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FORMS-8

Precipio, Inc. - PRPO

Filed: February 01, 2018 (period:)

Securities offered to employees under employee benefit plans

SECURITIES AND EXCHANGE COMMISSION
Washington, DC 20549

FORM S-8

REGISTRATION STATEMENT
UNDER
THE SECURITIES ACT OF 1933

Precipio, Inc.

(Exact name of registrant as specified in its charter)

Delaware
(State or Other Jurisdiction of
Incorporation or Organization)

91-1789357
(I.R.S. Employer
Identification No.)

**4 Science Park,
New Haven, CT**
(Address of principal executive offices)

06511
(Zip Code)

Precipio, Inc. Amended and Restated 2017 Stock Option and Incentive Plan
(Full Title of the Plans)

Ilan Danieli
Chief Executive Officer
4 Science Park,
New Haven, CT 06511
(203) 787-7888

(Name and Address of Agent For Service)
(Telephone number, including area code, of agent for service)

Copy to:

Stephen M. Davis, Esq.
Daniel A. Lang, Esq.
Goodwin Procter LLP
620 Eighth Avenue
New York, NY
(212) 813-8800

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, 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.

(Check one):

Large accelerated filer Accelerated filer Non-accelerated filer Smaller reporting company Emerging growth company
(Do not check if a 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.

CALCULATION OF REGISTRATION FEE

Title of Securities to be Registered	Amount to be Registered (1)	Proposed Maximum Offering Price per Share	Proposed Maximum Aggregate Offering Price	Amount of Registration Fee
Common Stock, \$0.01 par value per share	5,389,500 shares(2) \$	1.15(3) \$	6,170,977.50(3) \$	768.29

(1) Pursuant to Rule 416 of the Securities Act of 1933, as amended (the “Securities Act”), this Registration Statement also covers an indeterminate number of additional shares of common stock which become issuable under the above-named plan by reason of any stock dividend, stock split, recapitalization or any other similar transaction effected without the receipt of consideration which results in an increase in the number of our outstanding shares of common stock.

(2) Represents 5,389,500 additional shares of Common Stock authorized to be issued under the Registrant’s Amended and Restated 2017 Stock Option and Incentive Plan. Shares available for issuance under the Registrant’s 2017 Stock Option and Incentive Plan were initially registered on a registration statement on Form S-8 filed with the Securities and Exchange Commission (the “SEC”) on November 29, 2017 (Registration No. 333-221804).

(3) An assumed price of \$1.15 per share, which on January 31, 2018 was the average of the high and low prices reported on the NASDAQ Capital Market for the Registrant’s common stock, is set forth solely for purposes of calculating the filing fee pursuant to Rule 457(c) and (h).

REGISTRATION OF ADDITIONAL SECURITIES

This Registration Statement relates solely to the registration of additional securities of the same class as other securities for which a registration statement on this form relating to an employee benefit plan is effective. Pursuant to General Instruction E of Form S-8, this Registration Statement hereby incorporates by reference the contents of the registration statement on Form S-8 filed by the Registrant on November 29, 2017 (Registration No. 333-221804) with respect to the Registrant's 2017 Stock Option and Incentive Plan.

Part II

INFORMATION REQUIRED IN THE REGISTRATION STATEMENT

Item 8. Exhibits.

See the Exhibit Index on the page immediately preceding the exhibits for a list of exhibits filed as part of this registration statement, which Exhibit Index is incorporated herein by reference.

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 New Haven, State of Connecticut, on the 1st day of February, 2018.

Precipio, Inc.

By: /s/ Ilan Danieli
Ilan Danieli
Chief Executive Officer

POWER OF ATTORNEY

We, the undersigned officers and directors of Precipio, Inc., hereby severally constitute and appoint Ilan Danieli and Carl Iberger, and each of them singly (with full power to each of them to act alone), our true and lawful attorneys-in-fact and agents, with full power of substitution and resubstitution in each of them for him and in his name, place and stead, and in any and all capacities, to sign for us and in our names in the capacities indicated below 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 or necessary to be done in and about the premises, as full 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 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 in the capacities indicated below on the 1st day of February, 2018.

