

**UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION**

Washington, D.C. 20549

**FORM S-8  
REGISTRATION STATEMENT**

UNDER  
THE SECURITIES ACT OF 1933

**PROCEPT BioRobotics Corporation**

(Exact name of Registrant as specified in its charter)

**Delaware**  
(State or other jurisdiction of  
incorporation or organization)

**26-0199180**  
(I.R.S. Employer  
Identification Number)

**900 Island Drive Redwood City, California**  
(Address of Principal Executive Offices)

**94065**  
(Zip Code)

**Amended & Restated 2008 Equity Incentive Plan  
2021 Equity Incentive Award Plan  
2021 Employee Stock Purchase Plan**  
(Full Title of the Plan)

**Reza Zadno, Ph.D.**  
**Chief Executive Officer**  
**900 Island Drive**  
**Redwood City, California 94065**  
**(650) 232-7200**

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

*Copies to:*

**Alaleh Nouri**  
**General Counsel**  
**Jonathan Stone**  
**Senior Corporate Counsel**  
**900 Island Drive**  
**Redwood City, California 94065**  
**(650) 232-7200**

**B. Shayne Kennedy**  
**Drew Capurro**  
**Latham & Watkins LLP**  
**650 Town Center Drive, 20<sup>th</sup> Floor**  
**Costa Mesa, California 92626**  
**(714) 540-1235**

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.

**CALCULATION OF REGISTRATION FEE**

| Title of Each Class of<br>Securities to be Registered | Amount<br>to be<br>Registered <sup>(1)</sup> | Proposed<br>Maximum<br>Offering Price<br>Per Share | Proposed<br>Maximum<br>Aggregate<br>Offering Price | Amount of<br>Registration Fee |
|---|--|--|--|-------------------------------|
| <b>Common Stock, \$0.00001 par value per share</b>    |  |  |  |                               |
| Amended & Restated 2008 Stock Plan                    | 6,528,826 <sup>(2)</sup>                     | \$4.79 <sup>(3)</sup>                              | \$31,273,076.54                                    | \$3,411.89                    |
| 2021 Equity Incentive Award Plan                      | 3,303,910 <sup>(4)</sup>                     | \$25.00 <sup>(5)</sup>                             | \$82,597,750.00                                    | \$9,011.41                    |
| 2021 Employee Stock Purchase Plan                     | 412,988 <sup>(6)</sup>                       | \$25.00 <sup>(5)</sup>                             | \$10,324,700.00                                    | \$1,126.42                    |
| <b>TOTAL</b>  | <b>10,245,724</b>                            | <b>–</b>   | <b>\$124,195,526.54</b>                            | <b>\$13,549.72</b>            |

(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 the Registrant’s common stock that become issuable under the Amended & Restated 2008 Stock Plan, as amended (the “2008 Plan”), the

2021 Equity Incentive Award Plan (the “2021 Plan”) and the 2021 Employee Stock Purchase Plan (the “ESPP”) by reason of any stock dividend, stock split, recapitalization or similar transaction effected without the Registrant’s receipt of consideration which would increase the number of outstanding shares of common stock.

- (2) Represents 6,528,826 shares of common stock issuable upon the exercise of outstanding options under the 2008 Plan as of September 14, 2021. To the extent that (i) outstanding awards under the 2008 Plan expire, lapse or are terminated, exchanged for or settled in cash, surrendered, repurchased, cancelled or forfeited or (ii) shares subject to outstanding 2008 Plan awards are delivered to the Registrant to satisfy the applicable exercise or purchase price of an award and/or any applicable tax withholding obligation with respect to such award, such shares of common stock subject to such awards will be available for issuance under the 2021 Plan. See footnote 4 below.
  - (3) Estimated in accordance with Rule 457(h) of the Securities Act solely for the purpose of calculating the registration fee on the basis of the weighted average exercise price of \$4.79 per share (rounded up to the nearest cent) for outstanding stock options granted under the 2008 Plan.
  - (4) Represents 3,303,910 shares initially available for issuance under the 2021 Plan. To the extent that (i) outstanding awards under the 2008 Plan expire, lapse or are terminated, exchanged for or settled in cash, surrendered, repurchased, cancelled or forfeited or (ii) shares subject to outstanding 2008 Plan awards are delivered to the Registrant to satisfy the applicable exercise or purchase price of an award and/or any applicable tax withholding obligation with respect to such award, such shares of common stock subject to such awards will be available for issuance under the 2021 Plan. See footnote 2 above.
  - (5) Pursuant to Rule 457(h) of the Securities Act, and solely for the purposes of calculating the amount of the registration fee, the proposed maximum offering price is based on the initial public offering price of the common stock (\$25.00 per share).
  - (6) Represents 412,988 shares of common stock reserved for issuance under the ESPP.
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**PART I**  
**INFORMATION REQUIRED IN THE SECTION 10(a) PROSPECTUS**

**Item 1. Plan Information.**

Not required to be filed with this Registration Statement.

