

Research Solutions, Inc.
Form 10-Q
February 14, 2017

UNITED STATES

SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

FORM 10-Q

(Mark One)

QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

For the quarterly period ended: December 31, 2016

TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

For the transition period from _____ to _____

Commission File No. 000-53501

RESEARCH SOLUTIONS, INC.

(Exact name of registrant as specified in its charter)

Nevada

(State or other jurisdiction of incorporation or organization)

11-3797644

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

5435 Balboa Blvd., Suite 202, Encino, California

(Address of principal executive offices)

91316

(Zip Code)

(310) 477-0354

(Registrant's telephone number, including area code)

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(Former name, former address and former fiscal year, if changed since last report)

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes No

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate Web site, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T (§232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files). Yes No

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

Large accelerated filer Accelerated filer
Non-accelerated filer (Do not check if a smaller reporting company) Smaller reporting company

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act). Yes No

Indicate the number of shares outstanding of each of the issuer's classes of common stock as of the latest practicable date.

Title of Class	Number of Shares Outstanding on February 10, 2017
Common Stock, \$0.001 par value	23,875,188

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PART 1 — FINANCIAL INFORMATION**Item 1. Condensed Consolidated Financial Statements****Research Solutions, Inc. and Subsidiaries****Condensed Consolidated Balance Sheets**

	December 31, 2016 (unaudited)	June 30, 2016
Assets		
Current assets:		
Cash and cash equivalents	\$6,748,627	\$6,076,875
Accounts receivable, net of allowance of \$47,035 and \$52,084, respectively	5,065,558	5,761,860
Prepaid expenses and other current assets	220,750	164,610
Prepaid royalties	1,217,915	173,665
Total current assets	13,252,850	12,177,010
Other assets:		
Property and equipment, net of accumulated depreciation of \$667,067 and \$642,051, respectively	70,530	82,207
Intangible assets, net of accumulated amortization of \$583,280 and \$546,679, respectively	77,998	104,848
Deposits and other assets	18,968	7,594
Total assets	\$ 13,420,346	\$ 12,371,659
Liabilities and Stockholders' Equity		
Current liabilities:		
Accounts payable and accrued expenses	\$ 7,140,143	\$ 5,690,768
Deferred revenue	1,167,529	639,834
Total current liabilities	8,307,672	6,330,602
Commitments and contingencies		
Stockholders' equity:		
Preferred stock; \$0.001 par value; 20,000,000 shares authorized; no shares issued and outstanding	-	-
Common stock; \$0.001 par value; 100,000,000 shares authorized; 23,875,188 and 23,809,593 shares issued and outstanding, respectively	23,875	23,810
Additional paid-in capital	21,966,029	21,642,763

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Accumulated deficit	(16,835,921)	(15,582,295)
Accumulated other comprehensive loss	(41,309)	(43,221)
Total stockholders' equity	5,112,674	6,041,057
Total liabilities and stockholders' equity	\$ 13,420,346	\$ 12,371,659

See notes to condensed consolidated financial statements

Research Solutions, Inc. and Subsidiaries**Condensed Consolidated Statements of Operations and Other Comprehensive Income (Loss)****(Unaudited)**

	Three Months Ended December 31,		Six Months Ended December 31,	
	2016	2015	2016	2015
Revenue	\$8,530,067	\$9,315,226	\$16,188,783	\$17,342,327
Cost of revenue	6,932,055	7,718,924	13,061,374	14,191,678
Gross profit	1,598,012	1,596,302	3,127,409	3,150,649
Operating expenses:				
Selling, general and administrative	2,401,633	1,874,216	4,299,332	3,579,177
Depreciation and amortization	32,426	16,096	62,895	30,834
Total operating expenses	2,434,059	1,890,312	4,362,227	3,610,011
Loss from operations	(836,047)	(294,010)	(1,234,818)	(459,362)
Other income (expenses):				
Interest expense	(3,000)	(3,000)	(6,000)	(7,993)
Other income	5,424	4,641	10,134	7,410
Total other income (expenses)	2,424	1,641	4,134	(583)
Loss from operations before provision for income taxes	(833,623)	(292,369)	(1,230,684)	(459,945)
Provision for income taxes	(9,337)	(6,056)	(22,942)	(17,300)
Net loss	(842,960)	(298,425)	(1,253,626)	(477,245)
Other comprehensive income (loss):				
Foreign currency translation	5,195	(7,066)	1,912	(5,363)
Comprehensive loss	\$(837,765)	\$(305,491)	\$(1,251,714)	\$(482,608)
Loss per common share:				
Net loss per share, basic and diluted	\$(0.04)	\$(0.02)	\$(0.05)	\$(0.03)
Weighted average common shares outstanding, basic and diluted	23,200,975	17,656,087	23,166,272	17,610,079

See notes to condensed consolidated financial statements

Research Solutions, Inc. and Subsidiaries**Condensed Consolidated Statement of Stockholders' Equity****For the Six Months Ended December 31, 2016****(Unaudited)**

	Common Stock		Additional	Accumulated	Other	Total
	Shares	Amount	Paid-in	Deficit	Comprehensive	Stockholders'
			Capital		Loss	Equity
Balance, July 1, 2016	23,809,593	\$23,810	\$21,642,763	\$(15,582,295)	\$ (43,221)) \$6,041,057
Fair value of vested stock options	-	-	228,491	-	-	228,491
Fair value of vested restricted common stock	145,303	144	177,050	-	-	177,194
Repurchase of common stock	(79,708)	(79)	(82,275)	-	-	(82,354)
Net loss for the period	-	-	-	(1,253,626)	-	(1,253,626)
Foreign currency translation	-	-	-	-	1,912	1,912
Balance, December 31, 2016	23,875,188	\$23,875	\$21,966,029	\$(16,835,921)	\$ (41,309)) \$5,112,674

See notes to condensed consolidated financial statements

Research Solutions, Inc. and Subsidiaries**Condensed Consolidated Statements of Cash Flows****(Unaudited)**

	Six Months Ended December 31, 2016	2015
Cash flow from operating activities:		
Net loss	\$ (1,253,626)	\$ (477,245)
Adjustment to reconcile net loss to net cash provided by operating activities:		
Depreciation and amortization	62,895	30,834
Fair value of vested stock options	228,491	216,981
Fair value of vested restricted common stock	177,194	174,334
Modification cost of options issued to directors	-	29,815
Changes in operating assets and liabilities:		
Accounts receivable	696,302	(527,065)
Prepaid expenses and other current assets	(56,140)	1,195
Prepaid royalties	(1,044,250)	(231,087)
Deposits and other assets	(11,374)	111
Accounts payable and accrued expenses	1,449,375	833,266
Deferred revenue	527,695	426,345
Net cash provided by operating activities	776,562	477,484

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Cash flow from investing activities:				
Purchase of property and equipment	(16,091)	(42,448)
Purchase of intangible assets	(9,751)	-	
Net cash used in investing activities	(25,842)	(42,448)
Cash flow from financing activities:				
Advance under line of credit	-		500,000	
Payment under line of credit	-		(500,000)
Common stock repurchase and retirement	(82,354)	(20,148)
Net cash used in financing activities	(82,354)	(20,148)
Effect of exchange rate changes	3,386		(4,920)
Net increase in cash and cash equivalents	671,752		409,968	
Cash and cash equivalents, beginning of period	6,076,875		1,354,158	
Cash and cash equivalents, end of period	\$ 6,748,627		\$ 1,764,126	
Supplemental disclosures of cash flow information:				
Cash paid for income taxes	\$ 22,942		\$ 17,300	
Cash paid for interest	\$ 6,000		\$ 7,993	

See notes to condensed consolidated financial statements

RESEARCH SOLUTIONS, INC. AND SUBSIDIARIES

NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS

Six Months Ended December 31, 2016 and 2015 (Unaudited)

Note 1. Organization, Nature of Business and Basis of Presentation

Organization

Research Solutions, Inc. (the “Company,” “Research Solutions,” “we,” “us” or “our”) was incorporated in the State of Nevada November 2, 2006. On March 4, 2013, we consummated a merger with DYSC Subsidiary Corporation, our wholly-owned subsidiary, pursuant to which we, in connection with such merger, amended our Articles of Incorporation to change our name to Research Solutions, Inc. (formerly Derycz Scientific, Inc.). Research Solutions, Inc. is a publicly traded holding company with two wholly owned subsidiaries: Reprints Desk, Inc., a Delaware corporation (“Reprints Desk”) and Reprints Desk Latin America S. de R.L. de C.V, an entity organized under the laws of Mexico (“Reprints Desk Latin America”).

Nature of Business

We provide a cloud based software-as-a-service (“SaaS”) research intelligence platform that allows on-demand access to scientific, technical, and medical (“STM”) information for life science companies, academic institutions, and other research-intensive organizations. We provide three service offerings to our customers: Article Galaxy SaaS Platforms (“Platform(s)”), Article Galaxy Transactions (“Transactions”), and Reprints and ePrints.

