

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

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

**AGRIFY CORPORATION**  
(Exact name of registrant as specified in its charter)

**Nevada**

(State or other jurisdiction of  
incorporation or organization)

**30-0943453**

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

**2468 Industrial Row Dr.  
Troy, MI**

(Address of Principal Executive Offices)

**48084**

(Zip Code)

**Agrify Corporation 2022 Omnibus Equity Incentive Plan**  
(Full title of the plans)

**Benjamin Kovler  
Interim Chief Executive Officer  
2468 Industrial Row Dr.  
Troy, MI**

(Name and address of agent for service)

**(855) 420-0020**

(Telephone number, including area code, of agent for service)

*With a copy to:*

**Frank A. Segall, Esq.  
Robert A. Petitt, Esq.  
Blank Rome LLP  
125 High Street  
Boston, MA 02110  
(617) 415-1200**

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.

## EXPLANATORY NOTE

Agrify Corporation, a Nevada corporation (the “Company,” “we,” “us” or “our”), previously registered 1,765 shares of the Company’s common stock, \$0.001 par value per share (the “Common Stock”), available for issuance pursuant to the Agrify Corporation 2022 Omnibus Equity Incentive Plan (the “Plan”). The Company registered such shares of Common Stock under the Plan on [Form S-8](#) Registration Statement filed with the Securities and Exchange Commission (“SEC”) on July 1, 2022 (Registration Number 333-265950), in accordance with the Securities Act of 1933, as amended.

On January 8, 2024, the Company’s shareholders approved an amendment to the Plan to increase the number of shares of Common Stock which may be issued pursuant to the Plan by an additional 16,666 shares, and on August 12, 2024, the Company’s shareholders approved an amendment to the Plan to increase the number of shares of Common Stock which may be issued pursuant to the Plan by an additional 166,666 shares. This Registration Statement on Form S-8 is being filed to register the additional 183,332 shares of Common Stock for issuance under the Plan pursuant to the amendments to the plan described above (the “Additional Shares”).

The share numbers set forth above retroactively reflect the 1-for-10 reverse stock split completed by the Company on October 18, 2022, the 1-for-20 reverse stock split completed by the Company on July 5, 2023, and the 1-for-15 reverse stock split completed by the Company on October 8, 2024, as applicable.

Pursuant to General Instruction E of Form S-8, the contents of the [Form S-8](#) Registration Statement filed with the SEC on July 1, 2022 (Registration Number 333-265950) are incorporated herein by reference, except to the extent supplemented, amended or superseded by the information set forth herein.

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## Part II

### INFORMATION REQUIRED IN THE REGISTRATION STATEMENT

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

The rules of the SEC allow us to incorporate by reference into this Registration Statement the information we file with them, which means that we can disclose important information to you by referring you to those documents. The information incorporated by reference is considered to be part of this Registration Statement, and information that we file later with the Commission will automatically update and supersede this information. This Registration Statement incorporates by reference the documents listed below (other than portions of these documents that are deemed furnished under applicable Commission rules rather than filed and exhibits furnished in connection with such items):

- a) Our Annual Report on Form 10-K for the year ended December 31, 2023 filed with the SEC on [April 15, 2024](#), as amended on [April 29, 2024](#);
- b) Our Quarterly Reports on Form 10-Q for the quarter ended March 31, 2024, filed with the SEC on [May 21, 2024](#), as amended on [August 14, 2024](#), and for the quarters ended June 30, 2024 and September 30, 2024 filed with the SEC on [August 14, 2024](#) and [November 14, 2024](#), respectively;
- c) Our Current Reports on Form 8-K filed with the SEC on [January 8, 2024](#) (other than as set forth therein), [January 25, 2024](#), [January 31, 2024](#), [February 28, 2024](#), [March 6, 2024](#), [April 22, 2024](#) (other than as set forth therein), [May 16, 2024](#) (other than as set forth therein), [May 20, 2024](#) (other than as set forth therein), [May 22, 2024](#) (other than as set forth therein), [June 26, 2024](#), [July 3, 2024](#), [July 22, 2024](#), [August 9, 2024](#), [August 13, 2024](#) (other than as set forth therein), [August 14, 2024](#), [August 29, 2024](#), [September 4, 2024](#), [September 6, 2024](#), [October 1, 2024](#), [October 4, 2024](#), [October 22, 2024](#), [November 5, 2024](#) (other than as set forth therein) and [November 21, 2024](#);
- d) Our Definitive Proxy Statement on Schedule 14A filed with the SEC on [July 22, 2024](#), as supplemented on August 9, 2024;
- e) Our Definitive Information Statement on Schedule 14C filed with the SEC on [September 16, 2024](#); and
- f) The Description of our Common Stock Registered Pursuant to Section 12 of the Securities Exchange Act of 1934 filed with the SEC on April 2, 2021 as [Exhibit 4.5](#) to the Registrant's Annual Report on [Form 10-K](#) for the fiscal year ended December 31, 2020.

