matters covered by this letter of the laws of any other jurisdiction.

We hereby consent to the filing of a copy of this opinion letter 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 Act.

Very truly yours,

/s/ Lowenstein Sandler

CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

SmartKem, Inc.
Manchester, United Kingdom

We hereby consent to the incorporation by reference in this Registration Statement on Form S-8 of our report dated March 28, 2022, except for the effects of the restatement disclosed in Note 1, which is dated August 23, 2022, relating to the consolidated financial statements of SmartKem, Inc., which appears in the Company's Annual Report on Form 10-K/A Amendment No. 1, which is incorporated by reference in this Registration Statement. Our report contains an explanatory paragraph regarding SmartKem, Inc.'s ability to continue as a going concern.

/s/ BDO LLP

BDO LLP
Manchester, United Kingdom

February 3, 2023

Calculation of Filing Fee Table

Form S-8
(Form Type)

SmartKem, Inc.
(Exact Name of Registrant as Specified in its Charter)

Table 1: Newly Registered Securities

Security Type	Security Class Title	Fee Calculation Rule (2)	Amount Registered (1)	Proposed Maximum Offering Price Per Unit (2)	Maximum Aggregate Offering Price (2)	Fee Rate	Amount of Registration Fee
Equity	Common Stock, \$0.0001 par value per share	Other	1,079,399	\$0.70	\$755,579.30	0.00011020	\$83.27
Total Offering Amounts				-----	\$755,579.30	-----	\$83.27
Total Fee Offsets				-----	-----	-----	-----
Net Fees Due				-----	-----	-----	\$83.27

- (1) Covers 1,079,399 shares of common stock issuable under the SmartKem, Inc. 2021 Equity Incentive Plan and the 2021 United Kingdom Sub-Plan to the SmartKem, Inc. 2021 Equity Incentive Plan (the "2021 Plan"). In addition, pursuant to Rule 416(c) under the Securities Act of 1933, as amended (the "Securities Act"), this registration statement also covers an indeterminate amount of interests to be offered or sold pursuant to the employee benefit plan(s) described herein, as these amounts may be adjusted as a result of stock splits, stock dividends, antidilution provisions, and similar transactions.
 - (2) Calculated solely for purposes of this offering under Rules 457(c) and 457(h) of the Securities Act on the basis of the average of the bid and ask prices of Registrant's Common Stock on the OTCQB of the OTC Markets on February 2, 2023.
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