Platforms

Our cloud-based SaaS solution consists of proprietary software and Internet-based interfaces that allow customers to initiate orders, manage transactions, obtain reporting, automate authentication, and connect seamlessly to corporate intranets. Customers can also enhance the information resources they already own or access via subscriptions or internal libraries, as well as organize workgroups to collaborate around scientific and technical information.

Our Platform is deployed as a single system across our entire customer base. Customers access the Platform securely through online web interfaces and via web service APIs, which enable customers to leverage features and functionality from within proprietary and other 3rd party software systems. The Platform can also be configured to satisfy a customer's individual preferences in areas such as user experience, business processes, and spend management. The Platform benefits from efficiencies in scalability, stability and development costs, resulting in significant advantages versus multiple instance or installed desktop software alternatives. We leverage these technical efficiencies to fuel rapid innovation and competitive advantage.

Transactions

Our Platform provides our customers with a single source to the universe of published STM content that includes over seventy million existing STM articles and over one million newly published STM articles each year. Our Platform allows customers to find and download in digital format STM articles that are critical to their research. In addition, it facilitates customers' compliance with applicable copyright laws.

Researchers and knowledge workers in life science and other research-intensive organizations generally require single copies of published STM journal articles for use in their research activities. They place orders with us for the articles they need and we source and electronically deliver the requested content to them generally in under an hour. This service is known in the industry as single article delivery or document delivery. We also obtain the necessary permissions from the content publisher so that our customer's use complies with applicable copyright laws. We have arrangements with numerous content publishers that allow us to distribute their content. The majority of these publishers provide us with electronic access to their content, which allows us to electronically deliver single articles to our customers often in a matter of minutes. Even though single article delivery services are charged on a transactional basis, customer order volume tends to be consistent from month to month in part due to consistent orders of larger customers that require the implementation of our services into their work flow, subject to fluctuations due to the addition or loss of customers.

Reprints and ePrints

Marketing departments in life science and other research-intensive organizations generally require large quantities of printed copies of published STM journal articles called "Reprints" that are distributed to physicians and at conferences. We obtain the necessary permissions from the content publisher so that our customer's use complies with applicable copyright laws. The majority of content publishers print their content in-house and prohibit others from printing their content; however, when not prohibited by the content publisher, we use third parties to print Reprint orders. Electronic copies, called "ePrints", are also used for distribution through the Internet and other electronic mechanisms. We have developed proprietary ePrint software that increases the efficiency of our customers' bottom" style="padding:0in 0in 0in 0in;width:27.5%;">

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2010

2009

2009

2008

2007

2006

2005

Ratio of earnings to fixed charges

15.2

47.2

46.9

48.7

36.8

24.7

28.3

13

USE OF PROCEEDS

Unless an applicable prospectus supplement states otherwise, the net proceeds from the securities sold by us will be added to our general corporate funds and be used for business and product acquisitions, debt repayment, working capital and general corporate purposes. We will have significant discretion in the use of any net proceeds. Investors will be relying on the judgment of our management regarding the application of proceeds from any sale of our securities. Until the net proceeds have been used, they will be invested in short-term marketable securities in accordance with our investment policy. If we elect at the time of the issuance of the securities to make different or more specific use of proceeds other than as described in this prospectus, the change in use of proceeds will be described in the applicable prospectus supplement. We will not receive any proceeds from securities offered for resale by selling security holders.

DILUTION

To the extent required, we will set forth in any prospectus supplement the following information regarding any material dilution of the equity interests of investors purchasing securities in an offering under this prospectus:

- the net tangible book value per share of our equity securities before and after the offering;
- the amount of the increase in such net tangible book value per share attributable to the cash payments made by purchasers in the offering; and
- the amount of the immediate dilution from the public offering price which will be absorbed by such purchasers.

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PLAN OF DISTRIBUTION

We or selling security holders may sell the securities offered under this prospectus:

- through underwriters;
- through dealers;
- through agents; or
- directly to purchasers.

Each prospectus supplement relating to an offering of securities will state the terms of the offering, including:

- the names of any underwriters, dealers, or agents;
- the public offering or purchase price of the offered securities and the net proceeds that we will receive from the sale;
- any underwriting discounts and commissions or other items constituting underwriters' compensation;
- any discounts, commissions, or fees allowed or paid to dealers or agents; and
- any securities exchange or market on which the offered securities may be listed.

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If any securities are sold pursuant to this prospectus by any persons other than us, we will, in a prospectus supplement, name the selling security holders, indicate the nature of any relationship such holders have had to us or any of our affiliates during the three years preceding such offering, state the amount of securities of the class owned by such selling security holders prior to the offering and the amount to be offered for such selling security holders account, and state the amount and, if one percent or more, the percentage of the class to be owned by such selling security holders after completion of the offering.

Distribution through Underwriters

We or selling security holders may offer and sell securities from time to time to one or more underwriters who would purchase the securities as principal for resale to the public, either on a firm commitment or best efforts basis. If we or selling security holders sell securities to underwriters, we will execute an underwriting agreement with the underwriters at the time of the sale and will name them in the applicable prospectus supplement. In connection with these sales, the underwriters may be deemed to have received compensation from us in the form of underwriting discounts and commissions. The underwriters also may receive commissions from purchasers of securities for whom they may act as agent. Unless we specify otherwise in the applicable prospectus supplement, the underwriters will not be obligated to purchase the securities unless the conditions set forth in the underwriting agreement are satisfied, and if the underwriters purchase any of the securities, they will be required to purchase all of the offered securities. The underwriters may acquire the securities for their own account and may resell the securities from time to time in one or more transactions, including negotiated transactions, at a fixed public offering price or varying prices determined at the time of sale. The underwriters may sell the offered securities to or through dealers, and those dealers may receive discounts, concessions, or commissions from the underwriters as well as from the purchasers for whom they may act as agent. Any initial public offering price and any discounts or concessions allowed or re-allowed or paid to dealers may be changed from time to time.

Distribution through Dealers

We or selling security holders may offer and sell securities from time to time to one or more dealers who would purchase the securities as principal. The dealers then may resell the offered securities to the public at fixed or varying prices to be determined by those dealers at the time of resale. We will set forth the names of the dealers and the terms of the transaction in the applicable prospectus supplement.

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Distribution through Agents

We or selling security holders may offer and sell securities on a continuous basis through agents that become parties to an underwriting or distribution agreement. We will name any agent involved in the offer and sale and describe any commissions payable by us in the applicable prospectus supplement. Unless we specify otherwise in the applicable prospectus supplement, any such agent will be acting on a best efforts basis during the appointment period.

Direct Sales

We or selling security holders may sell directly to, and solicit offers from, institutional investors or others who may be deemed to be underwriters, as defined in the Securities Act for any resale of the securities. We will describe the terms of any sales of this kind in the applicable prospectus supplement.

General Information

Underwriters, dealers, or agents participating in an offering of securities may be deemed to be underwriters, and any discounts and commissions received by them and any profit realized by them on resale of the offered securities for whom they act as agent, may be deemed to be underwriting discounts and commissions under the Securities Act. We or selling security holders may sell securities at a fixed price or prices, which may be changed, at market prices prevailing at the time of sale, at prices relating to the prevailing market prices or at negotiated prices. The distribution of the securities may be effected from time to time in one or more transactions, by means of one or more of the following transactions, which may include:

- block trades;
- at-the-market offerings;
- negotiated transactions;
- put or call option transactions relating to the securities;
- under delayed delivery contracts or other contractual commitments;

- a combination of such methods of sale; and
- any other method permitted pursuant to applicable law.

Only underwriters named in the prospectus supplement will be underwriters of the securities offered by the prospectus supplement.

In connection with an underwritten offering of securities, the underwriters may engage in over-allotment, stabilizing transactions, and syndicate covering transactions in accordance with Regulation M under the Exchange Act. Over-allotment involves sales in excess of the offering size, which creates a short position for the underwriters. The underwriters may enter bids for, and purchase, securities in the open market in order to stabilize the price of the securities. Syndicate covering transactions involve purchases of the securities in the open market after the distribution has been completed in order to cover short positions. In addition, the underwriting syndicate may reclaim selling concessions allowed to an underwriter or a dealer for distributing the securities in the offering if the syndicate repurchases previously distributed securities in transactions to cover syndicate short positions, in stabilization transactions, or otherwise. These activities may cause the price of the securities to be higher than it would otherwise be. Those activities, if commenced, may be discontinued at any time.

Ordinarily, each issue of securities will be a new issue, and there will be no established trading market for any security other than shares of our common stock prior to its original issue date. We may not list any particular series of securities on a securities exchange or quotation system. Any underwriters to whom or agents through whom the offered securities are sold for offering and sale may make a market in the offered securities. However, any underwriters or agents that make a market will not be obligated to do so and may stop doing so at any time without notice. We cannot assure

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you that there will be a liquid trading market for the offered securities.