<u>Signature</u>	<u>Title</u>
<u>/s/ Ilan Danieli</u> Ilan Danieli	Director and Chief Executive Officer (Principal Executive Officer)
<u>/s/ Carl Iberger</u> Carl Iberger	Chief Financial Officer (Principal Financial and Accounting Officer)
<u>/s/ Samuel Riccitelli</u> Samuel Riccitelli	Chairman of the Board of Directors
<u>/s/ Michael A. Luther</u> Michael A. Luther	Director
<u>/s/ Mark Rimer</u> Mark Rimer	Director
<u>/s/ Douglas Fisher</u> Douglas Fisher, M.D.	Director
<u>/s/ Jeffrey Cossman</u> Jeffrey Cossman, M.D.	Director
<u>/s/ David Cohen</u> David Cohen	Director

EXHIBIT INDEX

Exhibit No.	Description
<u>3.1</u>	<u>Third Amended and Restated Certificate of Incorporation, as amended, of Precipio, Inc. (incorporated herein by reference to Exhibit 3.1 to the Company's Form 8-K filed on June 30, 2017).</u>
<u>3.2</u>	<u>Amended and Restated Bylaws, as amended, of Precipio, Inc. (incorporated herein by reference to Exhibit 3.2 to the Company's Form 8-K filed on June 30, 2017).</u>
<u>5.1*</u>	<u>Opinion of Goodwin Procter LLP.</u>
<u>23.1*</u>	<u>Consent of Marcum LLP</u>
<u>23.2*</u>	<u>Consent of Ernst & Young LLP</u>
<u>23.3*</u>	<u>Consent of Goodwin Procter LLP (included in Exhibit 5.1).</u>
<u>24.1*</u>	<u>Power of attorney (included on signature page).</u>
<u>99.1</u>	<u>Precipio, Inc. Amended and Restated 2017 Stock Option and Incentive Plan, together with forms of award agreements (Incorporated by reference to Annex D to the registrant's Definitive Proxy Statement on Schedule 14A filed on December 29, 2017).</u>

* Filed herewith.



Exhibit 5.1

Goodwin Procter LLP
Counselors at Law
620 Eighth Avenue
New York, NY 10018
T: 212.813.8800
F: 212.355.3333

February 1, 2018

Precipio, Inc.
4 Science Park
New Haven, CT 06511

Re: Securities Being Registered under Registration Statement on Form S-8

Ladies and Gentlemen:

We have acted as counsel to you in connection with your filing of a Registration Statement on Form S-8 (the "Registration Statement") pursuant to the Securities Act of 1933, as amended (the "Securities Act"), on or about the date hereof relating to an aggregate of 5,389,500 additional shares (the "Shares") of Common Stock, \$0.01 par value per share, of Precipio, Inc., a Delaware corporation (the "Company"), that may be issued pursuant to the Company's Amended and Restated 2017 Stock Option and Incentive Plan (the "Plan").

We have reviewed such documents and made such examination of law as we have deemed appropriate to give the opinions set forth below. We have relied, without independent verification, on certificates of public officials and, as to matters of fact material to the opinion set forth below, on certificates of officers of the Company.

The opinion set forth below is limited to the Delaware General Corporation Law.

For purposes of the opinion set forth below, we have assumed that a sufficient number of authorized but unissued shares of the Company's Common Stock will be available for issuance when the Shares are issued.

Based on the foregoing, we are of the opinion that the Shares have been duly authorized and, upon issuance and delivery against payment therefor in accordance with the terms of the Plan, will be validly issued, fully paid and nonassessable.

We hereby consent to the inclusion of this opinion as Exhibit 5.1 to the Registration Statement. In giving our 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 thereunder.

Very truly yours,

/s/ GOODWIN PROCTER LLP

GOODWIN PROCTER LLP

INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM'S CONSENT

We consent to the incorporation by reference in the Registration Statement of Precipio, Inc. (f/k/a Transgenomic, Inc.) on Form S-8 of our report, which includes an explanatory paragraph as to the Company's ability to continue as a going concern, dated April 12, 2017 with respect to our audit of the consolidated financial statements of Precipio, Inc. (f/k/a Transgenomic, Inc.) as of December 31, 2016 and for the year then ended, which report is included in the Annual Report on Form 10-K of Precipio, Inc. (f/k/a Transgenomic, Inc.) for the year ended December 31, 2016.

Further, we consent to the incorporation by reference in the Registration Statement of Precipio, Inc. (f/k/a Transgenomic, Inc.) on Form S-8 of our report, which includes an explanatory paragraph as to the Company's ability to continue as a going concern, dated April 24, 2017 with respect to our audit of the financial statements of Precipio Diagnostics, LLC as of December 31, 2016 and for the year then ended, which report is included in the Current Report on Form 8-K/A of Precipio, Inc. (f/k/a Transgenomic, Inc.), filed on July 31, 2017.

/s/ Marcum llp

Marcum llp
Hartford, Connecticut
February 1, 2018

Consent of Independent Registered Public Accounting Firm

We consent to the incorporation by reference in the Registration Statement (Form S-8) pertaining to the Amended and Restated 2017 Stock Option and Incentive Plan of our report dated April 14, 2016, with respect to the consolidated financial statements of Transgenomic, Inc. and Subsidiary as of December 31, 2015 and for the year then ended, included in the Transgenomic, Inc. Annual Report (Form 10-K) for the year ended December 31, 2016, filed with the Securities and Exchange Commission.

/s/ Ernst & Young LLP

Hartford, Connecticut
January 30, 2018
