

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

AMENDMENT NO. 1 TO FORM S-3
REGISTRATION STATEMENT
UNDER
THE SECURITIES ACT OF 1933

Desktop Metal, Inc.

(Exact name of registrant as specified in its charter)

Delaware
(State or other jurisdiction of
incorporation or organization)

83-2044042
(I.R.S. Employer
Identification Number)

63 3rd Avenue
Burlington, Massachusetts 01803
(978) 224-1244

(Address, including zip code, and telephone number, including area code, of registrant's principal executive offices)

Meg Broderick
General Counsel
Desktop Metal, Inc.
63 3rd Avenue
Burlington, Massachusetts 01803
(978) 224-1244

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

Copies to:
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APPROXIMATE DATE OF COMMENCEMENT OF PROPOSED SALE TO THE PUBLIC From time to time after the effective date of this registration statement.

If the only securities being registered on this Form are being offered pursuant to dividend or interest reinvestment plans, please check the following box

If any of the securities being registered on this Form are to be offered on a delayed or continuous basis pursuant to Rule 415 under the Securities Act of 1933, other than securities offered only in connection with dividend or interest reinvestment plans, check the following box.

If this Form is filed to register additional securities for an offering pursuant to Rule 462(b) under the Securities Act, please check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering.

If this Form is a post-effective amendment filed pursuant to Rule 462(c) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering.

If this Form is a registration statement pursuant to General Instruction I.D. or a post-effective amendment thereto that shall become effective on filing with the Commission pursuant to Rule 462(e) under the Securities Act, check the following box.

If this Form is a post-effective amendment to a registration statement filed pursuant to General Instruction I.D. filed to register additional securities or additional classes of securities pursuant to Rule 413(b) under the Securities Act, check the following box.

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.

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 comply with any new or revised financial accounting standards provided pursuant to Section 7(a)(2) (B) of Securities Act.

The Registrant hereby amends this Registration Statement on such date or dates as may be necessary to delay its effective date until the Registrant shall file a further amendment which specifically states that this Registration Statement shall thereafter become effective in accordance with Section 8(a) of the Securities Act of 1933 or until the Registration Statement shall become effective on such date as the Commission, acting pursuant to said Section 8(a), may determine.

**The information in this preliminary prospectus is not complete and may be changed. These securities may not be sold until the registration statement filed with the Securities and Exchange Commission is effective. This preliminary prospectus is not an offer to sell nor does it seek an offer to buy these securities in any jurisdiction where the offer or sale is not permitted.**

**Subject to Completion, dated June 20, 2023.**

**PROSPECTUS**



**Desktop Metal, Inc.**

**444,793 Shares of Common Stock**

This prospectus relates to the resale, from time to time, of up to 444,793 shares of our Class A common stock, or the shares, by the selling stockholders identified in this prospectus, or the selling stockholders.

We will not receive any proceeds from the sale of the shares by the selling stockholders.

We will bear all costs, expenses and fees in connection with the registration of the shares of Class A common stock. The selling stockholders will bear all commissions and discounts, if any, attributable to their sales of the shares of Class A common stock.

Our Class A common stock is listed on the New York Stock Exchange (the "NYSE") under the symbol "DM". On June 16, 2023, the closing sale price of our Class A common stock as reported on the NYSE was \$2.07.

**Our business and investment in our Class A common stock involve significant risks. These risks are described in the section titled "Risk Factors" beginning on page 9 of this prospectus.**

**Neither the Securities and Exchange Commission nor any state securities commission has approved or disapproved of these securities or passed upon the accuracy or adequacy of this prospectus. Any representation to the contrary is a criminal offense.**

The date of this prospectus is \_\_\_\_\_, 2023.

TABLE OF CONTENTS

|   |    |
|---|----|
| <a href="#">ABOUT THIS PROSPECTUS</a>   | 4  |
| <a href="#">WHERE YOU CAN FIND MORE INFORMATION; INCORPORATION BY REFERENCE</a> | 5  |
| <a href="#">THE COMPANY</a>   | 7  |
| <a href="#">THE OFFERING</a>  | 8  |
| <a href="#">RISK FACTORS</a>  | 9  |
| <a href="#">USE OF PROCEEDS</a>   | 10 |
| <a href="#">DESCRIPTION OF CAPITAL STOCK</a>                                    | 11 |
| <a href="#">SELLING STOCKHOLDERS</a>  | 15 |
| <a href="#">PLAN OF DISTRIBUTION</a>  | 17 |
| <a href="#">LEGAL MATTERS</a>   | 19 |
| <a href="#">EXPERTS</a>   | 19 |

## ABOUT THIS PROSPECTUS

This prospectus is part of a registration statement filed with the U.S. Securities and Exchange Commission, or the SEC, using a “shelf” registration process. By using a shelf registration statement, the selling stockholders may, from time to time, sell the shares in one or more offerings as described in this prospectus. When the selling stockholders offer and sell the shares, we or the selling stockholders may provide a prospectus supplement to this prospectus that contains specific information about the securities being offered and sold and the specific terms of that offering. We may also authorize one or more free writing prospectuses to be provided to you that may contain material information relating to these offerings. The prospectus supplement or free writing prospectus may also add, update or change information contained in this prospectus with respect to that offering. If there is any inconsistency between the information in this prospectus and the applicable prospectus supplement or free writing prospectus, you should rely on the prospectus supplement or free writing prospectus, as applicable. Before purchasing any securities, you should carefully read both this prospectus and the applicable prospectus supplement (and any applicable free writing prospectuses), together with the additional information described under the heading “Where You Can Find More Information; Incorporation by Reference.”

Neither we, nor the selling stockholders, have authorized anyone to provide you with any information or to make any representations other than those contained in this prospectus, any applicable prospectus supplement or any free writing prospectuses prepared by or on behalf of us or to which we have referred you. We and the selling stockholders take no responsibility for, and can provide no assurance as to the reliability of, any other information that others may give you. The selling stockholders will not make an offer to sell the shares in any jurisdiction where the offer or sale is not permitted. You should assume that the information appearing in this prospectus and the applicable prospectus supplement to this prospectus is accurate only as of the date on its respective cover, that the information appearing in any applicable free writing prospectus is accurate only as of the date of that free writing prospectus, and that any information incorporated by reference is accurate only as of the date of the document incorporated by reference, unless we indicate otherwise. Our business, financial condition, results of operations and prospectus may have changed since those dates. This prospectus incorporates by reference, and any prospectus supplement or free writing prospectus may contain and incorporate by reference, market data and industry statistics and forecasts that are based on independent industry publications and other publicly available information. Although we believe these sources are reliable, we do not guarantee the accuracy or completeness of this information and we have not independently verified this information. In addition, the market and industry data and forecasts that may be included or incorporated by reference in this prospectus, any prospectus supplement or any applicable free writing prospectus may involve estimates, assumptions and other risks and uncertainties and are subject to change based on various factors, including those discussed under the heading “Risk Factors” contained in this prospectus, the applicable prospectus supplement and any applicable free writing prospectus, and under similar headings in other documents that are incorporated by reference into this prospectus. Accordingly, investors should not place undue reliance on this information.