Under agreements entered into with us, underwriters and agents may be entitled to indemnification by us against certain civil liabilities, including liabilities under the Securities Act, or against contribution for payments the underwriters or agents may be required to make.

Although we expect that delivery of securities generally will be made against payment on or about the third business day following the date of any contract for sale, we may specify a longer settlement cycle in the applicable prospectus supplement. Under Rule 15c6-1 of the Exchange Act, trades in the secondary market generally are required to settle in three business days, unless the parties to a trade expressly agree otherwise. Accordingly, if we have specified a longer settlement cycle in the applicable prospectus supplement for an offering of securities, purchasers who wish to trade those securities on the date of the contract for sale, or on one or more of the next succeeding business days as we will specify in the applicable prospectus supplement, will be required, by virtue of the fact that those securities will settle in more than three business days (T+3), to specify an alternative settlement cycle at the time of the trade to prevent a failed settlement and should consult their own advisors in connection with that election.

THE SECURITIES WE MAY OFFER

We may use this prospectus to offer, and selling security holders may use this prospectus to offer for resale, shares of common stock, debt securities, warrants to purchase shares of common stock and/or debt securities and units consisting of a combination of two or more of these classes of securities.

The following briefly summarizes the general terms and provisions of the securities that we may offer or that selling security holders may offer for resale. A prospectus supplement will describe the specific types, amounts, prices and detailed terms of any of these offered securities. You should read the particular terms of the securities as described in any prospectus supplement, together with the provisions of our Articles of Incorporation, Bylaws and any relevant instrument and agreement relating to such securities. The specific terms of the securities offered may differ from the terms discussed below and you should always read the entire instruments and agreements defining the terms of the securities before you make an investment decision with respect to such securities.

These securities may be offered and sold from time to time for an aggregate offering price not to exceed \$150,000,000. This prospectus may not be used to consummate a sale of securities unless it is accompanied by a prospectus supplement.

Description of Common Stock

We may issue, and selling security holders may offer for resale, shares of our common stock. We are authorized to issue 100,000,000 shares of common stock, no par value per share. We are also authorized to issue 5,000,000 shares of preferred stock, no par value per share. If issued, these preferred shares would likely have preference over our common stock in various ways, which would be set forth at the time of any issuance of such preferred shares. Subject to the provisions and limitations set forth in our Articles of Incorporation, our board of directors has authority to issue these preferred shares at such time, in such amount, at such price, and with such preferences over our common stock, as it

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desires. As of December 22, 2010, approximately 28,378,009 shares of common stock, and no shares of preferred stock, were issued and outstanding. The following description of the provisions of our Articles of Incorporation and Bylaws related to our common stock are only summaries, and we encourage you to review complete copies of these documents, which have been filed as exhibits to our periodic reports with the SEC.

Dividends, Voting Rights and Liquidation

Holders of outstanding common stock are entitled to one vote for each share held of record on all matters submitted to a vote of our shareholders. Subject to preferences that may be applicable to any outstanding shares of preferred stock, holders of common stock are entitled to receive ratably such dividends, if any, as may be declared from time to time by our board of directors out of funds legally available for dividend payments. We have never issued a cash dividend on our common stock and do not anticipate doing so in the foreseeable future. All outstanding shares of common stock are fully paid and non-assessable, and any shares of common stock issued under this prospectus will be fully paid and non-assessable. The holders of common stock have no preferences or rights of conversion, exchange, pre-emption or other subscription rights. Our common stock does not have cumulative voting rights, meaning holders of a majority of our

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common stock can elect all of our directors. Our board of directors is divided into three classes of directors, and the term of service for each expires every third year. This means that it would likely take two years for our shareholders to remove a majority of our directors or to vote a majority of our directors into office. There are no redemption or sinking fund provisions applicable to the common stock. In the event of any liquidation, dissolution or winding-up of our affairs, holders of outstanding common stock at such time will be entitled to share ratably in our assets that are legally available for such purpose after payment or provision for payment of all of our debts and obligations and after liquidation payments to holders of outstanding shares of preferred stock, if any.

Listing

Our common stock is listed on the Nasdaq Global Select Market under the symbol MMSI.

Transfer Agent and Registrar

The transfer agent and registrar for our common stock is Zion's First National Bank, P.O. Box 30880, Salt Lake City, Utah 84130; telephone number (801) 524-4696.

Description of Debt Securities

This section describes the general terms and provisions of the debt securities to which any prospectus supplement we may issue from time to time relate. As used in this prospectus, debt securities means the debentures, notes, bonds and other evidences of indebtedness that we may issue from time to time as either convertible senior debt securities or convertible subordinated debt securities. If issued, our debt securities would be issued under an indenture between us and a trustee to be identified prior to the issuance of such debt securities. A form of such indenture is filed as an exhibit to this prospectus. The indenture applicable to any issuance of our debt securities may differ from such form. Consequently, any indenture applicable to the issuance of our debt securities will be filed as an exhibit to the prospectus supplement relating to such issuance and any differences between the form of indenture filed with this prospectus and the indenture filed with a prospectus supplement will be disclosed in such prospectus supplement. Any indenture we issue will be subject to, and governed by, the Trust Indenture Act of 1939, as amended (the Trust Indenture Act).

The following description sets forth certain anticipated general terms and provisions of the debt securities to which any prospectus supplement may relate. Consequently, the statements and descriptions in this prospectus or in any prospectus supplement regarding provisions of the indentures and debt securities are only summaries thereof, do not purport to be complete and are subject to, and are qualified in their entirety by reference to, all of the provisions of the indentures and the debt securities, including the definitions of certain terms provided therein. Particular terms of the debt securities offered by any prospectus supplement and the extent to which the general provisions described below apply to any series of debt securities will be described in the relevant prospectus supplement. Accordingly, you should review the indenture and any supplemental indenture because they, and not this description, define your rights as a holder of our debt securities.

General

Unless otherwise specified in the indenture and the prospectus supplement relating thereto, the debt securities will likely be direct unsecured obligations of Merit. We anticipate that the senior debt securities, if any, will rank on parity with any of our other unsecured senior and unsubordinated debt, and the subordinated debt securities, if any, will be subordinate and junior in right of payment to any senior debt. Unsecured debt securities, if any, will be effectively junior to any existing or future secured debt. *See* Subordination.

Unless otherwise specified in the indenture and the prospectus supplement relating thereto, the debt securities will likely be issued without limit as to aggregate principal amount, in one or more series, secured or unsecured, in each case as established from time to time in or pursuant to authority granted by a resolution of the board of directors or as established in the applicable indenture. We anticipate that all debt securities of one series will not be issued at the same time and, unless otherwise provided, a series will likely be able to be reopened without the consent of the holders of the debt securities of such series for issuance of additional debt securities of such series.

You should refer to the prospectus supplement relating to the particular series of debt securities for a description of the following terms of the debt securities offered thereby and by this prospectus:

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- the form and title of those debt securities, and whether they are senior debt securities or subordinated debt securities;

- the aggregate principal amount of that series of debt securities;

- the date or dates upon which the debt securities are payable and whether the stated maturity may be extended or the method used to determine or extend those dates;

- the purchase price or prices at which the debt securities are being offered or the method of determining those prices;

- the rate or rates, if any, at which the debt securities will bear interest, which may be fixed or variable, the method by which such rate or rates shall be determined, the date or dates from which that interest will accrue, the interest payment dates on which that interest will be payable, or the method by which any of the foregoing will be determined;

- our right, if any, to defer or extend an interest payment date and the regular record date, if any, for interest payable on any registered security on any interest payment date, or the method by which such will be determined;

- the basis upon which interest will be calculated if other than on the basis of a 360-day year of twelve 30-day months;

- the place or places where payments on the debt securities will be payable, where any securities may be surrendered for registration of transfer, exchange or conversion, as applicable, and notices and demands may be delivered to or upon us pursuant to the applicable indenture;

- the period or periods within which, the price or prices at which, the currency or currencies in which, and the other terms and conditions upon which the debt securities may be redeemed, in whole or in part, at our option or the option of a holder (as defined in the indenture), if we or a holder is to have that option;

- our obligation or right, if any, to redeem, repay or purchase the debt securities pursuant to any sinking fund or analogous provision or at the option of a holder, and the terms and conditions upon which the debt securities will be redeemed, repaid or purchased, in whole or in part, pursuant to that obligation;

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- if other than as expressed in the indenture, the denomination or denominations in which any registered securities or bearer securities of that series will be issuable;
- if other than the trustee, the identity of each security registrar and/or paying agent;
- any restriction or condition on the transferability of the debt securities of a particular series;
- if other than the principal amount thereof, the portion of the principal amount of the debt securities that will be payable upon declaration of acceleration of the maturity thereof under the indenture, or the method by which that portion will be determined;
- if other than United States dollars, the currency or currencies in which principal, any premium and any interest on the debt securities will be payable or in which the debt securities will be denominated;
- whether payments on the debt securities may be determined with reference to an index, formula or other method and the manner in which those payments will be determined;
- the applicability, if any, of the defeasance provisions, and any modifications to the related provisions of the indenture;