**Item 2. Registrant Information and Employee Plan Annual Information.**

Not required to be filed with this Registration Statement.

**PART II**  
**INFORMATION REQUIRED IN THE REGISTRATION STATEMENT**

**Item 3. Incorporation of Documents by Reference.**

The following documents, which have been filed or will be filed by the Registrant with the United States Securities and Exchange Commission (the “Commission”) pursuant to the Securities Act with respect to item (a) below and the Securities and Exchange Act of 1934, as amended (the “Exchange Act”), with respect to item (b) below are incorporated by reference in, and shall be deemed to be a part of, this Registration Statement:

- (a) The Registrant’s prospectus dated September 14, 2021, filed with the Commission pursuant to Rule 424(b) under the Securities Act, relating to the registration statement on Form S-1, as amended (File No. 333-258898), and all amendments to such registration statement; and
- (b) the description of the Registrant’s common stock contained in the Registrant’s registration statement on Form 8-A (File No. 001-40797), filed with the Commission on September 10, 2021, together with any amendment thereto filed for the purpose of updating such description.

All documents subsequently filed by the Registrant pursuant to Sections 13(a), 13(c), 14, and 15(d) of the Exchange Act subsequent to 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 then remaining unsold shall be deregistered, shall be deemed to be incorporated by reference in the registration statement and to be a part thereof from the date of the filing of such documents.

For purposes of this registration statement and the related prospectus, any statement contained in a document incorporated or deemed to be incorporated by reference shall be deemed to be modified or superseded to the extent that a statement contained herein or in a subsequently filed document which also is or is deemed to be incorporated herein by reference modifies or replaces such statement. Any statement so modified shall not be deemed in its unmodified form to constitute part of this registration statement or the related prospectus.

**Item 4. Description of Securities.**

See the description of the common stock contained in the registration statement on Form S-1, as amended (File No. 333-258898) and all amendments to such registration statement.

**Item 5. Interests of Named Experts and Counsel.**

Not applicable.

**Item 6. Indemnification of Directors and Officers.**

The Registrant is governed by the Delaware General Corporation Law, or DGCL. Section 145 of the DGCL provides that a corporation may indemnify any person, including an officer or director, who was or is, or is threatened to be made, a party to any threatened, pending or completed legal action, suit or proceeding, whether

civil, criminal, administrative or investigative (other than an action by or in the right of such corporation), by reason of the fact that such person was or is an officer, director, employee or agent of such corporation or is or was serving at the request of such corporation as a director, officer, employee or agent of another corporation or enterprise. The indemnity may include expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by such person in connection with such action, suit or proceeding, provided such officer, director, employee or agent acted in good faith and in a manner such person reasonably believed to be in, or not opposed to, the corporation's best interest and, for criminal proceedings, had no reasonable cause to believe that such person's conduct was unlawful. A Delaware corporation may indemnify any person, including an officer or director, who was or is, or is threatened to be made, a party to any threatened, pending or contemplated action or suit by or in the right of such corporation, under the same conditions, except that such indemnification is limited to expenses (including attorneys' fees) actually and reasonably incurred by such person, and except that no indemnification is permitted without judicial approval if such person is adjudged to be liable to such corporation. Where an officer or director of a corporation is successful, on the merits or otherwise, in the defense of any action, suit or proceeding referred to above, or any claim, issue or matter therein, the corporation must indemnify that person against the expenses (including attorneys' fees) which such officer or director actually and reasonably incurred in connection therewith.

The Registrant's amended and restated certificate of incorporation authorizes the indemnification of its officers and directors, consistent with Section 145 of the DGCL.

Reference is made to Section 102(b)(7) of the DGCL, which enables a corporation in its original certificate of incorporation or an amendment thereto to eliminate or limit the personal liability of a director for violations of the director's fiduciary duty, except (i) for any breach of the director's duty of loyalty to the corporation or its stockholders, (ii) for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law, (iii) pursuant to Section 174 of the DGCL, which provides for liability of directors for unlawful payments of dividends or unlawful stock purchase or redemptions or (iv) for any transaction from which a director derived an improper personal benefit.

The Registrant has entered into indemnification agreements with each of its directors and officers. These indemnification agreements may require the Registrant, among other things, to indemnify its directors and officers for some expenses, including attorneys' fees, judgments, fines and settlement amounts incurred by a director or officer in any action or proceeding arising out of his or her service as one of the Registrant's directors or officers, or any of its subsidiaries or any other company or enterprise to which the person provides services at the Registrant's request.