When we refer to “Desktop Metal,” “we,” “our,” “us” and the “Company” in this prospectus, we mean Desktop Metal, Inc. and its consolidated subsidiaries, unless otherwise specified. When we refer to “you,” we mean the potential holders of the shares.

We own or have rights to trademarks, trade names and service marks that we use in connection with the operation of our business. In addition, our name, logos and website name and address are our trademarks or service marks. Solely for convenience, in some cases, the trademarks, trade names and service marks referred to in this offering memorandum are listed without the applicable ®, ™ and SM symbols, but we will assert, to the fullest extent under applicable law, our rights to these trademarks, trade names and service marks. Other trademarks, trade names and service marks appearing in this prospectus are the property of their respective owners.

## WHERE YOU CAN FIND MORE INFORMATION; INCORPORATION BY REFERENCE

### Available Information

We file reports, proxy statements and other information with the SEC. The SEC maintains a web site that contains reports, proxy and information statements and other information about issuers, such as us, who file electronically with the SEC. The address of that website is <http://www.sec.gov>.

Our web site address is <https://www.desktopmetal.com>. The information on our web site, however, is not, and should not be deemed to be, a part of this prospectus.

This prospectus and any prospectus supplement are part of a registration statement that we filed with the SEC and do not contain all of the information in the registration statement. The full registration statement may be obtained from the SEC or us, as provided below. Documents establishing the terms of the offered securities are or may be filed as exhibits to the registration statement or documents incorporated by reference in the registration statement. Statements in this prospectus or any prospectus supplement about these documents are summaries and each statement is qualified in all respects by reference to the document to which it refers. You should refer to the actual documents for a more complete description of the relevant matters. You may inspect a copy of the registration statement through the SEC's website, as provided above.

### Incorporation by Reference

The SEC's rules allow us to "incorporate by reference" information into this prospectus, which means that we can disclose important information to you by referring you to another document filed separately with the SEC. The information incorporated by reference is deemed to be part of this prospectus, and subsequent information that we file with the SEC will automatically update and supersede that information. Any statement contained in this prospectus or a previously filed document incorporated by reference will be deemed to be modified or superseded for purposes of this prospectus to the extent that a statement contained in this prospectus or a subsequently filed document incorporated by reference modifies or replaces that statement.

This prospectus and any accompanying prospectus supplement incorporate by reference the documents set forth below that have previously been filed with the SEC, excluding in each case any information furnished to, rather than filed with, the SEC:

- [Our Annual Report on Form 10-K for the year ended December 31, 2022, filed with the SEC on March 1, 2023.](#)
- The information specifically incorporated by reference into our Annual Report on Form 10-K from our [Definitive Proxy Statement on Schedule 14A, filed with the SEC on April 25, 2023.](#)
- [Our Quarterly Report on Form 10-Q for the quarter ended March 31, 2023, filed with the SEC on May 10, 2023](#)
- [The description of our Class A common stock contained in our Registration Statement on Form 8-A, filed with the SEC on March 13, 2019, including any amendments or reports filed with the SEC for the purpose of updating such description, and the description of the preferred stock purchase rights to purchase shares of our Class A common stock contained in our Registration Statement on Form 8-A filed with the SEC on May 30, 2023, including any amendments or reports filed with the SEC for the purpose of updating such description.](#)
- The Amendment to our Current Report on Form 8-K filed with the SEC on [February 2, 2023](#) (with respect to Item 2.05 only) and our Current Reports on Form 8-K filed with the SEC on [February 15, 2023](#), [May 18, 2023](#), [May 26, 2023](#), [May 30, 2023](#) and [June 12, 2023](#).

All reports and other documents we subsequently file pursuant to Section 13(a), 13(c), 14 or 15(d) of the Securities Exchange Act of 1934, as amended, which we refer to as the "Exchange Act" in this prospectus, prior to the termination

of this offering, including all such documents we may file with the SEC after the date of the initial registration statement and prior to the effectiveness of the registration statement, but excluding any information furnished to, rather than filed with, the SEC, will also be incorporated by reference into this prospectus and deemed to be part of this prospectus from the date of the filing of such reports and documents.

You may request a free copy of any of the documents incorporated by reference in this prospectus by writing or telephoning us at the following address:

Desktop Metal, Inc.  
63 3<sup>rd</sup> Avenue  
Burlington, Massachusetts 01803  
(978) 224-1244

Exhibits to the filings will not be sent, however, unless those exhibits have specifically been incorporated by reference in this prospectus or any accompanying prospectus supplement.

## THE COMPANY

Desktop Metal is pioneering a new generation of additive manufacturing technologies focused on Additive Manufacturing 2.0, the volume production of end use parts. We offer a comprehensive portfolio of integrated additive manufacturing solutions comprised of hardware, software, materials and services with support for metals, polymers, elastomers, ceramics, sands, composites, wood and biocompatible materials. Our solutions span use cases across the product life cycle, from product development to mass production and aftermarket operations, and they address an array of industries, including automotive, healthcare and dental, consumer products, heavy industry, aerospace, machine design and research and development.

We were incorporated in September 2018 under the name Trine Acquisition Corp. (“Trine”). In December 2020, Trine acquired Desktop Metal, Inc., which was incorporated in 2015 (“Legacy Desktop Metal”), after which Legacy Desktop Metal became a wholly owned subsidiary of Trine. Following the acquisition, Trine changed its name to Desktop Metal, Inc. and Legacy Desktop Metal changed its name to Desktop Metal Operating, Inc.

Our principal executive offices are located at 63 Third Avenue in Burlington, Massachusetts 01803, and our telephone number is (978) 224-1244.

