

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

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

BioNTech SE

(Exact name of registrant as specified in its charter)

Federal Republic of Germany
(State or other jurisdiction of
incorporation or organization)

98-151-1032
(I.R.S. Employer
Identification Number)

An der Goldgrube 12
D-55131 Mainz
Germany
(Address of Principal Executive Offices)

N/A
(Zip Code)

2017 Employee Stock Ownership Plan
2020 Employee Equity Plan
2020 Restricted Stock Unit Plan for North America Employees
2021 Employee Stock Ownership Plan
(Full title of the plans)

BioNTech US Inc.
40 Erie St., Suite 110
Cambridge, MA 02139
(Name and address of agent for service)

+1 (617) 337-4701
(Telephone number, including area code, of agent for service)

Copies to:

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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

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

This Registration Statement on Form S-8, or the Registration Statement, is filed by BioNTech SE, or the Registrant, for the purpose of registering additional ordinary shares, no par value per share, of the Registrant, or the Ordinary Shares, to be issued under the Registrant's 2020 Employee Equity Plan and 2020 Restricted Stock Unit Plan for North America Employees, and for registering Ordinary Shares to be issued under the Registrant's 2021 Employee Stock Ownership Plan.

In addition to the shares being registered hereby, pursuant to the Registrant's Registration Statement on Form S-8 (File No. 333-253263), filed with the Securities and Exchange Commission, or the SEC, on February 18, 2021, or the 2021 Registration Statement, 2,000,000 Ordinary Shares were registered under the 2020 Employee Equity Plan, 230,000 Ordinary Shares were registered under the 2020 Restricted Stock Unit Plan for North America Employees, 16,001,019 Ordinary Shares were registered under the 2017 Employee Stock Ownership Plan, and 472,370 Ordinary Shares were registered under the 2020 Management Board ESOP.

A post-effective amendment to the 2021 Registration Statement was previously filed by the Registrant to indicate that the 2021 Registration Statement will also cover the issuance of 211,898 Ordinary Shares under the 2017 Employee Stock Ownership Plan and the issuance of 260,472 Ordinary Shares under the 2020 Restricted Stock Unit Plan for North America Employees, representing an aggregate of 472,370 Ordinary Shares that are no longer otherwise issuable pursuant to the 2020 Management Board ESOP.

PART I

INFORMATION REQUIRED IN THE SECTION 10(a) PROSPECTUS

The information specified in Item 1 and Item 2 of Part I of Form S-8 is omitted from this Registration Statement in accordance with the provisions of Rule 428 under the Securities Act of 1933, as amended, or the Securities Act, and the introductory note to Part I of Form S-8. The documents containing the information specified in Part I of Form S-8 will be delivered to the participants in the equity benefit plans covered by this Registration Statement as specified by Rule 428(b)(1) under 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 with the SEC:

- (1) The Registrant's Annual Report on [Form 20-F](#), filed with the SEC on March 30, 2022, as amended on October 26, 2022, which contains the Registrant's audited financial statements for the latest fiscal year for which such statements have been filed;
- (2) All other reports filed with the SEC by the Registrant pursuant to Section 13(a) or 15(d) of the Securities Exchange Act of 1934, as amended, or the Exchange Act, since December 31, 2021; and
- (3) The description of the Ordinary Shares contained in the Registrant's Registration Statement on [Form 8-A](#) (File No. 001-39081) filed with the SEC on October 7, 2019, pursuant to Section 12(b) of the Exchange Act, including any amendment or report filed for the purpose of updating such description.

All documents filed by the Registrant pursuant to Sections 13(a), 13(c), 14 and 15(d) of the Exchange Act on or after the date of this Registration Statement and prior to the filing of a post-effective amendment to this Registration Statement that indicates that all securities offered have been sold or that deregisters all securities then remaining unsold shall be deemed to be incorporated by reference in this Registration Statement and to be part hereof from the date of filing of such documents; *provided, however*, that documents or information deemed to have been furnished and not filed in accordance with the rules of the SEC 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 contained herein or in any subsequently filed document which 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. Description of Securities.

Not applicable.

Item 5. Interests of Named Experts and Counsel.

Not applicable.

