

TRIAD HOSPITALS INC  
Form S-3  
March 14, 2005

As filed with the Securities and Exchange Commission on March 14, 2005

Registration No. 333-

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**UNITED STATES SECURITIES AND EXCHANGE COMMISSION**

**Washington, D.C. 20549**

**FORM S-3**

**REGISTRATION STATEMENT**

***UNDER THE SECURITIES ACT OF 1933***

**TRIAD HOSPITALS, INC.**

(Exact Name of Registrant as Specified in Its Charter)

**Delaware**

**75-2816101**

(State or Other Jurisdiction

(I.R.S. Employer

of Incorporation or Organization)

Identification Number)

**5800 Tennyson Parkway, Plano, Texas 75024**

**(214) 473-7000**

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

**Donald P. Fay**

**Executive Vice President, General Counsel and Secretary**

**Triad Hospitals, Inc.**

**5800 Tennyson Parkway, Plano, Texas 75024**

**(214) 473-7000**

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

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*Copies to:*

**Morton A. Pierce**

**Michelle B. Rutta**

**Dewey Ballantine LLP**

**1301 Avenue of the Americas**

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New York, New York 10019

(212) 259-8000

*Approximate Date of Commencement of Proposed Sale to the Public:*

*From time to time after this Registration Statement becomes effective.*

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

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

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

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

If delivery of the prospectus is expected to be made pursuant to Rule 434, please check the following box.

**CALCULATION OF REGISTRATION FEE**

<b>Title of Each Class of Securities to be Registered</b>	<b>Amount To Be Registered(1)</b>	<b>Proposed Maximum Offering Price Per Unit(2)</b>	<b>Proposed Maximum Aggregate Offering Price(1)(3)</b>	<b>Amount of Registration Fee(4)</b>
Common Stock(5)(6)				
Preferred Stock(6)				
Depository Shares(7)				
Debt Securities(6)				
Warrants(6)				
Purchase Contracts(6)				
Units(6)				
<b>Total</b>	\$800,000,000		\$800,000,000	\$75,760

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

- (1) In United States dollars or the equivalent thereof in one or more foreign currencies or units of two or more foreign currencies or composite currencies. The aggregate initial offering price of the above-referenced securities (collectively, the Securities ) registered hereby will not exceed \$800,000,000. Such amount represents the issue price of any Common Stock, the liquidation preference (or, if different, the issue price) of any Preferred Stock, the principal amount of any Debt Securities issued at their principal amount, the issue price rather than the principal amount of any Debt Securities issued at an original issue discount, the issue price of any Warrants (but not the exercise price of any Securities issuable upon the exercise of such Warrants), the issue price of any Purchase Contracts and the issue price of any Units.
- (2) Omitted pursuant to General Instruction II(D) of Form S-3 under the Securities Act of 1933, as amended (the Securities Act ).
- (3) No separate consideration will be received for (a) any Depository Shares representing shares of Preferred Stock or (b) any Debt Securities, Preferred Stock, Common Stock or other securities that may be issuable upon conversion of or in exchange for convertible or exchangeable securities (including any securities issuable upon stock splits and similar transactions pursuant to Rule 416).
- (4) Calculated pursuant to Rule 457(o) under the Securities Act and, pursuant to Rule 457(p) under the Securities Act, minus the filing fee of \$18,400 previously paid with respect to the remaining unsold securities in the amount of \$200,000,000 or the equivalent of that amount in one or more foreign currencies or units of two or more foreign currencies or composite currencies, which were previously registered by the Registrant under Registration Statement No. 333-100461 filed on October 9, 2002 and declared effective by the Securities and Exchange Commission on October 18, 2002.
- (5) Includes associated rights to purchase a fraction of a share of Series A Preferred Stock.
- (6) Includes such indeterminate number of shares of Common Stock, such indeterminate number of shares of Preferred Stock, such indeterminate principal amount of Debt Securities, such indeterminate number of Warrants, such indeterminate number of Purchase Contracts, such indeterminate number of Units, and such indeterminate amount of securities as may be issued upon conversion of, or in exchange for, or upon exercise of, convertible or exchangeable securities (including any securities issuable upon stock splits and similar transactions pursuant to Rule 416 under the Securities Act) as may be offered pursuant to this Registration Statement.
- (7) Includes such indeterminate number of Depository Shares as may be evidenced by Depository Receipts issued pursuant to one or more Deposit Agreements. In the event the Registrant elects to offer to the public fractional interests in shares of the Preferred Stock registered hereunder, Depository Receipts will be distributed to those persons acquiring such fractional interests and the shares of Preferred Stock will be issued to a Depository under a Deposit Agreement.