**THE OFFERING**

|  |   |
|--|---|
| Issuer   | Desktop Metal, Inc.   |
| Shares of Class A Common Stock Offered by the Selling Stockholders | Up to 444,793 shares.   |
| Use of Proceeds  | We will not receive any proceeds from the sale of shares of Class A common stock by the selling stockholders.   |
| Market for Class A Common Stock                                    | Our Class A common stock is listed on the NYSE under the symbol "DM".   |
| Risk Factors   | Investing in our Class A common stock involves a high degree of risk. See "Risk Factors" beginning on page 9 of this prospectus for a discussion of factors you should carefully consider before investing in our common stock. |



## **RISK FACTORS**

Investment in any securities offered pursuant to this prospectus and the applicable prospectus supplement involves risks. You should carefully consider the risk factors incorporated by reference to our most recent Annual Report on Form 10-K and any subsequent Quarterly Reports on Form 10-Q or Current Reports on Form 8-K, and all other information contained or incorporated by reference into this prospectus, as updated by our subsequent filings under the Exchange Act, and the risk factors and other information contained in the applicable prospectus supplement and any applicable free writing prospectus before acquiring any of such securities. The occurrence of any of these risks might cause you to lose all or part of your investment in the offered securities.

**USE OF PROCEEDS**

We will not receive any proceeds from the sale of shares of Class A common stock by the selling stockholders.

## DESCRIPTION OF CAPITAL STOCK

### General

The following description summarizes some of the terms of our certificate of incorporation and bylaws and of the General Corporation Law of the State of Delaware. This description is summarized from, and qualified in its entirety by reference to, our certificate of incorporation and bylaws, each of which has been publicly filed with the SEC, as well as the relevant provisions of the DGCL.

### Capital Stock

Our authorized capital stock consists of 500,000,000 shares of Class A common stock, par value \$0.0001 per share, and 50,000,000 shares of preferred stock, par value \$0.0001 per share. Unless our board of directors determines otherwise, we will issue all shares of our capital stock in uncertificated form.

### Class A Common Stock

Holders of shares of Class A common stock are entitled to one vote for each share held of record on all matters submitted to a vote of stockholders. The holders of Class A common stock do not have cumulative voting rights in the election of directors.

In the event of our liquidation, dissolution or winding up and after payment in full of all amounts required to be paid to creditors and to any future holders of preferred stock having liquidation preferences, if any, the holders of Class A common stock will be entitled to receive pro rata our remaining assets available for distribution. Holders of Class A common stock do not have preemptive, subscription, redemption or conversion rights. There are no redemption or sinking fund provisions applicable to the Class A common stock. The rights, powers, preferences and privileges of holders of the Class A common stock are subject to those of the holders of any shares of preferred stock that the board of directors may authorize and issue in the future.

### Preferred Stock

Under the terms of the certificate of incorporation, our board of directors is authorized to direct us to issue shares of preferred stock in one or more series without stockholder approval. Our board of directors has the discretion to determine the rights, powers, preferences, privileges and restrictions, including voting rights, dividend rights, conversion rights, redemption privileges and liquidation preferences, of each series of preferred stock.

The purpose of authorizing our board of directors to issue preferred stock and determine its rights and preferences is to eliminate delays associated with a stockholder vote on specific issuances. The issuance of preferred stock, while providing flexibility in connection with possible acquisitions, future financings and other corporate purposes, could have the effect of making it more difficult for a third party to acquire, or could discourage a third party from seeking to acquire, a majority of the outstanding voting stock.

Additionally, the issuance of preferred stock may adversely affect the holders of Class A common stock by restricting dividends on the Class A common stock, diluting the voting power of the Class A common stock or subordinating the liquidation rights of the Class A common stock. As a result of these or other factors, the issuance of preferred stock could have an adverse impact on the market price of the Class A common stock.

### Rights Agreement

On May 26, 2023, our board of directors adopted a stockholder rights plan as set forth in a Rights Agreement between the Company and Continental Stock Transfer & Trust Company, as Rights Agent (as amended from time to time, the "Rights Agreement") and declared a dividend of one preferred stock purchase right (a "Right") for each share of Class A common stock outstanding at the close of business on June 9, 2023. As long as the Rights are attached to the Class A common stock, we will issue one Right (subject to adjustment) with each new share of Class A common stock so that all

such shares will have attached Rights. When exercisable, each Right will entitle the registered holder to purchase from us one one-thousandth of a share of Series A Junior Participating Preferred Stock (the “Series A Preferred”) of the Company at a price of \$9.00 per one one-thousandth of a share of Series A Preferred, subject to certain anti-dilution adjustments. The Rights are not currently exercisable but would become exercisable upon the earlier to occur of (i) the close of business on the tenth (10th) business day following a public announcement that a person or group of affiliated or associated persons has acquired, or obtained the right to acquire, beneficial ownership of 15% or more of the Class A common stock (an “Acquiring Person”) or (ii) the close of business on the tenth (10th) business day (or such later date as may be determined by action of our Board of Directors prior to such time as any person or group of affiliated persons becomes an Acquiring Person) following the commencement or announcement of an intention to make a tender offer or exchange offer the consummation of which would result in the beneficial ownership by a person or group of 15% or more of the Class A common stock. The Rights will expire upon the earlier of (i) immediately prior to the effective time of the merger contemplated by the that certain Agreement and Plan of Merger, dated as of May 25, 2023, by and among the Company, Stratasys Ltd., and Tetris Sub Inc., and (ii) July 24, 2024, subject to our right to extend such date, unless earlier redeemed or exchanged by us or terminated. The Rights will cause substantial dilution to a person or group that acquires 15% or more of the Class A common stock on terms not approved by our Board of Directors. The Rights should not interfere with any merger or other business combination approved by our Board of Directors at any time prior to the first date that a person or group has become an Acquiring Person.

#### **Dividends**

Declaration and payment of any dividend is subject to the discretion of our board of directors. The time and amount of dividends is dependent upon, among other things, our business prospects, results of operations, financial condition, cash requirements and availability, debt repayment obligations, capital expenditure needs, contractual restrictions, covenants in the agreements governing current and future indebtedness, industry trends, the provisions of Delaware law affecting the payment of dividends and distributions to stockholders and any other factors or considerations our board of directors may regard as relevant.

We currently intend to retain all available funds and any future earnings to fund the development and growth of our business, and therefore do not anticipate declaring or paying any cash dividends on Class A common stock in the foreseeable future.

#### **Anti-Takeover Provisions**

The certificate of incorporation and bylaws contain provisions that may delay, defer or discourage another party from acquiring control of us. We expect that these provisions, which are summarized below, will discourage coercive takeover practices or inadequate takeover bids. These provisions are also designed to encourage persons seeking to acquire control of us to first negotiate with our board of directors, which may result in an improvement of the terms of any such acquisition in favor of our stockholders. However, they also give our board of directors the power to discourage acquisitions that some stockholders may favor.