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- provisions, if any, granting special rights to holders of debt securities upon the occurrence of specified events;

- any changes to the events of default or our covenants specified in the indenture with respect to the debt securities or any provision for the suspension of certain covenants based on credit ratings or other criteria applicable to us or securities issued by us;

- if convertible, the terms upon which the debt securities may be converted or exchanged for our common stock, preferred stock or other securities or property;

- if convertible, any applicable limitations on the ownership or transferability of the common stock, preferred stock or other security into which they are convertible;

- whether we are issuing the debt securities in whole or in part in global form and the depository for global or certificated debt securities;

- to whom any interest on any debt security shall be payable, if other than the person in whose name the security is registered on the record date for such interest, and the extent to which, or the manner in which, any interest payable on a temporary global debt security will be paid if other than in the manner provided in the applicable indenture;

- if the debt securities are to be issuable in definitive form and any related conditions;

- whether, under what circumstances and the currency in which we will pay any additional amounts on the debt securities as contemplated in the applicable indenture in respect of any tax, assessment or governmental charge and, if so, whether we will have the option to redeem the debt securities rather than pay such additional amounts (and the terms of any such option);

- whether and the extent to which the debt securities are entitled to the benefits of any guarantees;

- Any provisions for collateral security for the debt securities repayment;

- whether the subordination provisions summarized below or different subordination provisions will apply to the debt securities; and

- any other specific terms, conditions, rights and preferences relating to the debt securities.

Unless otherwise specified in a prospectus supplement, we anticipate that the debt securities will not be listed on any securities exchange and will be issued in fully-registered form without coupons.

Debt securities may bear interest at a fixed rate or a variable rate, as specified in the prospectus supplement. In addition, if specified in the prospectus supplement, we may sell debt securities bearing no interest or interest at a rate that at the time of issuance is below the prevailing market rate, or at a discount below their stated principal amount. We will describe in the prospectus supplement any special federal income tax considerations applicable to these discounted debt securities.

Events of Default

Unless a prospectus supplement provides otherwise, we anticipate that the following will constitute events of default under the applicable indenture with respect to each series of debt securities:

- our failure to pay any interest on any debt security of such series when due and payable, continued for 30 days;
- our failure to pay principal (or premium, if any) on any debt security of such series when due, regardless of whether such payment became due because of maturity, redemption, acceleration or otherwise;

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- default in the deposit of any sinking fund payment, when and as due by the terms of the debt securities of that series and the applicable indenture;
- our failure to observe or perform any other of its covenants or warranties with respect to such debt securities for 90 days after we receive notice of such failure;
- certain events relating to our bankruptcy, insolvency or reorganization; and
- any other event of default provided with respect to debt securities of that series.

It is also likely that if an event of default with respect to any debt securities of any series outstanding under an applicable indenture shall occur and be continuing, the trustee under such indenture or the holders of at least 25% in aggregate principal amount of the debt securities of that series outstanding will be able to declare, by notice as provided in the applicable indenture, the principal amount (or such lesser amount as may be provided for in the debt securities of that series) of all the debt securities of that series outstanding to be due and payable immediately; provided that, in the case of an event of default involving certain events in bankruptcy, insolvency or reorganization, acceleration will likely be automatic; and, provided further, that after such acceleration, but before a judgment or decree based on acceleration, the holders of a majority in aggregate principal amount of the outstanding debt securities of that series will likely be able to, under certain circumstances, rescind and annul such acceleration if all events of default, other than the nonpayment of accelerated principal, have been cured or waived.

Indentures issued under a prospectus supplement will likely provide that the trustee will not be liable for any action taken, suffered or omitted by it in good faith and believed by it to be authorized or within the discretion or rights or powers conferred upon it by the indenture. We also anticipate that the trustee, subject to its duties during an event of default to act with the required standard of care, will also be able to require indemnification by the holders of the debt securities of any series with respect to which an event of default has occurred before proceeding to exercise any right or power under the indentures at the request of the holders of the debt securities of such series. Subject to such right of indemnification and to certain other limitations, the holders of a majority in principal amount of the outstanding debt securities of any series under an indenture will likely be able to direct the time, method and place of conducting any proceeding for any remedy available to the trustee, or exercising any trust or power conferred on the trustee with respect to the debt securities of such series, provided that the trustee can refuse to follow any direction that it determines may not lawfully be taken or would be illegal or in conflict with the indenture or involve it in personal liability or which would be unjustly prejudicial to holders not joining in that proceeding.

The trustee may also be required within 90 days after the occurrence of an event of default with respect to the debt securities of any series to give to the holders of the debt securities of such series notice of such event of default. Holders of a majority in principal amount of all debt securities of such series outstanding under an indenture will also likely be able to waive any past default under such indenture with respect to debt securities of any series, and any event of default arising therefrom, except in the case of (1) default in the payment of the principal of (or premium, if any) or interest on any debt securities of such series or (2) default in respect of a covenant or provision which may not be amended or modified without the consent of the holder of each outstanding debt security of such series affected.

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We anticipate that no individual holder of a debt security of any series will be able to institute any action against us under any indenture issued under a prospectus supplement (except actions for payment of overdue principal of (and premium, if any) or interest on such debt security or for the conversion or exchange of such debt security in accordance with its terms) unless:

- the holder has given to the trustee written notice of an event of default and of the continuance thereof with respect to the debt securities of such series specifying an event of default, as required under the applicable indenture;
- the holders of at least 25% in aggregate principal amount of the debt securities of that series then outstanding under such indenture shall have requested the trustee to institute such action and offered to the trustee an indemnity reasonably satisfactory to it against the costs, expenses and liabilities to be incurred in compliance with such request;
- the trustee shall not have instituted such action within 60 days of such request; and

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- no direction inconsistent with such written request has been given to the trustee during such 60 day period by the holders of a majority in principal amount of the debt securities of that series.

We also anticipate that the applicable indentures will require us to file annually with the trustee an officers certificate certifying our compliance with all conditions and covenants under the terms of such indenture.

Modification and Waiver

The indentures will likely allow us and the applicable trustee to amend and/or supplement the indentures for certain purposes which would not have a material adverse affect on the interests or rights of the holders of debt securities of a series without the consent of those holders. Modifications of and amendments to the indenture that would have a material adverse affect may be allowed with the consent of holders of a majority in principal amount of the outstanding debt securities of each series issued under the indenture that is affected by the modification or amendment; provided, however, that no such modification or amendment will, without the consent of the holder of each outstanding debt security affected thereby:

- change the stated maturity of the principal of, or any installment of principal of or interest on, any debt securities of any series;
- reduce the principal amount of, or the rate of interest on, or any premium payable upon the redemption of, any debt securities of any series;
- change our obligation to pay any additional amounts required to be paid in respect of certain taxes, assessments or governmental charges imposed on holders of the debt securities, as the case may be, except as otherwise contemplated by the applicable indenture;
- reduce the amount of principal of an original issue discount debt security or any other debt security that would be payable upon declaration of acceleration of the maturity thereof;
- change the place of payment where, or the currency in which, any debt security or any premium or interest thereon is payable;
- impair the right to institute suit for the enforcement of any payment on or with respect to any debt security on or after the stated maturity thereof (or in the case of a redemption, on or after the redemption date);

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- reduce the percentage in principal amount of outstanding debt securities of any series, the consent of whose holders is required for modification or amendment of the indentures or for waiver of compliance with certain provisions of the indentures or for waiver of certain defaults thereunder and their consequences;
- make any change that adversely affects the right to convert or exchange any debt security or decreases the conversion or exchange rate or increases the conversion price of any convertible or exchangeable debt security; or
- modify any of the above provisions or any of the provisions relating to the waiver of certain past defaults or certain covenants, except to increase the required percentage to effect such action or to provide that certain other provisions cannot be modified or waived without the consent of the holder of each outstanding debt security affected thereby.

We expect that the indentures we issue will permit the holders of at least a majority in aggregate principal amount of the outstanding debt securities of any series issued under such indentures which is affected by the modification or amendment to waive our compliance with certain covenants contained in the indentures. Also, we expect that subordinated indentures will forbid us or the trustee from amending the subordination of any outstanding subordinated debt securities without the consent of each holder of then outstanding senior indebtedness that would be adversely affected by such amendment.

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Redemption of Securities

Debt securities may be subject to optional or mandatory redemption on terms and conditions described in the applicable prospectus supplement.

From and after notice has been given as provided in the applicable indenture, we expect that if funds for the redemption of any debt securities called for redemption shall have been made available on such redemption date, such debt securities will cease to bear interest on the date fixed for such redemption specified in such notice, and the only right of the holders of the debt securities will be to receive payment of the redemption price.