Item 6. Indemnification of Directors and Officers.

As a German European public company with limited liability, the Registrant is—insofar as applicable pursuant to the SE Regulation and the German law on the implementation of the SE (SEAG)—subject to the German Stock Corporation Act (Aktiengesetz), as amended. Under German law, the Registrant may not indemnify members of its Management Board and Supervisory Board to the extent the relevant claim or loss has arisen as a result of the breach by the member of his or her duties owed to the Registrant. Otherwise the Registrant is required under the law to indemnify its Management Board and Supervisory Board members from and against any liabilities arising out of or in connection with their services to the Registrant.

The Registrant provides directors' and officers' liability insurance for the members of its Management and Supervisory Boards against civil liabilities, which they may incur in connection with their activities on behalf of the Registrant.

Insofar as indemnification of liabilities arising under the Securities Act may be permitted to the Registrant's board, executive officers, or persons controlling the Registrant pursuant to the foregoing provisions, the Registrant has been informed that, in the opinion of the SEC, such indemnification is against public policy as expressed in the Securities Act and is therefore unenforceable.

Item 7. Exemption from Registration Claimed.

Not applicable.

Item 8. Exhibits.

Exhibit Number	Description
4.1	Articles of Association of the Registrant (incorporated herein by reference to Exhibit 4.1 to Post-Effective Amendment No. 1 to the Registrant's Registration Statement on Form S-8 (File No. 333-253263), filed with the SEC on February 13, 2023)
4.2	Form of Deposit Agreement among the Registrant, the depository and holders and beneficial owners of the American Depositary Shares (incorporated herein by reference to Exhibit 1 to the Registrant's Registration Statement on Form F-6 (File No. 333-233898), filed with the SEC on September 23, 2019)
4.3	Form of Specimen American Depositary Receipt (included in Exhibit 4.2)
4.4	Registrant's Specimen Certificate for Ordinary Shares (incorporated herein by reference to Exhibit 4.2 to the Registrant's Registration Statement on Form F-1 (File No. 333-233688), filed with the SEC on September 9, 2019)

- 4.5 [2020 Employee Equity Plan \(incorporated herein by reference to Exhibit 4.5 to Post-Effective Amendment No. 1 to the Registrant's Registration Statement on Form S-8 \(File No. 333-253263\), filed with the SEC on February 13, 2023\)](#)
- 4.6 [2020 Restricted Stock Unit Plan for North America Employees \(incorporated herein by reference to Exhibit 4.6 to Post-Effective Amendment No. 1 to the Registrant's Registration Statement on Form S-8 \(File No. 333-253263\), filed with the SEC on February 13, 2023\)](#)
- 5.1 [Opinion of Covington & Burling LLP](#)
- 23.1 [Consent of Covington & Burling LLP \(contained in Exhibit 5.1\)](#)
- 23.2 [Consent of Ernst & Young GmbH Wirtschaftsprüfungsgesellschaft, Independent Registered Public Accounting Firm](#)
- 24.1 [Power of Attorney \(included on signature page\)](#)
- 107 [Filing Fee Table](#)

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 SEC 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 information required to be included in a post-effective amendment by those paragraphs is contained in reports filed with or furnished to the SEC 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 (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 therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.

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- 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 SEC 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, 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 Mainz, Germany, on February 13, 2023.

BIONTECH SE

By: /s/ PROF. UGUR SAHIN, M.D.

Name: Prof. Ugur Sahin, M.D.

Title: Chief Executive Officer

POWER OF ATTORNEY

KNOW ALL PERSONS BY THESE PRESENTS, that each person whose signature appears below hereby constitutes and appoints Prof. Ugur Sahin, M.D., Özlem Türeci, Sean Marett, Sierk Poetting, Ryan Richardson and Jens Holstein and each of them, individually, as his or her true and lawful attorneys-in-fact and agents, with full power of substitution and resubstitution, for him or her and in his or her name, place and stead in any and all capacities, in connection with this registration statement, including to sign in the name and on behalf of the undersigned, this registration statement and any and all amendments hereto, including post-effective amendments and registration statements filed pursuant to Rule 462 under the Securities Act of 1933, as amended, and to file the same, with all exhibits thereto, and other documents in connection therewith, with the U.S. Securities and Exchange Commission, granting unto such 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 for all intents and purposes as he or she might or could do in person, hereby ratifying and confirming all that said attorneys-in-fact and agents, or his or her substitute, may lawfully do or cause to be done by virtue hereof.