#### **Authorized but Unissued Shares**

The authorized but unissued shares of Class A common stock and preferred stock are available for future issuance without stockholder approval, subject to any limitations imposed by the listing standards of the NYSE. These additional shares may be used for a variety of corporate finance transactions, acquisitions and employee benefit plans. The existence of authorized but unissued and unreserved Class A common stock and preferred stock could make more difficult or discourage an attempt to obtain control of us by means of a proxy contest, tender offer, merger or otherwise.

#### **Classified Board of Directors**

Our certificate of incorporation provides that our board of directors is divided into three classes of directors, with the classes to be as nearly equal in number as possible, and with each director serving a three- year term. As a result, approximately one-third of our board of directors will be elected each year. The classification of directors has the effect of making it more difficult for stockholders to change the composition of our board of directors.

### **Stockholder Action; Special Meetings of Stockholders**

Our certificate of incorporation provides that stockholders may not take action by written consent, but may only take action at annual or special meetings of stockholders. As a result, a holder controlling a majority of capital stock would not be able to amend the bylaws or remove directors without holding a meeting of stockholders called in accordance with the bylaws. Further, our certificate of incorporation provides that only the chairperson of our board of directors, a majority of our board of directors, our Chief Executive Officer or our President may call special meetings of stockholders, thus prohibiting a stockholder from calling a special meeting. These provisions might delay the ability of stockholders to force consideration of a proposal or for stockholders controlling a majority of capital stock to take any action, including the removal of directors.

### **Advance Notice Requirements for Stockholder Proposals and Director Nominations**

In addition, our bylaws establish an advance notice procedure for stockholder proposals to be brought before an annual meeting or special meeting of stockholders. Generally, in order for any matter to be “properly brought” before a meeting, the matter must be (a) specified in a notice of meeting given by or at the direction of our board of directors, (b) if not specified in a notice of meeting, otherwise brought before the meeting by our board of directors or the chairperson of the meeting, or (c) otherwise properly brought before the meeting by a stockholder present in person who (1) was a stockholder both at the time of giving the notice and at the time of the meeting, (2) is entitled to vote at the meeting, and (3) has complied with the advance notice procedures specified in our bylaws or properly made such proposal in accordance with Rule 14a-8 under the Exchange Act and the rules and regulations thereunder, which proposal has been included in the proxy statement for the annual meeting. Further, for business to be properly brought before an annual meeting by a stockholder, the stockholder must (a) provide timely notice in writing and in proper form to the secretary and (b) provide any updates or supplements to such notice at the times and in the forms required by our bylaws. To be timely, a stockholder’s notice must be delivered to, or mailed and received at, our principal executive offices not less than 90 days nor more than 120 days prior to the one-year anniversary of the preceding year’s annual meeting; provided, however, that if the date of the annual meeting is more than 30 days before or more than 60 days after such anniversary date, notice by the stockholder to be timely must be so delivered, or mailed and received, not later than the 90th day prior to such annual meeting or, if later, the 10th day following the day on which public disclosure of the date of such annual meeting was first made.

Stockholders at an annual meeting or special meeting may only consider proposals or nominations specified in the notice of meeting or brought before the meeting by or at the direction of our board of directors or by a qualified stockholder of record on the record date for such meeting, who is entitled to vote at the meeting and who has delivered timely written notice in proper form to our secretary of the stockholder’s intention to bring such business before the meeting. These provisions could have the effect of delaying stockholder actions that are favored by the holders of a majority of the outstanding voting securities until the next stockholder meeting.

### **Amendment of Certificate of Incorporation or Bylaws**

Our bylaws may be amended or repealed by a majority vote of our board of directors or by the holders of at least sixty-six and two-thirds percent of the voting power of all of the then-outstanding shares entitled to vote generally in the election of directors, voting together as a single class. The affirmative vote of a majority of our board of directors and at least sixty-six and two-thirds percent in voting power of the outstanding shares entitled to vote would be required to amend certain provisions of our certificate of incorporation.

### **Limitations on Liability and Indemnification of Officers and Directors**

Our certificate of incorporation and bylaws provide indemnification and advancement of expenses for our directors and officers to the fullest extent permitted by the DGCL, subject to certain limited exceptions. We have entered into indemnification agreements with each of our directors and officers. In some cases, the provisions of those indemnification agreements may be broader than the specific indemnification provisions contained under Delaware law. In addition, as permitted by Delaware law, our certificate of incorporation and bylaws include provisions that eliminate the personal liability of directors for monetary damages resulting from breaches of certain fiduciary duties as a director. The effect of

this provision is to restrict our rights and the rights of our stockholders in derivative suits to recover monetary damages against a director for breach of fiduciary duties as a director.

These provisions may be held not to be enforceable for violations of the federal securities laws of the United States.

#### **Dissenters' Rights of Appraisal and Payment**

Under the DGCL, with certain exceptions, our stockholders have appraisal rights in connection with a merger or consolidation of our company. Pursuant to Section 262 of the DGCL, stockholders who properly demand and perfect appraisal rights in connection with such merger or consolidation have the right to receive payment of the fair value of their shares as determined by the Delaware Court of Chancery.

#### **Stockholders' Derivative Actions**

Under the DGCL, any of our stockholders may bring an action in our name to procure a judgment in its favor, also known as a derivative action, provided that the stockholder bringing the action is a holder of the our shares at the time of the transaction to which the action relates.

#### **Forum Selection**

Our certificate of incorporation provides that unless we consent in writing to the selection of an alternative forum, the Court of Chancery of the State of Delaware, to the fullest extent permitted by applicable law, is the sole and exclusive forum for: (i) any derivative action brought by a stockholder on behalf of the Company, (ii) any claim of breach of a fiduciary duty owed by any of our directors, officers, stockholders or employees, (iii) any claim against us arising under our certificate of incorporation, bylaws or the DGCL or (iv) any claim against us governed by the internal affairs doctrine. Our certificate of incorporation designates the federal district courts of the United States of America as the exclusive forum for the resolution of any complaint asserting a cause of action arising under the Securities Act.

#### **Transfer Agent and Registrar**

The transfer agent and registrar for the Class A common stock is Continental Stock Transfer & Trust Company.

#### **Trading Symbol and Market**

Our Class A common stock is listed on the NYSE under the symbol "DM".

## SELLING STOCKHOLDERS

In June 2021, we acquired Aerosint SA, or Aerosint, pursuant to a share purchase agreement entered into with the shareholders of Aerosint, or the Aerosint shareholders. Under the terms of the share purchase agreement, we were obligated to make a payment in the form of cash and shares of our Class A common stock to the Aerosint shareholders upon the achievement of a revenue target and technical milestone by Aerosint for the year ended December 31, 2022, or the contingent payment. This prospectus covers the resale from time to time by the Aerosint shareholders identified in the table below of up to 444,793 shares of our Class A common stock that were issued in satisfaction of the contingent payment.