Conversion of Securities

The terms and conditions, if any, upon which any debt securities are convertible into shares of our common stock or preferred stock will be set forth in the applicable prospectus supplement relating thereto. Such terms will include:

- whether such debt securities are convertible into shares of our common stock or preferred stock;
- the conversion price (or manner of calculation thereof);
- the conversion period;
- provisions as to whether conversion will be at our option or the option of the holders;
- the events requiring an adjustment of the conversion price and provisions affecting conversion in the event of the redemption of such debt securities; and
- any restrictions on conversion.

Merger, Consolidation, or Sale of Assets

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The indentures we issue under a prospectus supplement will likely prohibit us from consolidating with or merging with or into any other corporation or transferring all or substantially all of our property and assets as an entirety to any person, unless:

- either we will be the continuing person, or the person (if other than us) formed by the consolidation or into which we are merged or to which all or substantially all of our properties and assets are transferred is a corporation organized and existing under the laws of the United States or any State thereof or the District of Columbia which expressly assumes all of our obligations under each series of debt securities and the indenture with respect to each such series;
- immediately before and immediately after giving effect to that transaction, no event of default and no event which, after notice or passage of time or both, would become an event of default has occurred and is continuing; and
- we deliver to the trustee an officers certificate and an opinion of counsel each stating that the consolidation, merger, conveyance or transfer and the supplemental indenture complies with the indenture.

Limitation on Liens

In the event we issue senior debt securities under an indenture, we expect such indenture to provide that with respect to each series of senior debt securities, unless otherwise set forth in the related prospectus supplement, we will not, directly or indirectly, create, incur, assume or suffer to exist any lien, encumbrance or security interest upon any of our property, assets or revenues, whether now owned or hereafter acquired, except for:

- liens for taxes not yet due or which are being contested in good faith by appropriate proceedings;

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- carriers, warehousemen, mechanics, materialmen, repairmen or other like liens arising in the ordinary course of business that are not overdue for a period of more than 60 days or which are being contested in good faith by appropriate proceedings;
- pledges or deposits in connection with workers' compensation, unemployment insurance and other social security legislation and deposits securing liability to insurance carriers under insurance or self-insurance arrangements;
- deposits to secure the performance of bids, trade contracts (other than for borrowed money), leases, statutory obligations, surety and appeal bonds, performance bonds and other obligations of a like nature incurred in the ordinary course of business;
- easements, rights-of-way, restrictions and other similar encumbrances incurred in the ordinary course of business which, in the aggregate, are not substantial in amount and which do not in any case materially detract from the value of the property subject thereto;
- Liens, encumbrances or security interests in existence on the date of the first issuance by us of senior debt securities issued pursuant to the indenture;
- liens, encumbrances or security interests securing our debt incurred to finance the acquisition of fixed or capital assets; and
- liens, encumbrances or security interests on the property or assets of a corporation that becomes a subsidiary after the date of the indenture.

Defeasance

If so specified in the prospectus supplement with respect to debt securities of any series, we will likely have the option of (1) being discharged from any and all obligations in respect of the debt securities of that series (except for certain obligations to register the transfer or exchange of debt securities of that series, replace stolen, lost or mutilated debt securities of that series, maintain paying agencies, and hold money for payment in trust), or (2) not being subject to certain specified covenants with respect to the debt securities of that series as set forth in the related prospectus supplement, in each case if we deposit with the trustee, in trust, money or government obligations, which through the payment of interest thereon and principal thereof in accordance with their terms, will provide money in an amount sufficient to pay all the principal (including any mandatory sinking fund payments) of, and interest on, the outstanding debt securities of that series on the dates such payments are due in accordance with the terms of such debt securities.

To exercise any such option, we anticipate that the applicable indenture will require us to deliver to the trustee an opinion of counsel to the effect that the deposit and related defeasance would not cause the holders of the debt securities of that series to recognize income, gain or loss for

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federal income tax purposes and, in the case of a discharge pursuant to clause (1) in the immediately preceding paragraph, either a ruling to such effect received from or published by the United States Internal Revenue Service or an opinion that there has been a change in applicable federal income tax law to such effect.

Subordination

The prospectus supplement relating to any offering of subordinated debt securities will describe the specific subordination provisions applicable to such subordinated debt securities. Particularly, such prospectus supplement will specify the extent to which a particular series of subordinated debt securities is subordinated to other of our indebtedness. However, unless otherwise noted in the applicable prospectus supplement, subordinated debt securities will likely be subordinate and junior in right of payment to any existing senior debt of Merit.

Under a subordinated indenture, senior debt will likely mean all amounts due on obligations in connection with any of the following, whether outstanding at the date of execution of the subordinated indenture or thereafter incurred or created:

- the principal of (and premium, if any) and interest due on our indebtedness for borrowed money and indebtedness evidenced by securities, debentures, bonds or other similar instruments issued by us;

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- any of our obligations as lessee under leases required to be capitalized on the balance sheet of the lessee under generally accepted accounting principles;
- all of our obligations for reimbursement on any letter of credit, banker's acceptance, security purchase facility or similar credit transaction;
- all of our obligations in respect of interest rate swap, cap or other agreements, interest rate future or options contracts, currency swap agreements, currency future or option contracts and other similar agreements;
- all obligations of the types referred to above of other persons for the payment of which we are responsible or liable as obligor, guarantor or otherwise; and
- all obligations of the types referred to above of other persons secured by any lien on any property or asset of ours (whether or not such obligation is assumed by us).

However, we do not anticipate that senior debt will include:

- any indebtedness which, by its terms or the terms of the instrument creating or evidencing it, expressly provides that it has a subordinate or equal right of payment with the subordinated debt securities;
- indebtedness incurred in the form of trade accounts payable or accrued liabilities arising in the ordinary course of business;
- any liability for federal, state, local or other taxes owed or owing by us; and
- the portion of indebtedness we may incur in violation of the subordinated indenture.

Unless otherwise noted in the prospectus supplement, if we default in the payment of any principal of (or premium, if any) or interest on any senior debt when it becomes due and payable, whether at maturity or at a date fixed for prepayment or by declaration or otherwise, then, unless and until such default is cured or waived or ceases to exist, we will likely be unable to make any direct or indirect payment (in cash, property, securities, by set-off or otherwise) in respect of the principal of or interest on the subordinated debt securities or in respect of any redemption,

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retirement, purchase or other requisition of any of the subordinated debt securities. Furthermore, in the event of the acceleration of the maturity of any subordinated debt securities, the holders of all senior debt securities outstanding at the time of such acceleration will likely first be entitled to receive payment in full of all amounts due on the senior debt, including amounts due on acceleration, before the holders of the subordinated debt securities will be entitled to receive any payment of principal (and premium, if any) or interest on the subordinated debt securities. We also do not anticipate any indenture under a prospectus supplement limiting our ability to issue additional senior debt.

Upon any distribution to our creditors in a liquidation, dissolution, or reorganization (whether voluntary or involuntary or in bankruptcy, insolvency or receivership), general assignment by us for the benefit of creditors or any other marshaling of our assets or liabilities, payment of the principal of, premium, if any, on and interest, if any, on the subordinated debt securities will be subordinated to the extent provided in the indenture in right of payment to the prior payment in full of all senior indebtedness. In such event, any payment or distribution under the subordinated debt securities, whether in cash, securities or other property, which would otherwise (but for the subordination provisions) be payable or deliverable in respect of the subordinated debt securities, will be paid or delivered directly to the holders of senior debt in accordance with the priorities then existing among such holders until all senior debt has been paid in full.

Global Securities

If so specified in any prospectus supplement, debt securities of any series may be issued under a book-entry system in the form of one or more global securities. This means that one global debt security would be issued to represent a number of registered debt securities. The denomination of the global debt security would equal the aggregate principal amount of all registered debt securities represented by that global debt security.

We expect to deposit any registered debt securities issued in global form with a depository, or with a nominee of the depository, that we will name in the applicable prospectus supplement for each offering of such debt securities. Any

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person holding an interest in the global debt security through the depositary will be considered the beneficial owner of that interest. However, as is customary we will register the debt securities in the name of the depositary or the nominee of the depositary, as appropriate.

We anticipate that the indenture pursuant to which we may issue global debt securities will only allow the depositary or its nominee to transfer a global debt security in its entirety and only in the following circumstances:

- by the depositary for the registered global security to a nominee of the depositary;
- by a nominee of the depositary to the depositary or to another nominee of the depositary; or
- by the depositary or the nominee of the depositary to a successor of the depositary or to a nominee of the successor.

However, such restrictions will likely not apply to a global debt security after the depositary or its nominee, as applicable, exchanged the global debt security for registered debt securities issued in definitive form.

