

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

FORM S-8

REGISTRATION STATEMENT UNDER THE SECURITIES ACT OF 1933

**PHUNWARE, INC.**

(Exact name of registrant as specified in its charter)

**Delaware**

**26-4413774**

(State or other jurisdiction of  
incorporation or organization)

(I.R.S. Employer  
Identification No.)

**7800 Shoal Creek Blvd, Suite 230-S, Austin, Texas 78757  
(512) 693-4199**

(Address of Principal Executive Offices)

**2018 Equity Incentive Plan**

(Full title of the plan)

**Alan S. Knitowski, Chief Executive Officer  
Phunware, Inc.  
7800 Shoal Creek Blvd, Suite 230-S  
Austin, Texas 78757  
(512) 693-4199**

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

*Copies to:*

**Alex R. Allemann, Esq.  
Jeffrey M. McPhaul, Esq.  
Winstead PC  
401 Congress Ave., Suite 2100  
Austin, Texas 78701  
(512) 370-2800**

**Matt Aune  
J. Brendhan Botkin  
Phunware, Inc.  
7800 Shoal Creek Blvd, Suite 230-S  
Austin, Texas 78757  
(512) 693-4199**

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

Accelerated filer

Non-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 Securities Act.

**CALCULATION OF REGISTRATION FEE**

<b>Title of Each Class of Securities to be Registered</b>	<b>Amount to be Registered<sup>(1)</sup></b>	<b>Proposed Maximum Offering Price Per Share<sup>(2)</sup></b>	<b>Proposed Maximum Aggregate Offering Price</b>	<b>Amount of Registration Fee</b>
Common Stock, par value \$0.0001 per share				
—2018 Equity Incentive Plan	1,991,004 <sup>(2)</sup>	\$ 1.085	\$ 2,160,239.34	\$ 280.40
<b>Total</b>	1,991,004	\$ 1.085	\$ 2,160,239.34	\$ 280.40

- (1) This Registration Statement covers up to 1,991,004 shares of common stock (the "Common Stock"), par value \$0.0001 per share, issuable under the Phunware 2018 Equity Incentive Plan (the "2018 Plan"). Pursuant to Rule 416(a) of 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 Registrant's 2018 Plan by reason of any stock dividend, stock split, recapitalization or other similar transaction effected without receipt of consideration that increases the number of outstanding shares of Common Stock.
- (2) Represents additional shares of the Registrant's Common Stock reserved for future issuance under the 2018 Plan by reason of the automatic increase provision of the 2018 Plan. The number of shares reserved for issuance under the 2018 Plan will automatically increase on January 1st of each Fiscal Year beginning with the 2019 Fiscal Year, in an amount equal to the least of (i) 10% of the post-Closing (as defined in the 2019 Plan) outstanding shares, (ii) five percent (5%) of the outstanding Shares on the last day of the immediately preceding Fiscal Year or (iii) such number of Shares determined by the Board; provided, however, that such determination under clause (iii) will be made no later than the last day of the immediately preceding Fiscal Year.
- (3) Estimated solely for the purpose of calculating the registration fee in accordance with Rule 457(c) and Rule 457(h)(1) promulgated under the Securities Act based on the average of the high \$1.12 and low \$1.05 sales prices of the Registrant's Common Stock on January 23, 2020, as reported on the Nasdaq Capital Market.

**EXPLANATORY NOTE**

**REGISTRATION OF ADDITIONAL SECURITIES**

Phunware, Inc. (the "Registrant") is filing this Registration Statement on Form S-8 for the purpose of registering the offer and sale of an additional 1,991,004 shares of Common Stock of the Registrant, par value \$0.0001 per share ("Common Stock"), issuable to eligible persons under the Phunware, Inc. 2018 Equity Incentive Plan (the "2018 Plan"), which Common Stock is in addition to the shares of Common Stock registered on the Registrant's Form S-8 filed by the Company with the U.S. Securities and Exchange Commission (the "SEC") on April 29, 2019 (File No. 333-231104) (the "Prior Registration Statement"). Accordingly, the contents of the Prior Registration Statement relating to the 2018 Plan, including periodic reports that the Registrant filed after the Prior Registration Statement to maintain current information about the Registrant, are incorporated by reference into this Registration Statement pursuant to General Instruction E of Form S-8. The Prior Registration Statement is currently effective.