The selling stockholders identified in the table below may from time to time offer and sell under this prospectus any or all of the shares of Class A common stock listed under the column “Number of Shares Being Offered” in the table below. The table below and footnote disclosure following the table sets forth the name of each selling stockholder and the number of shares of our Class A common stock beneficially owned by the selling stockholder prior to and after this offering. The table below has been prepared based upon information furnished to us by the selling stockholders, and the selling stockholders may have sold, transferred or otherwise disposed of some or all of their shares since providing such information to us. Information concerning the selling stockholders may change from time to time and, if necessary, we will amend or supplement this prospectus accordingly and as required.

The number of shares beneficially owned by each selling stockholder is determined under rules issued by the SEC. Under these rules, beneficial ownership includes any shares as to which the individual or entity has sole or shared voting power or investment power. Percentage ownership is based on 321,293,182 shares of Class A common stock outstanding as of April 30, 2023. In computing the number of shares beneficially owned by an individual or entity and the percentage ownership of that person, shares of Class A common stock subject to options or other rights held by such person that are currently exercisable or will become exercisable within 60 days of April 30, 2023 are considered outstanding, although these shares are not considered outstanding for purposes of computing the percentage ownership of any other person. Unless noted otherwise, the address of all listed selling stockholders is c/o Desktop Metal, Inc., 63 3rd Avenue, Burlington, Massachusetts 01803.

We have assumed that all shares of Class A common stock reflected in the table as being offered will be sold from time to time by the selling stockholders. The selling stockholders may offer some, all or none of their shares of Class A common stock.

In June 2021, our affiliate entered into service agreements with each of Charles-Edouard Moens de Hase and Matthias Hick pursuant to which Messrs. Moens de Hase and Hick provide certain consulting services to us. In addition, certain of the selling stockholders in the following table are our employees.

Unless otherwise indicated, we believe that all persons named in the table below have sole voting and investment power with respect to the voting securities beneficially owned by them.

| Name of Selling Stockholder          | Shares Beneficially Owned<br>Prior to the Offering |            | Number of Shares<br>Being Offered | Shares Beneficially Owned<br>After the Offering |            |
|--------------------------------------|--|------------|-----------------------------------|---|------------|
|                                      | Number of Shares                                   | Percentage |                                   | Number of Shares                                | Percentage |
| Antoine Deblire                      | 10,878   | *          | 2,743                             | 8,135   | *          |
| Bram Neirinck                        | 6,527  | *          | 1,646                             | 4,881   | *          |
| Charles-Edouard Moens de Hase        | 237,339  | *          | 113,223                           | 124,116   | *          |
| Innovation Fund SA/NV <sup>(1)</sup> | 167,372  | *          | 51,103                            | 116,269   | *          |
| Jonathan Soler Lillo                 | 6,527  | *          | 1,646                             | 4,881   | *          |
| Lionel Bolkaerts                     | 3,697  | *          | 932                               | 2,765   | *          |
| M4KE.IT SRL <sup>(2)</sup>           | 263,705  | *          | 59,269                            | 204,436   | *          |
| Martin Marchal                       | 3,697  | *          | 932                               | 2,765   | *          |
| Matthias Hick                        | 282,639  | *          | 119,808                           | 162,831   | *          |
| Noshaq Spin-Offs S.A. <sup>(3)</sup> | 66,470   | *          | 51,103                            | 15,367  | *          |
| Peter Mercelis                       | 51,895   | *          | 39,897                            | 11,998  | *          |
| Sara Janssens                        | 3,240  | *          | 2,491                             | 749   | *          |

\* Less than 1%

- (1) Francois Cornelis is the Chairman of Innovation Fund SA/NV. The principal place of business of Innovation Fund SA/NV is Boulevard Auguste Reyers 80, Brussels 1030.
- (2) Alexis Bedoret is the owner of M4KE.IT SRL. The principal place of business of M4KE.IT SRL is 5 Rue Labert-Lombard, 4000 Liège, Belgium 4000.
- (3) Noshaq Spin-Offs S.A., a public limited company, with its head office at 4031 Angleur, avenue Pré-Aily 4, is represented in accordance with its articles of association by S.R.L. OUSIA OPERATIONS, Managing Director, which is represented by Mr. Marc Foidart, and S.C.R.L. Venture Coaching, Director, which is represented by Mrs. Nathalie Benoit.



## PLAN OF DISTRIBUTION

We are registering 444,793 shares of Class A common stock for possible sale by the selling stockholders from time to time. We are required to pay all fees and expenses incident to the registration of the shares of our Class A common stock to be offered and sold pursuant to this prospectus.

The shares of Class A common stock beneficially owned by the selling stockholders covered by this prospectus may be offered and sold from time to time by the selling stockholders. As used in this prospectus, “selling stockholders” includes donees, pledgees, transferees or other successors in interest selling securities received from a selling stockholder as a gift, pledge, partnership distribution or other transfer. The selling stockholders will act independently of us in making decisions with respect to the timing, manner and size of each sale. Such sales may be made on one or more exchanges or in the over-the-counter market or otherwise, at prices and under terms then prevailing or at prices related to the then-current market price or in negotiated transactions. The selling stockholders may dispose of their shares by one or more of, or a combination of, the following methods:

- distributions to members, partners, stockholders or other equityholders of the selling stockholders;
- purchases by a broker-dealer as principal and resale by such broker-dealer for its own account pursuant to this prospectus;
- ordinary brokerage transactions and transactions in which the broker solicits purchasers;
- block trades in which the broker-dealer so engaged will attempt to sell the shares as agent but may position and resell a portion of the block as principal to facilitate the transaction;
- an over-the-counter distribution in accordance with the rules of the NYSE;
- through trading plans entered into by a selling stockholder pursuant to Rule 10b5-1 under the Exchange Act, that are in place at the time of an offering pursuant to this prospectus and any applicable prospectus supplement hereto that provide for periodic sales of their securities on the basis of parameters described in such trading plans;
- to or through underwriters or broker-dealers;
- in “at the market” offerings, as defined in Rule 415 under the Securities Act, at negotiated prices, at prices prevailing at the time of sale or at prices related to such prevailing market prices, including sales made directly on a national securities exchange or sales made through a market maker other than on an exchange or other similar offerings through sales agents;
- in privately negotiated transactions;
- in options transactions;
- through a combination of any of the above methods of sale; or
- any other method permitted pursuant to applicable law.