We will describe the specific terms of the depositary arrangement with respect to any series of debt securities represented by a registered global security in the prospectus supplement for the offering of that series. However, we anticipate that the provisions below will apply to all depositary arrangements for debt securities represented by a registered global security.

Ownership of beneficial interests in a registered global security will be limited to (1) participants that have accounts with the depositary for the registered global security and (2) persons that may hold interests through those participants. Upon the issuance of a registered global security, the depositary will credit each participant's account on the depositary's book-entry registration and transfer system with the principal amount of debt securities represented by the registered global security beneficially owned by that participant. Ownership of beneficial interests in the registered global security will be shown on, and the transfer of ownership interests will be effected only through, records maintained by the depositary for the registered global security, with respect to interests of participants, and on the records of participants, with respect to interests of persons holding through participants. The laws of some states may require that purchasers of securities regulated by the laws of those states take physical delivery of the securities in definitive form. Those laws may impair the ability to own, transfer or pledge beneficial interests in registered global securities.

As long as the depositary for a registered global security, or its nominee, is the registered owner of the registered global security, that depositary or its nominee will be considered the sole owner or holder of the debt securities represented by the registered global security for all purposes under the applicable indenture. Owners of beneficial interests in a registered global security generally will not be entitled to have the debt securities registered in their own names, receive or be entitled to receive physical delivery of debt securities of that series in definitive form or be considered the owners or holders of the debt securities under the applicable indenture. Accordingly, each person owning a beneficial interest in a registered global security must rely on the procedures of the depositary for the registered global security and, if that person owns through a participant, on the procedures of the participant through which that person owns its interest, to exercise any rights of a holder under the

applicable indenture.

We will make payments of principal, any premium and any interest on a registered global security to the depositary or its nominee. We expect that the depositary for any registered global security, upon receipt of such payment of principal (or premium, if any) or interest in respect of the registered global security, will immediately credit participants' accounts with payments in amounts proportionate to their respective beneficial interests in the registered global security as shown on the records of the depositary. However, none of Merit, the trustee or any other agent of Merit or of the trustee will have any responsibility or liability for any aspect of the records relating to, or payments made on account of, beneficial ownership interests in the registered global security or for maintaining, supervising or reviewing any records relating to the beneficial ownership interests.

We will issue our debt securities in definitive form in exchange for a registered global security if the depositary for such registered global security is at any time unwilling or unable to continue as depositary or ceases to be a clearing agency registered under the Exchange Act, if a successor depositary registered as a clearing agency under the Exchange Act is not appointed within 90 days and under such other circumstances, if any, as may be described in an applicable prospectus supplement. In addition, we may at any time and in our sole discretion determine not to have any of the debt securities of a series represented by a registered global security and, in such event, will issue debt securities of the series in definitive form in exchange for the registered global security.

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We will register any debt securities issued in definitive form in exchange for a registered global security in such name or names as the depository shall instruct the trustee. We expect that the depository will base these instructions upon directions received by the depository from participants with beneficial interests in the registered global security.

The Trustee

Indentures issued under a prospectus supplement will likely provide that, except during the continuance of an event of default, the trustee will perform only such duties as are specifically set forth in the indenture. During the existence of an event of default, we anticipate that the applicable indenture will require the trustee to exercise those rights and powers vested in it under the indenture and use the same degree of care and skill in its exercise of those rights and powers as a prudent person would exercise under similar circumstances in the conduct of such person's own affairs.

The Trust Indenture Act, which will be incorporated by reference in any indenture we issue, contains limitations on the rights of the trustee, should it become one of our creditors, to obtain payment of claims in certain cases or to realize on certain property received by it in respect of any such claim as security or otherwise. Under the Trust Indenture Act; however, the trustee is permitted to engage in other transactions with us or any affiliate, provided that if the trustee acquires any conflicting interest it must eliminate that conflict or resign.

Description of Warrants

We may issue, and selling security holders may offer for resale, warrants to purchase shares of common stock. These warrants may be sold or offered independently or together with the common stock offered, and the warrants may be attached to or separate from these securities. Warrants may be issued in such amounts or in as many distinct series as we wish. The warrants will be issued under warrant agreements to be entered into between us and a warrant agent as detailed in the prospectus supplement relating to the warrants being offered.

Specific Terms of the Warrants

The applicable prospectus supplement will describe the following terms, where applicable, of the warrants in respect of which this prospectus is being delivered:

- the title of the warrants;

- the aggregate number of the warrants;

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- the price or prices at which the warrants will be issued;
- the designation, amount, and terms of the shares of common stock purchasable upon exercise of the warrants;
- if applicable, the date on and after which the warrants and the shares of common stock purchasable upon exercise of the warrants will be separately transferable;
- the price or prices at which the common stock purchasable upon exercise of the warrants may be purchased;
- the date on which the right to exercise the warrants shall commence and the date on which the right shall expire;
- the minimum or maximum amount of the warrants which may be exercised at any one time;
- information with respect to book-entry procedures, if any;
- any provisions for adjustment of the number or amount of shares of our common stock receivable upon exercise of the warrants or the exercise price of the warrants;
- a discussion of any federal income tax considerations; and
- any other material terms of the warrants, including terms, procedures, and limitations relating to the

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exchange and exercise of the warrants.

Exercise of Warrants

Each warrant will entitle the holder of the warrant to purchase shares of our common stock at the exercise price as shall be set forth in or be determinable as set forth in, the prospectus supplement relating to the warrants. Warrants may be exercised at any time up to the close of business on the expiration date set forth in the applicable prospectus supplement. After the close of business on the expiration date, unexercised warrants will become void.

Upon receipt of payment and the warrant certificate properly completed and duly executed at the office indicated in the prospectus supplement, we will, as soon as practicable, forward the securities purchased upon such exercise. If less than all of the warrants represented by a warrant certificate are exercised, a new warrant certificate will be issued for the remaining warrants. Prior to the exercise of any warrants, holders of the warrants will not have any of the rights of holders of the securities purchasable upon exercise, including the right to vote or to receive any payments of dividends on the shares of common stock purchasable upon exercise. Certificates for warrants to purchase securities will be exchangeable for new warrant certificates of different denominations.

Description of Units

The following description, together with the additional information we may include in any applicable prospectus supplement, summarizes the material terms and provisions of the units that we may offer, or that selling security holders may offer for resale, under this prospectus. While the terms we have summarized below will apply generally to any units offered under this prospectus, we will describe the particular terms of any series of units in more detail in the applicable prospectus supplement. The terms of any units offered under a prospectus supplement may differ from the terms described below.

We will file as exhibits to the registration statement of which this prospectus is a part, or will incorporate by reference from a Current Report on Form 8-K that we file with the SEC, the form of unit agreement that describes the terms of the series of units being offered, and any supplemental agreements, before the issuance of the related series of units. The following summaries of material terms and provisions of the units are subject to, and qualified in their entirety by reference to, all the provisions of the unit agreement and any supplemental agreements applicable to a particular series of units. We urge you to read the applicable prospectus supplements related to the particular series of units that we sell, or which are offered for resale by selling security holders, under this prospectus, as well as the complete unit agreement and any supplemental agreements that contain the terms of the units.

General

We may issue, and selling security holders may offer for resale, units comprised of one or more shares of common stock and warrants in any combination. Each unit will be issued so that the holder of the unit is also the holder of each security included in the unit. Thus, the holder of a unit will have the rights and obligations of a holder of each included security. The unit agreement under which a unit is issued may provide that

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the securities included in the unit may not be held or transferred separately, at any time or at any time before a specified date.

We will describe in the applicable prospectus supplement the terms of the series of units, including:

- the designation and terms of the units and of the securities comprising the units, including whether and under what circumstances those securities may be held or transferred separately;
- any provisions of the governing unit agreement that differ from those described below; and
- any provisions for the issuance, payment, settlement, transfer or exchange of the units or of the securities comprising the units.

The provisions described in this section, as well as those described under [Description of Common Stock](#) and [Description of Warrants](#) will apply to each unit and to any common shares or warrants included in each unit, respectively.

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Issuance in Series

We may issue units in such amounts and in such numerous distinct series as we determine.

Enforceability of Rights by Holders of Units

Each unit agent will act solely as our agent under the applicable unit agreement and will not assume any obligation or relationship of agency or trust with any holder of any unit. A single bank or trust company may act as unit agent for more than one series of units. A unit agent will have no duty or responsibility in case of any default by us under the applicable unit agreement or unit, including any duty or responsibility to initiate any proceedings at law or otherwise, or to make any demand upon us. Any holder of a unit may, without the consent of the related unit agent or the holder of any other unit, enforce by appropriate legal action its rights as holder under any security included in the unit.

Title

We, the unit agents and any of their agents may treat the registered holder of any unit certificate as an absolute owner of the units evidenced by that certificate for any purpose and as the person entitled to exercise the rights attaching to the units so requested, despite any notice to the contrary.

