

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

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

CARLOTZ, INC.
(Exact name of registrant as specified in its charter)

Delaware
(State or other jurisdiction of
incorporation or organization)

83-2456129
(I.R.S. Employer
Identification No.)

611 Bainbridge Street, Suite 100
Richmond, Virginia
(Address of principal executive offices)

23224
(Zip Code)

CARLOTZ, INC. 2020 INCENTIVE AWARD PLAN
(Full title of the plan)

Rebecca C. Polak, Esq.
Chief Commercial Officer and General Counsel
611 Bainbridge Street, Suite 100
Richmond, Virginia 23224
(804) 728-3833

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

Copies to:

Valerie Ford Jacob, Esq.
Freshfields Bruckhaus Deringer US LLP
601 Lexington Avenue
New York, New York 10022
(212) 277-4000

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, a smaller reporting company or an emerging growth company. See the definitions of “large accelerated filer,” “accelerated filer,” “smaller reporting company” and “emerging growth company” in Rule 12b-2 of the Exchange Act.

Large accelerated filer
Non-accelerated filer

Accelerated filer
Smaller reporting company
Emerging growth company

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 7(a)(2)(B) of the Securities Act.

CALCULATION OF REGISTRATION FEE

Title of Securities to be Registered	Amount to be Registered ⁽¹⁾	Proposed Maximum Offering Price per Share ⁽²⁾	Proposed Maximum Aggregate Offering Price	Amount of Registration Fee ⁽³⁾
Class A common stock, \$0.0001 par value per share, to be issued pursuant to the CarLotz, Inc. 2020 Incentive Award Plan	9,531,857	\$5.11	\$48,707,789.27	\$5,314.02

- (1) This Registration Statement shall also cover any additional shares of Class A common stock, \$0.0001 par value per share (the “Shares”), of CarLotz, Inc. (the “Registrant”) that become issuable under the CarLotz, Inc. 2020 Incentive Award Plan (the “Plan”) being registered pursuant to this Registration Statement by reason of any share dividend, share split, recapitalization or any other similar transaction effected without the receipt of consideration that results in an increase in the number of the outstanding Shares.
- (2) Determined in accordance with Rules 457(c) and 457(h) under the Securities Act of 1933, as amended (the “Securities Act”), solely for the purpose of determining the registration fee. Determined based on the average of the high and low prices of a Share, reported on the Nasdaq Global Market on June 4, 2021.
- (3) Determined in accordance with Section 6(b) of the Securities Act at a rate equal to \$109.10 per \$1,000,000 of the proposed maximum aggregate offering price.



PART I

INFORMATION REQUIRED IN THE SECTION 10(a) PROSPECTUS

Item 1. Plan Information*

Item 2. Registrant Information and Employee Plan Annual Information*

* Information required by Part I to be contained in the Section 10(a) prospectus is omitted from this Registration Statement in accordance with Rule 428 under the Securities Act and the “Note” to Part I of Form S-8. The documents containing the information specified in this Part I of Form S-8 will be sent or given to the participants (“participants”) in the Plan covered by this Registration Statement, as specified by the U.S. Securities and Exchange Commission (the “Commission”), pursuant to Rule 428(b)(1) under the Securities Act. Such documents are not required to be and are not filed with the Commission either as part of this Registration Statement or as prospectuses or prospectus supplements pursuant to Rule 424 under the Securities Act. These documents and the documents incorporated by reference in this Registration Statement pursuant to Item 3 of Part II hereof, taken together, constitute a prospectus that meets the requirements of Section 10(a) of the Securities Act.

PART II

INFORMATION REQUIRED IN THE REGISTRATION STATEMENT

Item 3. Incorporation of Documents by Reference

The following documents filed by the Registrant with the Commission are incorporated as of their respective dates in this Registration Statement by reference:

- (a) The Registrant's prospectus dated June 5, 2021 pursuant to Rule 424(b) under the Securities Act relating to the Registration Statement on Form S-1, as amended ([File No. 333-252993](#)), which contains audited financial statements for the Registrant's latest fiscal year for which such statements have been filed;
- (b) All other reports filed pursuant to Section 13(a) or 15(d) of the Securities Exchange Act of 1934, as amended (the "Exchange Act"), since the end of the fiscal year covered by the registrant document referred to in (a) above; and
- (c) The description of the Registrant's Shares contained in and incorporated by reference into the Registrant's Registration Statement on Form 8-A filed with the Commission on [February 21, 2019](#), and any amendment or report updating that description.