In addition, any shares that qualify for sale pursuant to Rule 144 may be sold under Rule 144 rather than pursuant to this prospectus. A selling stockholder that is an entity may elect to make an in-kind distribution of common stock to its members, partners, stockholders or other equityholders pursuant to the registration statement of which this prospectus forms a part by delivering a prospectus. To the extent that such members, partners, stockholders or other equityholders are not affiliates of ours, such members, partners, stockholders or other equityholders would thereby receive freely tradable shares of Class A common stock pursuant to a distribution pursuant to the registration statement of which this prospectus forms a part.

To the extent required, this prospectus may be amended or supplemented from time to time to describe a specific plan of distribution. In connection with distributions of the shares or otherwise, the selling stockholders may enter into hedging transactions with broker-dealers or other financial institutions. In connection with such transactions, broker-dealers or other financial institutions may engage in short sales of shares of our Class A common stock in the course of hedging the positions they assume with selling stockholders. The selling stockholders may also sell shares of our Class A common stock short and redeliver the shares to close out such short positions. The selling stockholders may also enter into option or other transactions with broker-dealers or other financial institutions that require the delivery to such broker-dealer or other financial institution of shares offered by this prospectus, which shares such broker-dealer or other financial institution may resell pursuant to this prospectus (as supplemented or amended to reflect such transaction). The selling stockholders may also pledge shares to a broker-dealer or other financial institution, and, upon a default, such broker-dealer or other financial institution, may effect sales of the pledged shares pursuant to this prospectus (as supplemented or amended to reflect such transaction).

A selling stockholder may enter into derivative transactions with third parties, or sell securities not covered by this prospectus to third parties in privately negotiated transactions. If the applicable prospectus supplement indicates, in connection with those derivatives, the third parties may sell securities covered by this prospectus and the applicable prospectus supplement, including in short sale transactions. If so, the third party may use securities pledged by any selling stockholder or borrowed from any selling stockholder or others to settle those sales or to close out any related open borrowings of stock, and may use securities received from any selling stockholder in settlement of those derivatives to close out any related open borrowings of stock. The third party in such sale transactions will be an underwriter and will be identified in the applicable prospectus supplement (or a post-effective amendment). In addition, any selling stockholder may otherwise loan or pledge securities to a financial institution or other third party that in turn may sell the securities short using this prospectus. Such financial institution or other third party may transfer its economic short position to investors in our securities or in connection with a concurrent offering of other securities.

In effecting sales, broker-dealers or agents engaged by the selling stockholders may arrange for other broker-dealers to participate. Broker-dealers or agents may receive commissions, discounts or concessions from the selling stockholders in amounts to be negotiated immediately prior to the sale.

In offering the shares covered by this prospectus, the selling stockholders and any broker-dealers who execute sales for the selling stockholders may be deemed to be “underwriters” within the meaning of the Securities Act in connection with such sales. Any profits realized by the selling stockholders and the compensation of any broker-dealer may be deemed to be underwriting discounts and commissions.

In order to comply with the securities laws of certain states, if applicable, the shares must be sold in such jurisdictions only through registered or licensed brokers or dealers. In addition, in certain states the shares may not be sold unless they have been registered or qualified for sale in the applicable state or an exemption from the registration or qualification requirement is available and is complied with.

We have advised the selling stockholders that the anti-manipulation rules of Regulation M under the Exchange Act may apply to sales of shares in the market and to the activities of the selling stockholders and their affiliates. In addition, we will make copies of this prospectus available to the selling stockholders for the purpose of satisfying the prospectus delivery requirements of the Securities Act. The selling stockholders may indemnify any broker-dealer that participates in transactions involving the sale of the shares against certain liabilities, including liabilities arising under the Securities Act.

At the time a particular offer of shares is made, if required, a prospectus supplement will be distributed that will set forth the number of shares being offered and the terms of the offering, including the name of any underwriter, dealer or agent, the purchase price paid by any underwriter, any discount, commission and other item constituting compensation, any discount, commission or concession allowed or reallocated or paid to any dealer, and the proposed selling price to the public.

#### **LEGAL MATTERS**

Latham & Watkins LLP will pass upon certain legal matters relating to the sale of the securities offered hereby on behalf of Desktop Metal, Inc. Additional legal matters may be passed upon for us, the selling stockholders, or any underwriters, dealers or agents, by counsel that we will name in the applicable prospectus supplement. Certain attorneys affiliated with Latham & Watkins LLP own shares of our Class A common stock.

#### **EXPERTS**

The financial statements of Desktop Metal, Inc. as of and for the years ended December 31, 2022, 2021 and 2020 incorporated by reference in this registration statement, and the effectiveness of Desktop Metal Inc.'s internal control over financial reporting, have been audited by Deloitte & Touche LLP, an independent registered public accounting firm, as stated in their reports which express an unqualified opinion on the financial statements and an adverse opinion on the effectiveness of Desktop Metal, Inc.'s internal control over financial reporting. Such financial statements are incorporated by reference in reliance upon the report of such firm given upon their authority as experts in accounting and auditing.

**PART II**

**INFORMATION NOT REQUIRED IN PROSPECTUS**

**Item 14. Other Expenses of Issuance and Distribution**

The following is an estimate of the expenses (all of which are to be paid by the registrant) that we may incur in connection with the securities being registered hereby.

|   |    |       |
|---|----|-------|
| Securities and Exchange Commission registration fee | \$ | 87.00 |
| FINRA filing fee                                    | \$ | *     |
| Accountants' fees and expenses                      | \$ | *     |
| Blue Sky fees and expenses                          | \$ | *     |
| Transfer Agent's fees and expenses                  | \$ | *     |
| Printing and engraving expenses                     | \$ | *     |
| Miscellaneous                                       | \$ | *     |
| Total expenses                                      | \$ | *     |

\* To be filed by amendment.

**Item 15. Indemnification of Directors and Officers**

Section 102 of the General Corporation Law of the State of Delaware permits a corporation to eliminate the personal liability of directors of a corporation to the corporation or its stockholders for monetary damages for a breach of fiduciary duty as a director, except where the director breached his duty of loyalty, failed to act in good faith, engaged in intentional misconduct or knowingly violated a law, authorized the payment of a dividend or approved a stock repurchase in violation of Delaware corporate law or obtained an improper personal benefit. Our restated certificate of incorporation provides that no director of the Registrant shall be personally liable to it or its stockholders for monetary damages for any breach of fiduciary duty as a director, notwithstanding any provision of law imposing such liability, except to the extent that the General Corporation Law of the State of Delaware prohibits the elimination or limitation of liability of directors for breaches of fiduciary duty.