LEGAL MATTERS

The validity of the securities offered hereby is being passed upon for us by Parr Brown Gee & Loveless, a professional corporation. Additional legal matters may be passed on for us, or any underwriters, dealers or agents, by counsel that we will name in the applicable prospectus supplement.

EXPERTS

The consolidated financial statements of the Company and the related financial statements schedule, incorporated in this prospectus by reference from the Company's Annual Report on Form 10-K for the year ended December 31, 2009, and the effectiveness of the Company'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 are incorporated herein by reference. Such financial statements and financial statement schedule have been so incorporated in reliance upon the reports of such firm given upon their authority as experts in accounting and auditing.

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The consolidated financial statements of BioSphere Medical, Inc. incorporated by reference to the Company's Current Report on Form 8-K/A, dated December 23, 2010 have been audited by Ernst & Young LLP, an independent registered public accounting firm, as stated in their report, which is also incorporated herein by reference. Such financial statements have been so incorporated in reliance upon the report of such firm given upon their authority as experts in accounting and auditing.

INCORPORATION OF CERTAIN INFORMATION BY REFERENCE

As permitted by SEC rules, this prospectus does not contain all of the information that prospective investors can find in the registration statement of which it is a part or the exhibits to the registration statement. The SEC permits us to incorporate by reference, into this prospectus, information filed separately with the SEC. The information incorporated by reference is deemed to be part of this prospectus, except as modified or superseded by information contained directly in this prospectus or in a subsequently filed document that also is (or is deemed to be) incorporated into this prospectus by reference.

This prospectus incorporates by reference the documents set forth below that we previously have filed with the SEC pursuant to the Exchange Act (file no. 000-18592). These documents contain important information about us and our financial condition.

- Our Annual Report on Form 10-K for the fiscal year ended December 31, 2009, filed with the SEC on March 10, 2010.

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- Our Quarterly Reports on Form 10-Q for the quarters ended March 31, 2010, June 30, 2010 and September 30, 2010, filed with the SEC on May 7, 2010, August 6, 2010 and November 8, 2010, respectively.
- Our Current Reports on Form 8-K filed with the SEC on January 7, 2010, March 19, 2010, May 13, 2010 (as amended), May 14, 2010, May 17, 2010, June 2, 2010, June 22, 2010, September 10, 2010, September 16, 2010, November 22, 2010 and December 23, 2010, respectively.
- The description of our shares of common stock contained in our Registration Statement on Form 8-A, filed with the SEC on May 11, 1990 pursuant to the Exchange Act, including any amendment or report filed under the Exchange Act for the purpose of updating such description.

All documents filed by us pursuant to Sections 13(a), 13(c), 14 and 15(d) of the Exchange Act after the date of this registration statement, and prior to the filing of a post-effective amendment which indicates that all securities offered hereby have been sold or which de-registers 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 in a document 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 which also is or is deemed to be incorporated by reference herein modifies or supersedes such statement. Any statement so modified or superseded shall not be deemed, except as so modified or superseded, to constitute a part of this prospectus.

Upon written or oral request, we will provide without charge to each person to whom a copy of this prospectus is delivered, including any beneficial owner, a copy of any or all of the information that has been or may be incorporated by reference in this prospectus. Direct any request for copies to Kent W. Stanger, Chief Financial Officer, at our corporate headquarters, located at 1600 West Merit Parkway, South Jordan, Utah 84095; telephone number (801) 253-1600.

WHERE YOU CAN FIND MORE INFORMATION

We file annual, quarterly and current reports, information statements and other information with the SEC. You may read and copy any reports, statements or other information that we file at the SEC's public reference rooms at 100 F Street, N.E., Washington, D.C. 20549. You may also obtain copies of this information by mail from the Public Reference Section of the SEC, 100 F Street, N.E., Washington, DC 20549 at prescribed rates. Please call the SEC at 1 (800) SEC-0330 for further information on the public reference rooms. The SEC also maintains a web site at <http://www.sec.gov>, at which reports, proxy and information statements and other information regarding our company are available.

DISCLOSURE OF COMMISSION POSITION ON INDEMNIFICATION FOR

SECURITIES ACT LIABILITIES

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Our Articles of Incorporation provide that we shall indemnify our officers, directors, agents, incorporators and other persons against liabilities incurred by them that result from their acts that are performed in furtherance of our business to the full extent permitted by the laws of the State of Utah. Our Bylaws provide that we shall indemnify any director, officer, incorporator, or other person to the fullest extent permitted by the Utah Revised Business Corporation Act (the Utah Act). Our Bylaws provide that, to the full extent permitted by law, we shall indemnify any director or officer or former director or officer of our company, or any person who may have served at our request as a director or officer of another corporation in which we own shares, or of which we are a creditor, against expenses actually and reasonably incurred by him or her, in connection with the defense of any action, suit or proceeding, civil or criminal, in which he or she is made a party by reason of being or having been such director or officer, except in relation to matters as to which he or she shall be adjudged in such action, suit or proceeding to be liable for negligence or misconduct in the performance of duty; and to make such other indemnification as shall be authorized by our shareholders.

As a result of the indemnification provisions described about and contained in the Utah Act, subject to certain limitations in the Utah Act, we may be permitted or compelled to provide indemnification and advancement of expenses to our directors, officers, agents, and employees when they are made parties to an investigation or legal action in connection with services performed at our request, including when such persons are alleged to have violated the Securities Act. Insurance purchased with respect to such persons may also cover expenses or other liabilities associated with an allegation of violations of the Securities Act.

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Insofar as indemnification for liabilities arising under the Securities Act may be permitted to our directors, officers and controlling persons pursuant to the foregoing provisions, or otherwise, we have been advised that in the opinion of the SEC 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 us of expenses incurred or paid by one of our directors, officers or controlling persons 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, we will, unless in the opinion of our counsel the matter has been settled by controlling precedent, submit to a court of appropriate jurisdiction the question of whether such indemnification by us is against public policy as expressed in the Securities Act and will be governed by the final adjudication of such issue.

The rights of indemnification described above are not exclusive of any other rights of indemnification to which the persons indemnified may be entitled under any bylaw, agreement, vote of stockholders or directors or otherwise. In addition to the foregoing, we maintain insurance through a commercial carrier against certain liabilities which may be incurred by our directors and officers.

The foregoing description is necessarily general and does not describe all details regarding the indemnification of our officers, directors or controlling persons.

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MERIT MEDICAL SYSTEMS, INC.

\$150,000,000

COMMON STOCK

DEBT SECURITIES

WARRANTS

UNITS

PROSPECTUS

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Table of Contents**PART II. INFORMATION NOT REQUIRED IN PROSPECTUS****Item 14. Other Expenses of Issuance and Distribution.**

The registrant will bear all expenses of this offering. The estimated expenses, other than underwriting or broker-dealer fees, discounts, and commissions, in connection with the offering are as follows:

	Amount
SEC registration fee	\$ 10,696
Accounting fees and expenses	*
Legal fees and expenses	*
Printing expenses	*
Trustee fees and expenses	*
Transfer agent fees and expenses	*
State securities and blue-sky fees and expenses	*
Miscellaneous expenses	*
Total	*

*These fees are based on the type of securities offered and the number of securities issued and, accordingly, cannot be estimated at this time.

Item 15. Indemnification of Directors and Officers.

We are a Utah corporation. Section 16-10a-902 of the Utah Revised Business Corporation Act (the "Utah Act") provides that a corporation may indemnify any individual who was, is, or is threatened to be made a named defendant or respondent (a "Party") in any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative and whether formal or informal (a "Proceeding"), because he or she is or was a director of the corporation or, while a director of the corporation, is or was serving at its request as a director, officer, partner, trustee, employee, fiduciary or agent of another corporation or other person or of an employee benefit plan (an "Indemnifiable Director"), against any obligation incurred with respect to a Proceeding, including any judgment, settlement, penalty, fine or reasonable expenses (including attorneys' fees), incurred in the Proceeding if his or her conduct was in good faith, he or she reasonably believed that his or her conduct was in, or not opposed to, the best interests of the corporation, and, in the case of any criminal Proceeding, had no reasonable cause to believe such conduct was unlawful; provided, however, that pursuant to Subsections 902(4)-(5): (i) indemnification under Section 902 in connection with a Proceeding by or in the right of the corporation is limited to payment of reasonable expenses (including attorneys' fees) incurred in connection with the Proceeding and (ii) the corporation may not indemnify an Indemnifiable Director in connection with a Proceeding charging that the Indemnifiable Director derived an improper personal benefit, whether or not involving action in his or her official capacity, in which Proceeding he or she was adjudged liable on the basis that he or she derived an improper personal benefit.

Section 16-10a-903 of the Utah Act provides that, unless limited by its articles of incorporation, a corporation shall indemnify an Indemnifiable Director who was successful, on the merits or otherwise, in the defense of any Proceeding, or in the defense of any claim, issue or matter in the Proceeding, to which he or she was a Party because he or she is or was an Indemnifiable Director, against reasonable expenses (including attorneys' fees) incurred in connection with the Proceeding or claim with respect to which he or she has been successful.