All other documents subsequently filed by the Registrant pursuant to Sections 13(a), 13(c), 14 or 15(d) of the Exchange Act (except for any portions of the Registrant's Current Reports on Form 8-K furnished pursuant to Item 2.02 or Item 7.01 thereof and any corresponding exhibits thereto not filed with the Commission, and other documents or information deemed furnished but not filed under the rules of the Commission), prior to the filing of a post-effective amendment to this Registration Statement that indicates that all securities offered hereby have been sold or which deregisters all securities then remaining unsold, shall be deemed to be incorporated by reference in this Registration Statement and to be a part hereof from the date of filing of such documents. Any statement contained herein or in a document all or a portion of which is incorporated or deemed to be incorporated by reference herein shall be deemed to be modified or superseded for purposes of this Registration Statement to the extent that a statement contained herein or in any other subsequently filed document that also is or is deemed to be incorporated by reference herein modifies or supersedes such statement. Any such statement so modified or superseded shall not be deemed, except as so modified or superseded, to constitute a part of this Registration Statement.

Item 4. Description of Securities

Not required.

Item 5. Interests of Named Experts and Counsel

None.

Item 6. Indemnification of Directors and Officers

The Delaware General Corporation Law ("DGCL") authorizes corporations to limit or eliminate the personal liability of directors to corporations and their stockholders for monetary damages for breaches of directors' fiduciary duties, subject to certain exceptions. The Registrant's certification of incorporation includes a provision that eliminates the personal liability of directors for monetary damages for any breach of fiduciary duty as a director, except to the extent such exemption from liability or limitation thereof is not permitted under the DGCL. The effect of these provisions is to eliminate the rights of the Registrant and its stockholders, through stockholders' derivative suits on the Registrant's behalf, to recover monetary damages from a director for breach of fiduciary duty as a director, including breaches resulting from grossly negligent behavior. However, exculpation does not apply to any director if the director has acted in bad faith, knowingly or intentionally violated the law, authorized illegal dividends or redemptions or derived an improper benefit from his or her actions as a director.

The Registrant's bylaws provide that the Registrant must indemnify and advance expenses to the Registrant's directors and officers to the fullest extent authorized by the DGCL. The Registrant also is expressly authorized to carry directors' and officers' liability insurance providing indemnification for the Registrant's directors, officers and certain employees for some liabilities. The Registrant believes that these indemnification and advancement provisions and insurance are useful to attract and retain qualified directors and executive officers.

The limitation of liability, advancement and indemnification provisions in the Registrant's certificate of incorporation and bylaws may discourage stockholders from bringing a lawsuit against the Registrant's directors for breach of their fiduciary duty.

These provisions also may have the effect of reducing the likelihood of derivative litigation against the Registrant's directors and officers, even though such an action, if successful, might otherwise benefit the Registrant and its stockholders. In addition, a stockholder's investment may be adversely affected to the extent the Registrant pays the costs of settlement and damage awards against its directors and officers pursuant to these indemnification provisions.

The Registrant has entered into indemnification agreements with each of its current directors and executive officers. These agreements require the Registrant to indemnify these individuals to the fullest extent permitted under Delaware law against liabilities that may arise by reason of their service to the Registrant, and to advance expenses incurred as a result of any proceeding against them as to which they could be indemnified. The Registrant also intends to enter into indemnification agreements with future directors and executive officers.

Item 7. Exemption from Registration Claimed

Not applicable.

Item 8. Exhibits

The exhibits listed on the exhibit index at the end of this Registration Statement are included in this Registration Statement.

Item 9. Undertakings

(a) The undersigned Registrant hereby undertakes:

- (1) To file, during any period in which offers or sales are being made, a post-effective amendment to this Registration Statement:
 - (i) to include any prospectus required by Section 10(a)(3) of the Securities Act;
 - (ii) to reflect in the prospectus any facts or events arising after the effective date of this 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 this Registration Statement; and
 - (iii) to include any material information with respect to the plan of distribution not previously disclosed in this Registration Statement or any material change to such information in this Registration Statement.

provided, however, that paragraphs (a)(1)(i) and (a)(1)(ii) above do not apply if the information required to be included in a post-effective amendment by those paragraphs is contained in periodic reports filed with or furnished to the Commission by the Registrant pursuant to Section 13 or Section 15(d) of the Exchange Act that are incorporated by reference in the Registration Statement.
- (2) That, for the purpose of determining any liability under the Securities Act, each such post-effective amendment shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial *bona fide* offering thereof; and
- (3) To remove from registration by means of a post-effective amendment any of the securities being registered which remain unsold at the termination of the offering.