The Registrant maintains a general liability insurance policy that covers certain liabilities of its directors and officers arising out of claims based on acts or omissions in their capacities as directors or officers. In any underwriting agreement the Registrant enters into in connection with the sale of common stock being registered hereby, the underwriters will agree to indemnify, under certain conditions, the Registrant, its directors, its officers and persons who control the Registrant within the meaning of the Securities Act against certain liabilities.

**Item 7. Exemption from Registration Claimed.**

Not applicable.

**Item 8. Exhibits.**

| <b>Exhibit Number</b> | <b>Exhibit Description</b>  | <b>Form</b> | <b>Incorporated by Reference Date</b> | <b>Number</b> | <b>Filed Herewith</b> |
|-----------------------|---|-------------|---------------------------------------|---------------|-----------------------|
| 4.1                   | <a href="#">Amended and Restated Certificate of Incorporation, as in effect upon the closing of the initial public offering</a> | S-1/A       | 09/08/21                              | 3.1           |                       |
| 4.2                   | <a href="#">Amended and Restated Bylaws, as in effect upon the closing of the initial public offering</a>                       | S-1/A       | 09/08/21                              | 3.2           |                       |
| 5.1                   | <a href="#">Opinion of Latham &amp; Watkins LLP</a>   |             |                                       |               | X                     |
| 23.1                  | <a href="#">Consent of Latham &amp; Watkins LLP (included in Exhibit 5.1)</a>   |             |                                       |               | X                     |
| 23.2                  | <a href="#">Consent of PricewaterhouseCoopers LLP, independent registered public accounting firm</a>                            |             |                                       |               | X                     |
| 24.1                  | <a href="#">Power of Attorney (included on signature page)</a>  |             |                                       |               | X                     |
| 99.1                  | <a href="#">Amended &amp; Restated 2008 Stock Plan and related form agreements thereunder</a>                                   | S-1/A       | 09/08/21                              | 10.4          |                       |
| 99.2                  | <a href="#">2021 Equity Incentive Award Plan</a>  | S-1/A       | 09/08/21                              | 10.11         |                       |
| 99.2(a)               | <a href="#">Form of Option Agreement under the 2021 Equity Incentive Award Plan</a>   | S-1/A       | 09/08/21                              | 10.11(a)      |                       |
| 99.2(b)               | <a href="#">Form of RSU Agreement under the 2021 Equity Incentive Award Plan</a>  | S-1/A       | 09/08/21                              | 10.11(b)      |                       |
| 99.3                  | <a href="#">2021 Employee Stock Purchase Plan</a>   | S-1/A       | 09/08/21                              | 10.12         |                       |

**Item 9. Undertakings.**

(a) The 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 of 1933;
- (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 20 percent 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 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 SEC by the Registrant pursuant to section 13 or 15(d) of the Securities Exchange Act of 1934 that are incorporated by reference in the registration statement.

- (2) That, for the purpose of determining any liability under the Securities Act of 1933, 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 Registrant hereby undertakes that, for purposes of determining any liability under the Securities Act of 1933, each filing of the Registrant's annual report pursuant to Section 13(a) or 15(d) of the Securities Exchange Act of 1934 (and, where applicable, each filing of an employee benefit plan's annual report pursuant to Section 15(d) of the Securities Exchange Act of 1934) 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.

(h) Insofar as indemnification for liabilities arising under the Securities Act of 1933 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 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 Denver, State of Colorado, on this 16th day of September, 2021.

### PROCEPT BioRobotics Corporation

By:           /s/ Reza Zadno            
Reza Zadno, Ph.D.  
Chief Executive Officer

## POWER OF ATTORNEY

KNOW ALL PERSONS BY THESE PRESENTS, that each person whose signature appears below does hereby constitute and appoint Reza Zadno and Kevin Waters, and each of them, with full power of substitution and full power to act without the other, as his or her true and lawful attorney-in-fact and agent to act for him or her in his or her 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 this registration statement, 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 order to effectuate the same as fully, to all intents and purposes, as they or he or she might or could do in person, hereby ratifying and confirming all that said attorneys-in-fact and agents, or any of them, 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 in the capacities and on the date indicated.