Section 145 of the General Corporation Law of the State of Delaware provides that a corporation has the power to indemnify a director, officer, employee, or agent of the corporation, or a person serving at the request of the corporation for another corporation, partnership, joint venture, trust or other enterprise in related capacities against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by the person in connection with an action, suit or proceeding to which he was or is a party or is threatened to be made a party to any threatened, ending or completed action, suit or proceeding by reason of such position, if such person acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interests of the corporation, and, in any criminal action or proceeding, had no reasonable cause to believe his conduct was unlawful, except that, in the case of actions brought by or in the right of the corporation, no indemnification shall be made with respect to any claim, issue or matter as to which such person shall have been adjudged to be liable to the corporation unless and only to the extent that the Court of Chancery or other adjudicating court determines that, despite the adjudication of liability but in view of all of the circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses which the Court of Chancery or such other court shall deem proper.

Our certificate of incorporation provides that we will indemnify each person who was or is a party or threatened to be made a party to any threatened, pending or completed action, suit or proceeding (other than an action by or in the right of us) by reason of the fact that he or she is or was, or has agreed to become, a director or officer, or is or was serving, or has agreed to serve, at our request as a director, officer, partner, employee or trustee of, or in a similar capacity with, another corporation, partnership, joint venture, trust or other enterprise (all such persons being referred to as an "Indemnitee"), or by reason of any action alleged to have been taken or omitted in such capacity, against all expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred in connection with such action, suit or proceeding and any appeal therefrom, if such Indemnitee acted in good faith and in a manner he or she reasonably

believed to be in, or not opposed to, our best interests, and, with respect to any criminal action or proceeding, he or she had no reasonable cause to believe his or her conduct was unlawful. Our restated certificate of incorporation provides that we will indemnify any Indemnitee who was or is a party to an action or suit by or in the right of us to procure a judgment in our favor by reason of the fact that the Indemnitee is or was, or has agreed to become, a director or officer, or is or was serving, or has agreed to serve, at our request as a director, officer, partner, employee or trustee of, or in a similar capacity with, another corporation, partnership, joint venture, trust or other enterprise, or by reason of any action alleged to have been taken or omitted in such capacity, against all expenses (including attorneys' fees) and, to the extent permitted by law, amounts paid in settlement actually and reasonably incurred in connection with such action, suit or proceeding, and any appeal therefrom, if the Indemnitee acted in good faith and in a manner he or she reasonably believed to be in, or not opposed to, our best interests, except that no indemnification shall be made with respect to any claim, issue or matter as to which such person shall have been adjudged to be liable to us, unless a court determines that, despite such adjudication but in view of all of the circumstances, he or she is entitled to indemnification of such expenses. Notwithstanding the foregoing, to the extent that any Indemnitee has been successful, on the merits or otherwise, he or she will be indemnified by us against all expenses (including attorneys' fees) actually and reasonably incurred in connection therewith. Expenses must be advanced to an Indemnitee under certain circumstances.

We have entered into indemnification agreements with each of our directors and officers. These indemnification agreements may require us, among other things, to indemnify our 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 our directors or officers, or any of our subsidiaries or any other company or enterprise to which the person provides services at our request.

We maintain a general liability insurance policy that covers certain liabilities of directors and officers of our corporation arising out of claims based on acts or omissions in their capacities as directors or officers.

In any underwriting agreement we enter into in connection with the sale of Class A common stock being registered hereby, the underwriters will agree to indemnify, under certain conditions, us, our directors, our officers and persons who control us within the meaning of the Securities Act of 1933, as amended, against certain liabilities.

**Item 16. Exhibits**

| <u>Exhibit Number</u> | <u>Description</u>   |
|-----------------------|--|
| 3.1                   | <a href="#">Second Amended and Restated Certificate of Incorporation of Desktop Metal, Inc. (incorporated by reference to the Company's Current Report on Form 8-K filed on December 14, 2020).</a>  |
| 3.2                   | <a href="#">Amended and Restated Bylaws of Desktop Metal, Inc. (incorporated by reference to the Company's Current Report on Form 8-K filed on December 14, 2020).</a>   |
| 4.1                   | <a href="#">Rights Agreement, dated as of May 26, 2023, between Desktop Metal, Inc. and Continental Stock Transfer &amp; Trust Company, which includes the Form of Certificate of Designations of Series A Junior Participating Preferred Stock as Exhibit A, the Form of Right Certificate as Exhibit B and the Summary of Rights to Purchase Preferred Stock as Exhibit C (incorporated by reference to Exhibit 4.1 of the Current Report on Form 8-K dated May 26, 2023 of Desktop Metal, Inc.)</a> |
| 4.2                   | <a href="#">Form of Specimen Certificate Representing Class A Common Stock (incorporated by reference to the Company's Registration Statement on Form S-1 filed on March 8, 2019).</a>   |
| 5.1                   | <a href="#">Opinion of Latham &amp; Watkins LLP.</a>   |
| 23.1                  | <a href="#">Consent of Latham &amp; Watkins LLP (included in Exhibit 5.1).</a>   |
| 23.2                  | <a href="#">Consent of Deloitte &amp; Touche LLP, independent registered public accounting firm.</a>   |
| 24.1                  | Powers of Attorney (incorporated by reference to signature page hereto).   |
| 107                   | <a href="#">Filing Fee Table.</a>  |

**Item 17. 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 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 Commission 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), (a)(1)(ii), and (a)(1)(iii) above 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 Commission by the registrant pursuant to section 13 or section 15(d) of the Securities Exchange Act of 1934 that are incorporated by reference in the registration statement, or is contained in a form of prospectus filed pursuant to Rule 424(b) that is a part of 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.

(4) That, for the purpose of determining liability under the Securities Act of 1933 to any purchaser:

Each prospectus filed pursuant to Rule 424(b) as part of a registration statement relating to an offering, other than registration statements relying on Rule 430B or other than prospectuses filed in reliance on Rule 430A, shall be deemed to be part of and included in the registration statement as of the date it is first used after effectiveness. Provided, however, that no statement made in a registration statement or prospectus that is part of the registration statement or made in a document incorporated or deemed incorporated by reference into the registration statement or prospectus that is part of the registration statement will, as to a purchaser with a time of contract of sale prior to such first use, supersede or modify any statement that was made in the registration statement or prospectus that was part of the registration statement or made in any such document immediately prior to such date of first use.