(b) The undersigned Registrant hereby undertakes that, for purposes of determining any liability under the Securities Act, each filing of the Registrant's annual report pursuant to Section 13(a) or 15(d) of the Exchange Act (and, where applicable, each filing of an employee benefit plan's annual report pursuant to Section 15(d) of the Exchange Act) that is incorporated by reference in this 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) The undersigned Registrant hereby undertakes that, insofar as indemnification for liabilities arising under the Securities Act may be permitted to directors, officers and controlling persons of the Registrant, the Registrant has been advised that in the opinion of the 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.

EXHIBITS

Exhibit No.	Description
<u>3.1</u>	<u>Second Amended and Restated Certificate of Incorporation of the Registrant (incorporated by reference to Exhibit 3.1 to the Registration Statement on Form S-1 (File No. 333-252993) filed with the Commission by the Registrant on February 11, 2021).</u>
<u>4.1</u>	<u>Specimen Common Stock Certificate of the Registrant (incorporated by reference to Exhibit 4.5 to Amendment No. 2 to the Registration Statement on Form S-4 (File No. 333-249723) filed with the Commission by the Registrant on December 16, 2020).</u>
<u>4.2</u>	<u>Specimen Warrant Certificate of the Registrant (incorporated by reference to Exhibit 4.6 to Amendment No. 2 to the Registration Statement on Form S-4 (File No. 333-249723) filed with the Commission by the Registrant on December 16, 2020).</u>
<u>4.3</u>	<u>Warrant Agreement, dated February 21, 2019, between the Registrant and American Stock Transfer & Trust Company, LLC (incorporated by reference to Exhibit 4.1 to the Current Report on Form 8-K (File No. 001-38818) filed with the Commission by the Registrant on February 26, 2019).</u>
<u>5.1*</u>	<u>Opinion of Freshfields Bruckhaus Deringer US LLP, counsel to the Registrant, regarding the legality of the securities being offered hereby (including consent).</u>
<u>10.1</u>	<u>CarLotz, Inc. 2011 Stock Incentive Plan (incorporated by reference to Exhibit 10.25 to Amendment No. 1 to the Registration Statement on Form S-4 (File No. 333-249723) filed with the Commission by the Registrant on December 16, 2020).</u>
<u>10.2</u>	<u>CarLotz, Inc. 2017 Stock Option Plan (incorporated by reference to Exhibit 10.26 to Amendment No. 1 to the Registration Statement on Form S-4 (File No. 333-249723) filed with the Commission by the Registrant on December 16, 2020).</u>
<u>23.1*</u>	<u>Consent of Deloitte & Touche LLP.</u>
<u>23.2*</u>	<u>Consent of Freshfields Bruckhaus Deringer US LLP (included in Exhibit 5.1).</u>
<u>24.1*</u>	<u>Power of Attorney (included as part of the signature pages to this Post-Effective Amendment).</u>

* Filed herewith

SIGNATURES

The Registrant. Pursuant to the requirements of the Securities Act, the Registrant certifies that it has reasonable grounds to believe that it meets all of the requirements for filing on Form S-8 and has duly caused this Registration Statement to be signed on its behalf by the undersigned, thereunto duly authorized, in Richmond, Virginia on the 11th day of June, 2021.

CARLOTZ, INC.

By: /s/ Rebecca C. Polak

Name: Rebecca C. Polak

Title: Chief Commercial Officer and General Counsel

POWER OF ATTORNEY

KNOW ALL PERSONS BY THESE PRESENTS, that each person whose signature appears below hereby constitutes and appoints each of Michael W. Bor and Rebecca C. Polak as such person's true and lawful attorney-in-fact and agent, with full power of substitution and resubstitution, for such person and in such person's name, place and stead, in any and all capacities, to sign any and all amendments to the Registration Statement, including post-effective amendments, and registration statements filed pursuant to Rule 462 under the Securities Act, and to file the same, with all exhibits thereto, and other documents in connection therewith, with the Commission, and does hereby grant unto each said attorney-in-fact and agent full power and authority to do and perform each and every act and thing requisite and necessary to be done in and about the premises, as fully to all intents and purposes as such person might or could do in person, hereby ratifying and confirming all that each said attorney-in-fact and agent, or any substitute therefor, may lawfully do or cause to be done by virtue hereof.