**PART II**

**INFORMATION REQUIRED IN THE REGISTRATION STATEMENT**

**Item 8. Exhibits.**

**EXHIBIT INDEX**

<b>Exhibit No.</b>	<b>Description</b>
4.1*	<a href="#"><u>Amended and Restated Certificate of Incorporation of the Registrant (Incorporated by reference to Exhibit 3.1 of the Registrant's Form 8-K (File No. 001-37862), filed with the SEC on January 2, 2019).</u></a>
4.2*	<a href="#"><u>Amended and Restated Bylaws of the Registrant (Incorporated by reference to Exhibit 3.2 of the Registrant's Form 8-K (File No. 001-37862), filed with the SEC on January 2, 2019).</u></a>
4.3*	<a href="#"><u>Certificate of Designation (Incorporated by reference to Exhibit 3.3 of the Registrant's Form 8-K (File No. 001-37862) filed with the SEC on January 2, 2019).</u></a>
4.4*	<a href="#"><u>Specimen common stock certificate of the Registrant (Incorporated by reference to Exhibit 4.3 of the Registrant's Form S-4/A (File No. 333-224227), filed with the SEC on November 6, 2018).</u></a>
4.5*	<a href="#"><u>Phunware, Inc. 2018 Equity Incentive Plan (Incorporated by reference to Annex D of the Registrant's Form S-4/A (File No. 333-224227), filed with the SEC on November 13, 2018).</u></a>
5.1**	<a href="#"><u>Opinion of Winstead PC.</u></a>
10.1*	<a href="#"><u>Form of Stock Option Agreement under the 2018 Equity Incentive Plan (Incorporated by reference to Exhibit 10.1 of the Registrant's Form S-8 (File No. 333-231104), filed with the SEC on April 29, 2019).</u></a>
10.2*	<a href="#"><u>Form of Restricted Stock Unit Award Agreement under the 2018 Equity Incentive Plan (Incorporated by reference to Exhibit 10.2 of the Registrant's Form S-8 (File No. 333-231104), filed with the SEC on April 29, 2019).</u></a>
23.1**	<a href="#"><u>Consent of Marcum LLP.</u></a>
23.2**	<a href="#"><u>Consent of Winstead PC (included in Exhibit 5.1).</u></a>
24.1**	<a href="#"><u>Power of Attorney (included on the signature page to this Registration Statement).</u></a>

\* Previously filed.

\*\* 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 the City of Austin, State of Texas, on January 29, 2020.

### PHUNWARE, INC.

By: /s/ Alan S. Knitowski  
Alan S. Knitowski  
Chief Executive Officer

## POWER OF ATTORNEY

KNOW ALL PERSONS BY THESE PRESENTS, that each person whose signature appears below hereby constitutes and appoints Alan S. Knitowski and Matt Aune, and each of them, as his or her true and lawful attorney-in-fact and agent with full power of substitution, for him or her in any and all capacities, to act on, sign any and all amendments to this Registration Statement (including post-effective amendments), 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, proxy, 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 for all intents and purposes as he or she might or could do in person, hereby ratifying and confirming all that said attorney-in-fact, proxy and agent, or his substitute, may lawfully do or cause to be done by virtue hereof.

Pursuant to the requirements of the Securities Act of 1933, this Registration Statement has been signed by the following persons in the capacities set forth opposite their names and on January 29, 2020.

<u>Name</u>	<u>Title</u>
<u>/s/ Alan S. Knitowski</u> Alan S. Knitowski	Chief Executive Officer and Director (Principal Executive Officer)
<u>/s/ Matt Aune</u> Matt Aune	Chief Financial Officer (Principal Accounting and Financial Officer)
<u>/s/ Keith Cowan</u> Keith Cowan	Director
<u>/s/ Randall Crowder</u> Randall Crowder	Chief Operating Officer and Director
<u>/s/ Eric Manlunas</u> Eric Manlunas	Director
<u>/s/ Lori Tauber Marcus</u> Lori Tauber Marcus	Director
<u>/s/ Blythe Masters</u> Blythe Masters	Director
<u>/s/ Kathy Tan Mayor</u> Kathy Tan Mayor	Director
<u>/s/ George Syllantavos</u> George Syllantavos	Director

January 29, 2020

Phunware Inc.  
7800 Shoal Creek Boulevard  
Suite 230-S  
Austin, Texas 78757

Ladies and Gentlemen:

We have acted as counsel to Phunware Inc., a Delaware corporation (the “Company”), in connection with the filing with the Securities and Exchange Commission (the “SEC”) of a registration statement on Form S-8 (the “Registration Statement”) under the Securities Act of 1933, as amended (the “Securities Act”), relating to the registration of up to 1,991,004 shares (the “Shares”) of the Company’s common stock, par value \$0.0001 per share (“Common Stock”), to be issued by the Company pursuant to the Phunware, Inc. 2018 Equity Incentive Plan (the “Plan”).