| <u>Signature</u>  | <u>Title</u>   | <u>Date</u>        |
|---|--|--------------------|
| <u>          /s/ Reza Zadno          </u><br>Reza Zadno, Ph.D.        | Director and Chief Executive Officer<br><i>(Principal Executive Officer)</i>   | September 16, 2021 |
| <u>          /s/ Kevin Waters          </u><br>Kevin Waters           | Chief Financial Officer<br><i>(Principal Financial and Accounting Officer)</i> | September 16, 2021 |
| <u>          /s/ Frederic Moll          </u><br>Frederic Moll, M.D.   | Director and Chair of the Board  | September 16, 2021 |
| <u>          /s/ Antal Desai          </u><br>Antal Desai             | Director   | September 16, 2021 |
| <u>          /s/ Amy Dodrill          </u><br>Amy Dodrill             | Director   | September 16, 2021 |
| <u>          /s/ Taylor Harris          </u><br>Taylor Harris         | Director   | September 16, 2021 |
| <u>          /s/ Thomas Krummel          </u><br>Thomas Krummel, M.D. | Director   | September 16, 2021 |
| <u>          /s/ Colby Wood          </u><br>Colby Wood               | Director   | September 16, 2021 |

**LATHAM & WATKINS** LLP

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## FIRM / AFFILIATE OFFICES

|              |                  |
|--------------|------------------|
| Austin       | Milan            |
| Beijing      | Moscow           |
| Brussels     | New York         |
| Century City | Orange County    |
| Chicago      | Paris            |
| Dubai        | Riyadh           |
| Düsseldorf   | San Diego        |
| Frankfurt    | San Francisco    |
| Hamburg      | Seoul            |
| Hong Kong    | Shanghai         |
| Houston      | Silicon Valley   |
| London       | Singapore        |
| Los Angeles  | Tokyo            |
| Madrid       | Washington, D.C. |

September 16, 2021

PROCEPT BioRobotics Corporation  
 900 Island Drive  
 Redwood City, CA 94065

Re: Form S-8 Registration Statement with respect to  
 10,245,724 Shares of Common Stock of PROCEPT  
 BioRobotics Corporation

Ladies and Gentlemen:

We have acted as special counsel to PROCEPT BioRobotics Corporation, a Delaware corporation (the “**Company**”), in connection with the registration by the Company of 10,245,724 shares of common stock of the Company, par value \$0.00001 per share (the “**Shares**”), issuable under the Company’s 2008 Equity Incentive Plan, as amended (the “**2008 Plan**”), 2021 Equity Incentive Award Plan (the “**2021 Plan**”) and 2021 Employee Stock Purchase Plan (the “**ESPP**” and together with the 2008 Plan and the 2021 Plan, the “**Plans**”).

The Shares are included in a registration statement on Form S-8 under the Securities Act of 1933, as amended (the “**Act**”), filed with the Securities and Exchange Commission (the “**Commission**”) on September 16, 2021 (the “**Registration Statement**”). This opinion is being furnished in connection with the requirements of Item 601(b)(5) of Regulation S-K under the Act, and no opinion is expressed herein as to any matter pertaining to the contents of the Registration Statement or the related prospectuses, other than as expressly stated herein with respect to the issuance of the Shares.

As such counsel, we have examined such matters of fact and questions of law as we have considered appropriate for purposes of this letter. With your consent, we have relied upon certificates and other assurances of officers of the Company and others as to factual matters without having independently verified such factual matters. We are opining herein as to the General Corporation Law of the State of Delaware (the “**DGCL**”), and we express no opinion with respect to any other laws.

Subject to the foregoing and the other matters set forth herein, it is our opinion that, as of the date hereof, when the Shares shall have been duly registered on the books of the transfer



agent and registrar therefor in the name or on behalf of the purchasers and have been issued by the Company against payment therefor in the circumstances contemplated by the Plans, assuming in each case that the individual issuances, grants or awards under the Plans are duly authorized by all necessary corporate action and duly issued, granted or awarded and exercised in accordance with the requirements of law and the applicable Plans (and the agreements and awards duly adopted thereunder and in accordance therewith), the issue and sale of the Shares will have been duly authorized by all necessary corporate action of the Company, and the Shares will be validly issued, fully paid and nonassessable. In rendering the foregoing opinion, we have assumed that the Company will comply with all applicable notice requirements regarding uncertificated shares provided in the DGCL.

This opinion is for your benefit in connection with the Registration Statement and may be relied upon by you and by persons entitled to rely upon it pursuant to the applicable provisions of the Act. We consent to your filing 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 Act or the rules and regulations of the Commission thereunder.

Very truly yours

/s/ Latham & Watkins  
LLP

## CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

We hereby consent to the incorporation by reference in this Registration Statement on Form S-8 of PROCEPT BioRobotics Corporation of our report dated June 25, 2021, except for the effects of the par value change discussed in Note 2 to the consolidated financial statements, as to which the date is August 18, 2021, and except for the effects of the reverse stock split discussed in Note 2 to the consolidated financial statements, as to which the date is September 8, 2021, relating to the financial statements of PROCEPT BioRobotics Corporation which appears in Amendment No. 1 to the Registration Statement on Form S-1 (No. 333-258898).

/s/ PricewaterhouseCoopers LLP

San Jose, California

September 16, 2021