Pursuant to the requirements of the Securities Act, this Registration Statement has been signed by the following persons on February 13, 2023 in the capacities indicated.

<u>Signature</u>	<u>Title</u>
<u>/s/ PROF. UGUR SAHIN, M.D.</u> Prof. Ugur Sahin, M.D.	Chief Executive Officer (Principal Executive Officer)
<u>/s/ JENS HOLSTEIN</u> Jens Holstein	Chief Financial Officer (Principal Financial Officer and Principal Accounting Officer)
<u>/s/ HELMUT JEGGLE</u> Helmut Jeggle	Chair of the Supervisory Board
<u>/s/ PROF. CHRISTOPH HUBER, M.D.</u> Prof. Christoph Huber, M.D.	Director
<u>/s/ MICHAEL MOTSCHMANN</u> Michael Motschmann	Director
<u>/s/ DR. ULRICH WANDSCHNEIDER</u> Dr. Ulrich Wandschneider	Director

SIGNATURE OF AUTHORIZED U.S. REPRESENTATIVE OF REGISTRANT

Pursuant to the requirements of the Securities Act, the undersigned, the duly authorized representative in the United States of BioNTech SE has signed this Registration Statement on February 13, 2023.

BIONTECH US INC.

/s/ BRIAN KICKHAM

Name: Brian Kickham

Title: Secretary

COVINGTON

BEIJING BRUSSELS DUBAI FRANKFURT JOHANNESBURG
LONDON LOS ANGELES NEW YORK PALO ALTO
SAN FRANCISCO SEOUL SHANGHAI WASHINGTON

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BioNTech SE

An der Goldgrube 12
55131 Mainz
Germany

13 February 2023

Ladies and Gentlemen,

We are acting as legal advisers to BioNTech SE, a European stock corporation (SE) (the “**Company**”) as to matters of German law in connection with the possible future issuances from time to time pursuant to a registration statement on Form S-8 (the “**Registration Statement**”) filed with the Securities and Exchange Commission under the Securities Act of 1933, as amended, of up to 9,557,619 ordinary shares of the Company with an imputed nominal value (*Stückaktien ohne Nennbetrag*) of EUR 1.00 each (any such ordinary share of the Company a “**Share**”, any Share as of the date hereof held in treasury a “**Treasury Share**”, and any Share newly issued for purposes of making or settling grants under any Plan (as defined below) a “**New Share**”), which may be represented by American Depositary Shares (the “**ADSs**”), with each ADS representing one Share and issued by the relevant depository against the deposit by the Company of either one Treasury Share or one New Share. Shares are or may become issuable under the following programs: (i) up to 1,000,000 Shares issuable under the Company’s 2020 Employee Equity Plan, (ii) up to 139,528 Shares issuable under the Company’s 2020 Restricted Stock Unit Plan for North America Employees, and (iii) up to 8,418,091 Shares issuable under the Company’s 2021 Employee Stock Ownership Plan (together the “**Plans**”).

In this opinion, “**Germany**” means the Federal Republic of Germany.

1. Documents Reviewed

For the purpose of rendering this legal opinion, we have examined the following documents (together, the “**Opinion Documents**”):

- (a) a copy of the Company’s articles of association (*Satzung*), as in effect as of the date of this opinion (the “**Articles of Association**”);
- (b) a copy of the electronic excerpt (*Handelsregisterauszug*) from the commercial register relating to the Company dated 10 February 2023 (the “**Register Excerpt**”);
- (c) a copy of the Registration Statement;