In connection with this opinion, we have examined originals or copies, certified or otherwise identified to our satisfaction, of (i) the Registration Statement, (ii) the Plan, (iii) the Amended and Restated Certificate of Incorporation (the “Certificate of Incorporation”) of the Company, as currently in effect; (iv) the Amended and Restated Bylaws (the “Bylaws”) of the Company, as currently in effect, and (v) such other records, certificates and documents as we have deemed appropriate or necessary for the purposes of this opinion. We have also examined originals or copies of such corporate records of the Company and have made such examinations of law and other investigations as we have deemed relevant.

In our examination, we have assumed and have not verified (i) the legal capacity of all natural persons; (ii) the genuineness of all signatures; (iii) the authenticity of all documents, certificates and instruments submitted to us as originals; (iv) the conformity with the originals of all documents supplied to us as copies; (v) the accuracy and completeness of all corporate records and documents made available to us by the Company; and (vi) that the foregoing documents, in the form submitted to us for our review, have not been altered or amended in any respect material to our opinions stated herein. We have relied as to factual matters upon certificates from officers of the Company and certificates and other documents from public officials and government agencies and departments and we have assumed the accuracy and authenticity of such certificates and documents. We have also assumed that, at or prior to the time of the issuance and delivery of any Shares, that there will not have occurred any change in law, change in the Company’s Certificate of Incorporation, or further action by the Company’s board of directors, in each case affecting the validity of the issuance of the Shares.

With respect to our opinions as to the Shares, we have also assumed that (i) the Registration Statement, and any amendments thereto (including post-effective amendments), will have become effective and will comply with all applicable laws; (ii) all Shares will be issued and sold in compliance with applicable federal and state securities laws and in the manner stated in the Registration Statement and the Plan; and (iii) with respect to Shares offered, there will be sufficient shares of Common Stock authorized under the Company’s Certificate of Incorporation and not otherwise reserved for issuance.

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Based on the foregoing and subject to the limitations, qualifications and assumptions set forth herein, we are of the opinion that the Shares have been duly authorized and, when issued in accordance with the terms of and for legal consideration in excess of par value in the circumstances contemplated by the Plan (and the agreements and awards duly adopted thereunder and in accordance therewith), assuming, in each case, that the individual issuances, grants or awards under the Plan are duly authorized by all necessary corporate action of the Company, will be validly issued, fully paid and non-assessable.

Our opinions herein are expressed solely as to the Delaware General Corporation Law (including, to the extent applicable, Delaware statutory and constitutional provisions and reported judicial decisions interpreting these laws). We express no opinion as to the laws of any other jurisdiction. The opinion expressed herein is given as of this date, and we do not undertake to supplement this opinion with respect to any events or changes occurring subsequent to the date of this letter. The opinion expressed in this letter is provided as a legal opinion only and not as any guarantee or warranty of the matters discussed herein, and such opinion is strictly limited to the matters stated herein, and no other opinion may be implied therefrom.

We hereby consent to the filing of this opinion as an exhibit to the Registration Statement. In giving this consent, we do not admit that we are “experts” within the meaning of Section 11 of the Securities Act or within the category of persons whose consent is required under Section 7 of the Securities Act or the rules and regulations of the SEC promulgated thereunder.

Very truly yours,

**WINSTEAD PC**

**/s/ Winstead PC**

Independent Registered Public Accounting Firm's Consent

We consent to the incorporation by reference in this Registration Statement of Phunware, Inc. on Form S-8 of our report dated March 19, 2019, which includes an explanatory paragraph as to the Company's ability to continue as a going concern, with respect to our audits of the consolidated financial statements of Phunware, Inc. as of December 31, 2018 and 2017 and for the years ended December 31, 2018 and 2017 appearing in the Annual Report on Form 10-K of Phunware, Inc. for the year ended December 31, 2018.

/s/ Marcum LLP

Marcum LLP  
New York, NY  
January 29, 2020