Pursuant to the requirements of the Securities Act, this Registration Statement has been signed by the following persons in the capacities indicated on the 11th day of June, 2021:

Signature	Title	Date
<hr/> <i>/s/ Michael W. Bor</i> Michael W. Bor	Chief Executive Officer and Chairman of the Board (Principal Executive Officer)	June 11, 2021
<hr/> <i>/s/ Thomas W. Stoltz</i> Thomas W. Stoltz	Chief Financial Officer (Principal Financial and Accounting Officer)	June 11, 2021
<hr/> <i>/s/ David R. Mitchell</i> David R. Mitchell	Director	June 11, 2021
<hr/> <i>/s/ Luis Ignacio Solorzano Aizpuru</i> Luis Ignacio Solorzano Aizpuru	Director	June 11, 2021
<hr/> <i>/s/ Kimberly H. Sheehy</i> Kimberly H. Sheehy	Director	June 11, 2021
<hr/> <i>/s/ Steven G. Carrel</i> Steven G. Carrel	Director	June 11, 2021
<hr/> <i>/s/ James E. Skinner</i> James E. Skinner	Director	June 11, 2021

/s/ Linda B. Abraham
Linda B. Abraham

Director

June 11, 2021

/s/ Sarah M. Kauss
Sarah M. Kauss

Director

June 11, 2021



New York
601 Lexington Avenue
31st Floor
New York, NY 10022
www.freshfields.com

CarLotz, Inc.
611 Bainbridge Street
Suite 100
Richmond, Virginia 23224

June 11, 2021

Ladies and Gentlemen:

We are acting as counsel to CarLotz, Inc., a Delaware corporation (the *Company*), in connection with the preparation and filing with the Securities and Exchange Commission (the *Commission*) of a Registration Statement on Form S-8 (as amended from time to time, the *Registration Statement*), under the Securities Act of 1933, as amended (the *Securities Act*), relating to 9,531,857 shares of Class A common stock (the *Shares*), par value \$0.0001 per share, of the Company, issuable pursuant to the CarLotz, Inc. 2020 Incentive Award Plan (the *Plan*).

This opinion is confined to the General Corporation Law of the State of Delaware, as currently in effect. Accordingly, we express no opinion herein with regard to any other laws. The opinions expressed herein are limited to the matters stated herein, and no opinion is implied or may be inferred beyond the matters expressly stated herein. We do not undertake to advise you of changes in law or facts that may come to our attention after the date of this letter.

We have examined and have relied as to matters of fact upon such corporate and other records, agreements, documents and other instruments and certificates or comparable documents of public officials and of officers and representatives of the Company and such other persons, and we have made such other investigations, as we have deemed relevant and necessary as a basis for the opinions expressed below.

In our examination, we have assumed the genuineness of all signatures, the legal capacity of natural persons, the authenticity of all documents submitted to us as originals and the conformity with authentic originals of all documents submitted to us as copies. As to any facts material to the opinions expressed herein that we did not independently establish or verify, we have relied, without independent verification, upon oral or written statements and representations of public officials, officers and other representatives of the Company. We have also assumed that the individual grants or awards under the Plan have been duly authorized by all necessary corporate action and duly granted or awarded and exercised in accordance with the requirements of law and the Plan (and the agreements and awards duly adopted thereunder and in accordance therewith).

Based upon the foregoing, and subject to the limitations, qualifications and assumptions set forth herein, we are of the opinion that the Shares have been authorized by the Company and, when the Shares are issued by the Company in accordance with the terms of the Plan and the applicable award agreements pursuant to which the awards related to the Shares are made, the Shares will be validly issued, fully paid and non-assessable.

We hereby consent to the filing of this opinion with the Commission as Exhibit 5.1 to the Registration Statement. In giving this consent, we do not hereby admit that we are in the category of persons whose consent is required under Section 7 of the Securities Act.

Sincerely yours,

/s/ Freshfields Bruckhaus Deringer US LLP

CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

We consent to the incorporation by reference in this Registration Statement on Form S-8 of our report dated March 15, 2021 (May 25, 2021, as to the effects of the reverse recapitalization described in Note 3 and subsequent events described in Note 24) relating to the financial statements of CarLotz, Inc., which appears in Post-Effective Amendment No. 1 to the Registration Statement on Form S-1 (No. 333-252993) of CarLotz, Inc.

/s/DELOITTE & TOUCHE LLP

Detroit, Michigan

June 11, 2021