All documents that the registrant subsequently files pursuant to Sections 13(a), 13(c), 14 and 15(d) of the Exchange Act (other than any such documents or portions thereof that are deemed to have been furnished and not filed in accordance with the rules of the SEC), prior to the filing of a post-effective amendment to this Registration Statement which indicates that all of the shares of common stock offered have been sold or which deregisters all of such shares 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 the filing of such documents.

Any statement contained in a document incorporated or deemed to be incorporated by reference herein shall be deemed to be modified or superseded to the extent that a statement contained herein or in any other subsequently filed document which 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 8. Exhibits.**

<b>Exhibit Number</b>	<b>Document</b>
4.1	<a href="#"><u>Articles of Incorporation of the Registrant (incorporated by reference to Exhibit 3.1 to the Registrant's Amendment No. 1 to Registration Statement on Form S-1 filed with the Securities and Exchange Commission on January 13, 2021).</u></a>
4.2	<a href="#"><u>Third Amended and Restated Certificate of Designations of the Series A Convertible Preferred Stock of the Registrant (incorporated by reference to Exhibit 3.2 to the Registrant's Amendment No. 1 to Registration Statement on Form S-1 filed with the Securities and Exchange Commission on January 13, 2021).</u></a>
4.3	<a href="#"><u>Second Amended and Restated Bylaws of the Registrant (incorporated by reference to Exhibit 3.1 to the Registrants Current Report on Form 8-K filed with the Securities and Exchange Commission on August 9, 2024).</u></a>
4.4	<a href="#"><u>2022 Agrify Corporation Omnibus Equity Incentive Plan, as amended (incorporated by reference to Appendix A to the Registrant's Definitive Proxy Statement on Schedule 14A filed with the Securities and Exchange Commission on July 22, 2024).</u></a>
4.6	<a href="#"><u>Form of Incentive Stock Option Agreement (incorporated by reference to Exhibit 4.6 to the Registrant's Registration Statement on Form S-8 filed with the Securities and Exchange Commission on July 1, 2022).</u></a>
4.7	<a href="#"><u>Form of Non-Qualified Stock Option Agreement (incorporated by reference to Exhibit 4.7 to the Registrant's Registration Statement on Form S-8 filed with the Securities and Exchange Commission on July 1, 2022).</u></a>
4.8	<a href="#"><u>Form of Restricted Stock Unit Agreement for Employees (incorporated by reference to Exhibit 4.8 to the Registrant's Registration Statement on Form S-8 filed with the Securities and Exchange Commission on July 1, 2022).</u></a>
4.9	<a href="#"><u>Form of Restricted Stock Unit Agreement for Directors (incorporated by reference to Exhibit 4.9 to the Registrant's Registration Statement on Form S-8 filed with the Securities and Exchange Commission on July 1, 2022).</u></a>
5.1*	<a href="#"><u>Opinion of Fennemore Craig, P.C.</u></a>
23.1*	<a href="#"><u>Consent of Marcum LLP</u></a>
23.2*	<a href="#"><u>Consent of Fennemore Craig, P.C. (contained in Exhibit 5.1).</u></a>
24.1*	<a href="#"><u>Power of Attorney (included on the signature page).</u></a>
107*	<a href="#"><u>Calculation of Filing Fees Table</u></a>

\* Filed herewith.

## SIGNATURES

Pursuant to the requirements of the Securities Act of 1933, as amended, the registrant certifies that it has reasonable grounds to believe that it meets all of the requirements for filing on Form S-8 and has duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the city of Chicago, State of Illinois, on November 25, 2024.