In addition to the indemnification provided by Sections 902 and 903, Section 16-10a-905 of the Utah Act provides that, unless otherwise limited by a corporation's articles of incorporation, an Indemnifiable Director may apply for indemnification to the court conducting the Proceeding or to another court of competent jurisdiction.

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Section 16-10a-904 of the Utah Act provides that a corporation may pay for or reimburse the reasonable expenses (including attorneys' fees) incurred by an Indemnifiable Director who is a Party to a Proceeding in advance of the final disposition of the Proceeding upon the satisfaction of certain conditions.

Section 16-10a-907 of the Utah Act provides that, unless a corporation's articles of incorporation provide otherwise, (i) an officer of the corporation is entitled to mandatory indemnification under Section 903 and is entitled to apply for court-ordered indemnification under Section 905, in each case to the same extent as an Indemnifiable Director, (ii) the corporation may indemnify and advance expenses to an officer, employee, fiduciary or agent of the corporation to the same extent as an Indemnifiable Director, and (iii) a corporation may also indemnify and advance expenses to an officer, employee, fiduciary or agent who is not an Indemnifiable Director to a greater extent than the right of indemnification granted to an Indemnifiable Director, if not inconsistent with public policy, and if provided for by its articles of incorporation, bylaws, general or specific action of its board of directors or contract.

Section 16-10a-908 of the Utah Act provides that a corporation may purchase and maintain liability insurance on behalf of a person who is or was a director, officer, employee, fiduciary, or agent of the corporation or who, while serving as a director, officer, employee, fiduciary, or agent of the corporation, is or was serving at the request of the corporation as a director, officer, partner, trustee, employee, fiduciary, or agent of another foreign or domestic corporation or other person, or of an employee benefit plan against liability asserted against or incurred by the individual in that capacity or arising from his or her status as such, whether or not the corporation would have the power to indemnify him or her against the same liability under Section 902, 903, or 907 of the Utah Act.

Section 16-10a-909 of the Utah Act provides that a provision treating a corporation's indemnification of, or advance for expenses to, Indemnifiable Directors that is contained in its articles of incorporation or bylaws, in a resolution of its stockholders or board of directors or in a contract, except an insurance policy, or otherwise, is valid only if and to the extent the provision is not inconsistent with Sections 901 through 909 of the Utah Act. If the articles of incorporation limit indemnification or advancement of expenses, indemnification and advancement of expenses are valid only to the extent not inconsistent with the articles.

Our Articles of Incorporation provide that we shall indemnify any person who is or was a director, officer, employee or agent of our company, or who was serving at our request as a director, officer, employee or agent of another entity, trust or plan to the fullest extent permitted by the Utah Act. Our bylaws also include mandatory indemnification provisions with respect of our officers and directors and discretionary indemnification provisions with respect to employees and agents, each subject to limitations generally reflecting the limitations on indemnification set forth in the Utah Act.

Our Bylaws provide that we may purchase and maintain insurance on behalf of any person who is or was one of our directors, officers, employees or agents, or is or was serving at our request as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise against any liability asserted against him or her or incurred by him or her in such capacity or arising out of his or her status in such capacity, whether or not we would have the power to indemnify him or her against such liability under the indemnification provisions of the bylaws or the laws of the State of Utah, as the same are amended or modified. We maintain insurance from commercial carriers against certain liabilities that may be incurred by our directors and officers.

Indemnification may be granted pursuant to any other agreement, bylaw or vote of stockholders or directors. The foregoing description is necessarily general and does not describe all details regarding the indemnification of our officers, directors or controlling persons.

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Item 16. List of Exhibits.

- 1.1 Form of underwriting agreement*
- 4.1 Specimen common stock certificate of the registrant (incorporated by reference to Exhibit 10 to our Registration Statement on Form S-18 filed with the SEC on October 19, 1989), as amended.
- 4.2 Form of Warrant *

- 4.3 Form of Indenture

- 4.4 Form of Unit Agreement*
- 5.1 Opinion of Parr Brown Gee & Loveless, a professional corporation

- 12.1 Statement Regarding Computation of Ratio of Earnings to Fixed Charges

- 23.1 Consent of Parr Brown Gee & Loveless, a professional corporation (included in Exhibit 5.1)
- 23.2 Consent of Deloitte & Touche LLP

- 23.3 Consent of Ernst & Young LLP

- 24.1 Power of attorney (included on signature page of this registration statement)

* To be filed by amendment or incorporated by reference prior to the offering of securities if applicable.
Previously filed

Item 17. Undertakings.

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:

(a) to include any prospectus required by Section 10(a)(3) of the Securities Act;

(b) 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

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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 SEC 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

(c) 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;

Paragraphs (a), (b) and (c) of this section do not apply if the registration statement is on Form S-3 or Form F-3 and 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 Exchange Act 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 part of 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.

(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 to any purchaser:

(a) each prospectus filed by a Registrant pursuant to Rule 424(b)(3) shall be deemed to be part of this registration statement as of the date the filed prospectus was deemed part of and included in the registration statement; and

(b) each prospectus required to be filed pursuant to Rule 424(b)(2), (b)(5), or (b)(7) as part of this registration statement in reliance on Rule 430B relating to an offering made pursuant to Rule 415(a)(1)(i), (vii), or (x) for the purpose of providing the information required by section 10(a) of the Securities Act shall be deemed to be part of and included in the registration statement as of the earlier of the date such form of prospectus is first used after effectiveness or the date of the

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first contract of sale of securities in the offering described in the prospectus. As provided in Rule 430B, for liability purposes of the issuer and any person that is at that date an underwriter, such date shall be deemed to be a new effective date of the registration relating to the securities in the registration statement to which that prospectus relates, and the offering of such securities at that time shall be deemed to be the initial *bona fide* offering thereof. *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 effective date, 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 effective date.

(5) That, for the purpose of determining liability of a Registrant under the Securities Act to any purchaser in the initial distribution of the securities, in a primary offering of securities of an 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:

(a) any preliminary prospectus or prospectus of an undersigned Registrant relating to the offering required to be filed pursuant to Rule 424;

(b) any free writing prospectus relating to the offering prepared by or on behalf of a Registrant or used or referred to by an undersigned Registrant;

(c) the portion of any other free writing prospectus relating to the offering containing material information about an undersigned Registrant or its securities provided by or on behalf of an undersigned Registrant; and

(d) any other communication that is an offer in the offering made by an undersigned Registrant to the purchaser.

(6) 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 Section 15(d) of the Exchange Act (and each filing of the registrant's employee benefit plans' annual report pursuant to section 15(d) of the Exchange Act) that is incorporated by reference in the registration statement shall be deemed to be a new registration statement relating to the securities offered herein, and the offering of such securities at that time shall be deemed to be the initial *bona fide* offering thereof.

(7) Insofar as indemnification for liabilities arising under the Securities Act may be permitted to directors, officers, and controlling persons of a Registrant pursuant to the foregoing provisions, or otherwise, the registrant has been advised that in the opinion of the SEC 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 a Registrant for expenses incurred or paid by a director, officer, or controlling person 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.

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(8) For purposes of determining any liability under the Securities Act, the information omitted from the form or prospectus files as part of this registration statement in reliance upon Rule 430A and contained in a form of prospectus filed by the Registrant pursuant to Rule 424(b)(1) or (4) or 497(h) under the Securities Act shall be deemed to be a part of this registration statement as of the time it was declared effective.

(9) For the purpose of determining any liability under the Securities Act, each post-effective amendment that contains a form of prospectus 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.

(10) To file an application for the purpose of determining the eligibility of the trustee to act under subsection (a) of section 310 of the Trust Indenture Act (Act) in accordance with the rules and regulations prescribed by the Commission under section 305(b)2 of the Act.

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SIGNATURES

Pursuant to the requirements of the Securities Act of 1933, 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 Amendment No.2 to Registration Statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of South Jordan, Utah on December 23, 2010.

MERIT MEDICAL SYSTEMS, INC.

By: /s/ FRED P. LAMPROPOULOS
Fred P. Lampropoulos, President and
Chief Executive Officer

POWER OF ATTORNEY AND ADDITIONAL SIGNATURES

Pursuant to the requirements of the Securities Act of 1933, this Amendment No.2 to Registration Statement has been signed by the following persons in the capacities and on the dates indicated

Signature	Title	Date
/s/ Fred P. Lampropoulos Fred P. Lampropoulos	President, Chief Executive Officer and Director (principal executive officer)	December 23, 2010
/s/ Kent W. Stanger Kent W. Stanger	Chief Financial Officer, Secretary, Treasurer and Director (principal financial and accounting officer)	December 23, 2010
** Richard W. Edelman	Director	December 23, 2010