- (d) copies of the resolutions of the (i) the management board (*Vorstand*) of the Company dated 15 December 2020 and (ii) the supervisory board (*Aufsichtsrat*) of the Company dated 15 December 2020 regarding the approval of the 2020 Employee Equity Plan and the 2020 Restricted Stock Unit Plan for North America Employees;
- (e) copies of the minutes of the general shareholders' meeting of the Company held on 18 August 2017, 19 August 2019, 26 June 2020, and 22 June 2021, resolving upon, among others, the creation and/or amendment of the Authorized Capital 2021 (*Genehmigtes Kapital 2021*), the Conditional Capital ESOP 2017/2019 (*Bedingtes Kapital ESOP 2017/2019*), and the Conditional Capital ESOP 2021 (*Bedingtes Kapital ESOP 2021*) as well as the authorizations to grant options in connection with the ESOP 2017/2019 (*Aktienoptionsprogramm 2017/2019*) and the ESOP 2021 (*Aktienoptionsprogramm 2021*) (together with the resolutions under (d) the "**Resolutions**");
- (f) any such certificates, corporate records and other documents, and such matters of law, as we have deemed necessary or appropriate for the purposes of this opinion.

We have not reviewed any other documents for the purposes of this opinion.

2. Assumptions

As to questions of fact material to this opinion that we did not independently establish or verify, we have relied on certificates or comparable documents of public officials and of officers and representatives of the Company.

In considering the Opinion Documents and rendering this opinion we have assumed without further inquiry:

- (a) the conformity of all copies of documents supplied to us with the relevant originals and the authenticity and completeness of all documents submitted to us whether as originals or as copies;
- (b) that all signatures on Opinion Documents are genuine signatures of those individuals from whom they purport to stem;
- (c) that Opinion Documents examined by us in draft form have been or, as the case may be, will be executed in the form of the draft examined by us by the party that in the respective draft is envisaged to so execute the respective Opinion Document;

- (d) that all individuals who have executed and delivered or will execute and deliver any of the Opinion Documents had or will have, at the relevant times, (i) full legal capacity (*Geschäftsfähigkeit*) and (ii) power to validly represent (*Vertretungsmacht*) the respective party (other than individuals executing, passing or delivering on behalf of the Company), in executing and delivering the relevant Opinion Document;
- (e) that none of the Opinion Documents has been or, as the case may be, will be revoked, rescinded, repealed, terminated (whether in whole or in part), amended or supplemented;
- (f) the correctness and completeness of all factual matters expressed in the Opinion Documents;
- (g) that the Register Excerpt is accurate and complete at its date and that no changes to the facts related therein have occurred between the date the Register Excerpt was issued and the date hereof;
- (h) that the Articles of Association are true and accurate as of the date of this opinion;
- (i) that the Company will at all times continue to have sufficient authorized capital (*genehmigtes Kapital*) or conditional capital (*bedingtes Kapital*) with the relevant authorization to waive any pre-emptive subscription rights;
- (j) that the management board (*Vorstand*) and the supervisory board (*Aufsichtsrat*) of the Company will duly pass the relevant resolutions for the issuance of any New Shares (the “**Future Resolutions**”) in accordance with the Articles of Association, the Resolutions, the terms of the Plans and applicable law;
- (k) that upon issuance of any New Shares, the Company will receive payment in cash of an issue price in accordance with the Plans, the Resolutions, the Future Resolutions, and applicable law; and
- (l) that there will be no amendments to the authorized capital (*genehmigtes Kapital*) of the Company which would adversely affect the issuance of any New Shares and the conclusions stated in this opinion.

3. Opinion Statements

Based upon and subject to the foregoing and the qualifications set out below, we are of the opinion that:

- (a) The issuance of the Treasury Shares has been duly authorized by all requisite corporate action on the part of the Company and the Treasury Shares are validly issued, fully paid and non-assessable (*nicht nachschusspflichtig*).
- (b) Any New Shares will be validly issued, fully paid and non-assessable (if and when authorized in accordance with the law, issued and paid under the circumstances contemplated by the Plans, assuming in each case that the individual issuances, grants or awards under the Plans are duly issued, granted or awarded and exercised in accordance with the requirements of law, the Resolutions, the Future Resolutions, the Articles of Association, and the Plans (and the agreements and awards duly adopted thereunder and in accordance therewith)).