### AGRIFY CORPORATION

By: /s/ Benjamin Kovler  
Name: Benjamin Kovler  
Title: Chairman and Interim Chief Executive Officer

### POWER OF ATTORNEY

KNOW ALL PERSONS BY THESE PRESENTS, that each person whose signature appears below constitutes and appoints each of Benjamin Kovler, as his or her true and lawful attorney-in-fact and agent, with full power of substitution and resubstitution, for him or her and in his or her name, place and stead, in any and all capacities, to sign any and all amendments to this Registration Statement on Form S-8, and to file the same, with all exhibits thereto, and other documents in connection therewith, with the United States Securities and Exchange Commission, granting unto said attorneys-in-fact and agents, and each of them, full power and authority to do and perform each and every act and thing requisite and necessary to be done in connection therewith, as fully to all intents and purposes as he or she might or could do in person, hereby ratifying and confirming all that said attorneys-in-fact and agents, or any of them, or their or his or her substitutes or substitute, may lawfully do or cause to be done by virtue hereof.

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

<u>Signature</u>	<u>Title</u>	<u>Date</u>
<u>/s/ Benjamin Kovler</u> Benjamin Kovler	Chairman and Interim Chief Executive Officer (Principal Executive Officer and Principal Financial and Accounting Officer)	November 25, 2024
<u>/s/ Max Holtzman</u> Max Holtzman	Director	November 25, 2024
<u>/s/ Timothy Mahoney</u> Timothy Mahoney	Director	November 25, 2024
<u>/s/ Armon Vakili</u> Armon Vakili	Director	November 25, 2024
<u>/s/ Richard Drexler</u> Richard Drexler	Director	November 25, 2024
<u>/s/ Krishnan Varier</u> Krishnan Varier	Director	November 25, 2024



9275 W. Russell Road, Suite 240  
Las Vegas, Nevada 89148  
PH (702) 692-8026 | FX (702) 692-8075  
fennemorelaw.com

November 25, 2024

Agrify Corporation  
2468 Industrial Row Drive  
Troy, Michigan 48084

***Re: Agrify Corporation/Registration Statement on Form S-8***

Ladies and Gentlemen:

We have acted as special Nevada counsel to Agrify Corporation, a Nevada corporation (the "Company"), in connection with the registration by the Company of 183,332 shares (the "Shares") of its common stock, \$0.001 par value (the "Common Stock") that have or may be issued pursuant to the Company's 2022 Omnibus Equity Incentive Plan (the "Plan") on Form S-8 (the "Registration Statement") under the Securities Act of 1933, as amended ("Securities Act"), as filed with the Securities and Exchange Commission ("Commission").

For purposes of these opinions, we have examined originals or copies of:

- (a) the Registration Statement;
- (b) the Plan;
- (c) certain actions of the Board of Directors and stockholders of the Company relating to the adoption and approval of the Plan and such other matters as relevant.

We have obtained from officers and agents of the Company and from public officials, and have relied upon, such certificates, representations, and assurances as we have deemed necessary and appropriate for purposes of rendering this opinion letter. We have also examined such corporate charter documents, records, certificates, and instruments (collectively with the documents identified in (a) through (c) above, the "Documents") as we deem necessary or advisable to render the opinions set forth herein.

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In our examination we have assumed:

- (a) the legal capacity and competency of all natural persons executing the Documents;
- (b) the genuineness of all signatures on the Documents;
- (c) the authenticity of all Documents submitted to us as originals, and the conformity to original documents of all Documents submitted to us as copies;
- (d) that the parties to such Documents, other than the Company, had the power, corporate or other, to enter into and perform all obligations thereunder;
- (e) that such Documents are enforceable in accordance with their terms with respect to all parties thereto;
- (f) that at the time of issuance of any Shares, the Company validly exists and is duly qualified and in good standing under the laws of Nevada; and
- (g) other than with respect to the Company, the due authorization by all requisite action, corporate or other, of the execution and delivery by all parties of the Documents.

We have relied upon the accuracy and completeness of the information, factual matters, representations, and warranties contained in such documents.

In rendering the opinions set forth below, we have also assumed that:

- (a) at or prior to the time of issuance and delivery, the Shares will be registered by the transfer agent and registrar of such Shares;
  - (b) the Company will keep reserved a sufficient number of shares of its Common Stock to satisfy its obligations for issuances of Shares under the Plan;
  - (c) upon issuance of any of the Shares, the total number of shares of the Company's Common Stock issued and outstanding will not exceed the total number of shares of Common Stock that the Company is then authorized to issue under its charter documents; and
  - (d) each stock grant, stock option, or other security exercisable or exchangeable for a Share under the Plan has been, or will be, duly authorized, validly granted, and duly exercised or exchanged in accordance with the terms of the Plan, at the time of any grant of a Share or exercise of such stock option or other security under the Plan.
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Based on the foregoing and in reliance thereon, and subject to the assumptions, limitations and qualifications set forth herein, we are of the opinion that:

(a) the Shares that have been or may be issued under the Plan are duly authorized shares of the Company's Common Stock; and

(b) if, as, and when issued against receipt of the consideration therefor in accordance with the provisions of the Plan and in accordance with the Registration Statement, the Shares will be validly issued, fully paid, and nonassessable.