(5) That, for the purpose of determining liability of the registrant under the Securities Act of 1933 to any purchaser in the initial distribution of the securities:

The undersigned registrant undertakes that in a primary offering of securities of the undersigned registrant pursuant to this registration statement, regardless of the underwriting method used to sell the securities to the purchaser, if

the securities are offered or sold to such purchaser by means of any of the following communications, the undersigned registrant will be a seller to the purchaser and will be considered to offer or sell such securities to such purchaser:

- (i) Any preliminary prospectus or prospectus of the undersigned registrant relating to the offering required to be filed pursuant to Rule 424;
  - (ii) Any free writing prospectus relating to the offering prepared by or on behalf of the undersigned registrant or used or referred to by the undersigned registrant;
  - (iii) The portion of any other free writing prospectus relating to the offering containing material information about the undersigned registrant or its securities provided by or on behalf of the undersigned registrant; and
  - (iv) Any other communications that is an offer in the offering made by the undersigned registrant to the purchaser.
- (b) The undersigned 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 Section 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.
- (c) 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 Securities and Exchange Commission 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-3 and has duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Burlington, Commonwealth of Massachusetts, on June 20, 2023.

**DESKTOP METAL, INC.**

By: /s/ Ric Fulop  
Ric Fulop  
Chief Executive Officer and Chairman

Pursuant to the requirements of the Securities Act of 1933, as amended, this registration statement has been signed below by the following persons in the capacities and on the dates indicated.

| <u>Signature</u>   | <u>Title</u>   | <u>Date</u>   |
|--|--|---------------|
| <u>/s/ Ric Fulop</u><br>Ric Fulop                          | Chief Executive Officer and Chairman (principal executive officer)                     | June 20, 2023 |
| <u>/s/ Jason Cole</u><br>Jason Cole                        | Chief Financial Officer (principal financial officer and principal accounting officer) | June 20, 2023 |
| <u>*</u><br>Scott Dussault                                 | Director   | June 20, 2023 |
| <u>*</u><br>James Eisenstein                               | Director   | June 20, 2023 |
| <u>*</u><br>Dayna Grayson                                  | Director   | June 20, 2023 |
| <u>*</u><br>Wen Hsieh                                      | Director   | June 20, 2023 |
| <u>*</u><br>Jeff Immelt                                    | Director   | June 20, 2023 |
| <u>*</u><br>Stephen Nigro                                  | Director   | June 20, 2023 |
| <u>*</u><br>Steve Papa                                     | Director   | June 20, 2023 |
| <u>*</u><br>Bilal Zuberi                                   | Director   | June 20, 2023 |
| <u>*By: /s/ Ric Fulop</u><br>Ric Fulop<br>Attorney-in-fact |  |               |



## LATHAM &amp; WATKINS LLP

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 www.lw.com

## FIRM / AFFILIATE OFFICES

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

June 20, 2023

Desktop Metal, Inc.  
 63 3rd Avenue  
 Burlington, Massachusetts 01803

Re: Registration Statement on Form S-3

To the addressee set forth above:

We have acted as special counsel to Desktop Metal, Inc., a Delaware corporation (the “*Company*”), in connection with the resale from time to time by the selling stockholders named in the Registration Statement (as defined below) of up to 444,793 shares (the “*Shares*”) of the Company’s Class A common stock, par value \$0.0001 per share (“*Common Stock*”), and the associated rights to acquire Common Stock (“*Rights*”) issued pursuant to the Rights Agreement, dated May 26, 2023 (the “*Rights Agreement*”), between the Company and Continental Stock Transfer & Trust Company, as rights agent. The Shares and associated Rights are included in a registration statement on Form S-3 under the Securities Act of 1933, as amended (the “*Act*”), filed with the Securities and Exchange Commission (the “*Commission*”) on the date hereof (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 related Prospectus, other than as expressly stated herein with respect to the issue of the Shares and the associated Rights.

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, 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, the Shares and associated Rights have been duly authorized by all necessary corporate action of the Company and are validly issued, and the Shares are fully paid and nonassessable.

This letter assumes, with your consent, that the Board of Directors of the Company has acted in accordance with its fiduciary duties in adopting the Rights Agreement, and does not address whether the Board of Directors may be required to redeem or terminate, or take other action with respect to, the Rights in the future based on the facts and circumstances then existing. Moreover, this letter addresses corporate procedures in connection with the issuance of the Rights associated with the Shares, and not any particular provision of the Rights or the Rights

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Agreement. It should be understood that it is not settled whether the invalidity of any particular provision of a rights agreement or of rights issued thereunder would result in invalidating in their entirety such rights.

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 and to the reference to our firm in the Prospectus under the heading "Legal Matters." 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.

Sincerely,  
/s/ Latham & Watkins LLP

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**CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM**

We consent to the incorporation by reference in this Registration Statement on Form S-3 of our reports dated March 1, 2023, relating to the financial statements of Desktop Metal, Inc. and the effectiveness of Desktop Metal, Inc.'s internal control over financial reporting, appearing in the Annual Report on Form 10-K of Desktop Metal, Inc. for the year ended December 31, 2022. We also consent to the reference to us under the heading "Experts" in such Registration Statement.

/s/ Deloitte & Touche LLP

Boston, Massachusetts

June 20, 2023

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## Calculation of Filing Fee Tables

**Form S-3**  
(Form Type)

**Desktop Metal, Inc.**

(Exact Name of Registrant as Specified in its Charter)

Table 1: Newly Registered and Carry Forward Securities

|                      | Security Type                     | Security Class Title  | Fee Calculation or Carry Forward Rule | Amount Registered | Proposed Maximum Offering Price Per Unit <sup>(1)</sup> | Maximum Aggregate Offering Price <sup>(1)</sup> | Fee Rate   | Amount of Registration Fee |
|----------------------|-----------------------------------|---|---------------------------------------|-------------------|---|---|------------|----------------------------|
| Fees Previously Paid | Equity                            | Class A Common Stock, par value \$0.0001 per share <sup>(2)</sup> | 457(c)                                | 444,793           | \$1.78  | \$789,507.58                                    | 0.00011020 | \$87.00                    |
|                      | <b>Total Offering Amounts</b>     |   |                                       |                   |   | \$789,507.58                                    |            |                            |
|                      | <b>Total Fees Previously Paid</b> |   |                                       |                   |   | \$87.00   |            |                            |
|                      | <b>Total Fee Offsets</b>          |   |                                       |                   |   | —   |            |                            |
|                      | <b>Net Fee Due</b>                |   |                                       |                   |   | —   |            |                            |

(1) Estimated solely for the purpose of calculating the registration fee pursuant to Rules 457(c) of the Securities Act, and based upon the average of the high and low prices of the Class A common shares as reported on the New York Stock Exchange on May 5, 2023.

(2) Includes the preferred stock purchase rights attached to each share of Class A common stock pursuant to the rights agreement adopted on May 26, 2023, which rights are not currently separable from the shares of Class A common stock and are not currently exercisable.