4. Qualifications

The foregoing opinion statements are subject to the following qualifications:

- (a) We are admitted to the bar association (*Rechtsanwaltskammer*) in Frankfurt am Main, Germany, and licensed as attorneys (*Rechtsanwalt*) in Germany. This opinion is limited to matters of German law as presently in effect and applied by the German courts (including the law of the European Union to the extent it is directly applicable in Germany). We have not investigated and do not express or imply any opinion with respect to the laws of any other jurisdiction.
- (b) In this opinion, concepts of German law are addressed in the English language and not in the original German terms, which may differ in their exact legal meaning. This opinion may only be relied upon under the express condition that this opinion and any issues of interpretation arising hereunder are exclusively governed by German law.
- (c) This opinion speaks of its date only. It is limited to the matters addressed herein and should not be read as opinion in respect to any other matter.

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

Cordially yours,

/s/ Covington & Burling LLP

Consent of Independent Registered Public Accounting Firm

We consent to the incorporation by reference in the Registration Statement (Form S-8) pertaining to the 2020 Employee Equity Plan, the 2020 Restricted Stock Unit Plan for North America Employees and the 2021 Employee Stock Ownership Plan of BioNTech SE of our reports dated March 30, 2022, with respect to the consolidated financial statements of BioNTech SE and the effectiveness of internal control over financial reporting of BioNTech SE included in its Annual Report (Form 20-F) for the year ended December 31, 2021, filed with the Securities and Exchange Commission.

/s/ Ernst & Young GmbH Wirtschaftsprüfungsgesellschaft

Cologne, Germany

February 13, 2023

Calculation of Filing Fee Table

Form S-8
(Form Type)BioNTech SE
(Exact Name of Registrant as Specified in its Charter)

Table 1: Newly Registered Securities

Security Type	Security Class Title ⁽¹⁾	Fee Calculation Rule	Amount Registered ⁽²⁾	Proposed Maximum Offering Price Per Unit ⁽⁶⁾	Maximum Aggregate Offering Price	Fee Rate	Amount of Registration Fee
Equity	Ordinary shares, no par value per share						
Equity	—2020 Employee Equity Plan	Other	1,000,000 ⁽³⁾	\$140.91	\$140,910,000.00	0.00011020	\$15,528.28
Equity	—2020 Restricted Stock Unit Plan for North America Employees	Other	139,528 ⁽⁴⁾	\$140.91	\$19,660,890.48	0.00011020	\$2,166.63
Equity	—2021 Employee Stock Ownership Plan	Other	8,418,091 ⁽⁵⁾	\$140.91	\$1,186,193,202.81	0.00011020	\$130,718.49
Total Offering Amounts				—	\$1,346,764,093.29	—	\$148,413.40
Total Fee Offsets				—	—	—	—
Net Fee Due				—	—	—	\$148,413.40

- (1) Ordinary shares, no par value per share, of the Registrant, or the Ordinary Shares, may be represented by American Depositary Shares, or ADSs, with each ADS representing one Ordinary Share. ADSs issuable upon deposit of the Ordinary Shares registered hereby are registered pursuant to a separate Registration Statement on Form F-6 (File No. 333-233898).
- (2) Pursuant to Rule 416(a) of the Securities Act of 1933, as amended, or the Securities Act, this Registration Statement covers any Ordinary Shares that become issuable under the Registrant's 2020 Employee Equity Plan, the Registrant's 2020 Restricted Stock Unit Plan for North America Employees or the Registrant's 2021 Employee Stock Ownership Plan by reason of any stock dividend, stock split, recapitalization or other similar transaction effected without the Registrant's receipt of consideration that results in an increase in the number of outstanding Ordinary Shares.
- (3) Represents 1,000,000 Ordinary Shares reserved for issuance pursuant to future awards under the 2020 Employee Equity Plan.
- (4) Represents 139,528 Ordinary Shares reserved for issuance pursuant to future awards under the 2020 Restricted Stock Unit Plan for North America Employees.
- (5) Represents 8,418,091 Ordinary Shares reserved for issuance pursuant to future awards under the 2021 Employee Stock Ownership Plan.
- (6) Estimated pursuant to Rules 457(c) and 457(h) under the Securities Act solely for the purpose of calculating the registration fee based upon the average of the high and low sale prices reported for the ADSs on the Nasdaq Global Select Market on February 6, 2023.