The opinions expressed herein are limited to the matters specifically set forth herein and no other opinion shall be inferred beyond the matters expressly stated. We disclaim any undertaking to advise you of any subsequent changes in the facts stated or assumed herein or any changes in applicable law that may come to our attention after the date the Registration Statement is declared effective.

While certain members of this firm are admitted to practice in certain jurisdictions other than Nevada, in rendering the foregoing opinions we have not examined the laws of any jurisdiction other than Nevada. Accordingly, the opinions we express herein are limited to matters involving the laws of the State of Nevada (other than the securities laws and regulations of the State of Nevada, as to which we express no opinion). We express no opinion regarding the effect of the laws of any other jurisdiction or state, including any securities laws related to the issuance and sale of the Shares.

We hereby consent to the filing of this opinion as an exhibit to the Registration Statement and we consent to the reference of our name under the caption "Legal Matters" in the Prospectus forming a part of the Registration Statement. In giving the foregoing 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 or the rules and regulations of the Commission thereunder.

Very truly yours,

/s/ Fennemore Craig, P.C.

FENNEMORE CRAIG, P.C.

tmor/cdol

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INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM'S CONSENT

We consent to the incorporation by reference in this Registration Statement of Agrify Corporation and Subsidiaries on Form S-8 of our report dated April 15, 2024, which included an explanatory paragraph as to Agrify Corporation and Subsidiaries ability to continue as a going concern, with respect to our audits of the consolidated financial statements of Agrify Corporation and Subsidiaries as of December 31, 2023 and 2022 and for the two years in the period ended December 31, 2023, which is part of this Registration Statement. We were dismissed as auditors on June 20, 2024 and, accordingly, we have not performed any audit or review procedures with respect to any financial statements incorporated by reference in the Registration Statement for the periods after the date of June 20, 2024.

/s/ Marcum LLP

Marcum LLP  
Melville, NY  
November 25, 2024

## Calculation of Filing Fee Tables

## FORM S-8

(Form Type)

## AGRIFY CORPORATION

(Exact Name of Registrant as Specified in its Charter)

Table 1: Newly Registered Securities

Security Type	Security Class Title	Fee Calculation Rule	Amount Registered <sup>(1)</sup>	Proposed Maximum Offering Price Per Unit <sup>(2)</sup>	Maximum Aggregate Offering Price <sup>(1)</sup>	Fee Rate	Amount of Registration Fee <sup>(1)</sup>	
<b>Newly Registered Securities</b>								
Fees to Be Paid	Equity	Common stock, par value \$0.001 per share, that may be issued under the Agrify 2022 Omnibus Equity Incentive Plan	Rule 457(c) and Rule 457(h)	183,332 \$	20.075 \$	3,680,389.9 \$	153.10 per \$1,000,000 \$	563.47 \$
<b>Total Offering Amounts</b>					<b>\$ 3,680,389.9</b>		<b>\$ 563.47</b>	
<b>Total Fees Previously Paid</b>								<b>—</b>
<b>Total Fee Offsets</b>								<b>—</b>
<b>Net Fee Due</b>								<b>\$ 563.47</b>

- (1) Pursuant to Rule 416(a) under the Securities Act of 1933, as amended (the “Securities Act”), this registration statement shall also cover any additional shares of common stock, par value \$0.001 per share of the Registrant (the “Common Stock”) that may become issuable under the Agrify Corporation 2022 Omnibus Equity Incentive Plan, as amended (the “2022 Plan”) as a result of any stock dividend, stock split, recapitalization or other similar transaction which results in an increase in the number of shares of the Registrant’s outstanding Common Stock.
- (2) Estimated solely for the purpose of calculating the registration fee pursuant to Rules 457(c) and 457(h) under the Securities Act and based upon the average of the high and low prices of Common Stock, as reported on The Nasdaq Capital Market on November 19, 2024, which date is within five business days prior to the filing of this Registration Statement, which was \$20.075 per share.