**THE INFORMATION IN THIS PROSPECTUS IS NOT COMPLETE AND MAY BE CHANGED. TRIAD HOSPITALS, INC. MAY NOT SELL THESE SECURITIES UNTIL THE REGISTRATION STATEMENT FILED WITH THE SECURITIES AND EXCHANGE COMMISSION IS EFFECTIVE. THIS PROSPECTUS IS NOT AN OFFER TO SELL THESE SECURITIES AND IT IS NOT SOLICITING AN OFFER TO BUY THESE SECURITIES IN ANY STATE WHERE THE OFFER OR SALE IS NOT PERMITTED.**

**SUBJECT TO COMPLETION, DATED MARCH 14, 2005**

**PROSPECTUS**

**\$800,000,000**

## **TRIAD HOSPITALS, INC.**

**COMMON STOCK**

**PREFERRED STOCK**

**DEPOSITARY SHARES**

**DEBT SECURITIES**

**WARRANTS**

**PURCHASE CONTRACTS**

**UNITS**

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We may offer from time to time the following types of securities:

shares of our common stock;

shares of our preferred stock, which may be issued in the form of depositary receipts representing a fraction of a share of preferred stock;

our debt securities, in one or more series, which may be senior debt securities or subordinated debt securities, in each case consisting of notes or other evidences of indebtedness;

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warrants to purchase any of the other securities that may be sold under this prospectus;

purchase contracts to acquire any of the other securities that may be sold under this prospectus; or

any combination of these securities, individually or as units.

The securities will have an aggregate initial offering price of up to \$800,000,000 or an equivalent amount in U.S. dollars if any securities are denominated in a currency other than U.S. dollars. The securities may be offered separately or together in any combination and as a separate series.

We will provide specific terms of these securities in supplements to this prospectus. You should read this prospectus and any prospectus supplement, as well as the documents incorporated or deemed to be incorporated by reference in this prospectus, carefully before you invest.

**Investing in these securities involves risks. You should carefully review the discussion under the heading Risk Factors on page 2 regarding information included and incorporated by reference in this prospectus and the applicable prospectus supplement.**

Our common stock is traded on the New York Stock Exchange under the symbol TRI.

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**NEITHER THE SECURITIES AND EXCHANGE COMMISSION NOR ANY STATE SECURITIES COMMISSION HAS APPROVED OR DISAPPROVED OF THESE SECURITIES OR PASSED UPON THE ACCURACY OR ADEQUACY OF THIS PROSPECTUS. ANY REPRESENTATION TO THE CONTRARY IS A CRIMINAL OFFENSE.**

We may sell these securities directly, through agents, dealers or underwriters as designated from time to time, or through a combination of these methods. We reserve the sole right to accept, and together with our agents, dealers and underwriters reserve the right to reject, in whole or in part, any proposed purchase of securities to be made directly or through agents, dealers or underwriters. If any agents, dealers or underwriters are involved in the sale of any securities, the relevant prospectus supplement will set forth any applicable commissions or discounts. Our net proceeds from the sale of securities also will be set forth in the relevant prospectus supplement.

This prospectus may not be used to consummate sales of securities unless accompanied by the applicable prospectus supplement.

**The date of this prospectus is \_\_\_\_\_, 2005.**

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We have not authorized any person to give any information or to make any representation in connection with this offering other than those contained or incorporated by reference in this prospectus, and, if given or made, the information or representation must not be relied upon as having been authorized by us. This prospectus does not constitute an offer to sell nor a solicitation of an offer to buy by anyone in any jurisdiction in which the offer or solicitation is not authorized, or in which the person is not qualified to do so or to any person to whom it is unlawful to make the offer or solicitation. Neither the delivery of this prospectus nor any sale under this prospectus shall, under any circumstances, create any implication that there has been no change in our affairs since the date of this prospectus, that the information contained in this prospectus is correct as of any time subsequent to its date, or that any information incorporated by reference in this prospectus is correct as of any time subsequent to its date.

## ABOUT THIS PROSPECTUS

This prospectus is part of a registration statement that we filed with the Securities and Exchange Commission utilizing a shelf registration process. Under this shelf process, we may sell any combination of the securities described in this prospectus in one or more offerings up to an aggregate offering price of \$800,000,000. This prospectus provides you with a general description of the securities we may offer. Each time we sell securities, we will provide a prospectus supplement that will contain specific information about the terms of that offering. The prospectus supplement may also add, update or change information contained in this prospectus. You should read both the prospectus and any prospectus supplement together with the additional information described under the heading *Where You Can Find More Information*.

## FORWARD-LOOKING STATEMENTS

Certain information included or incorporated by reference in this prospectus may be deemed to be forward-looking statements within the meaning of Section 27A of the Securities Act and Section 21E of the Securities Exchange Act of 1934, as amended. Forward-looking statements include all statements that do not relate solely to historical or current facts, and can be identified by the use of words such as *may*, *believe*, *will*, *expect*, *project*, *estimate*, *anticipate*, *intend*, *should*, *plan*, *hope* or *continue*. These forward-looking statements are based on our expectations and are subject to a number of uncertainties and risks that could significantly affect our current plans and expectations and our future financial condition and results. These factors include, but are not limited to:

the highly competitive nature of the health care business;

the efforts of insurers and other payers, health care providers and others to contain health care costs;

possible changes in the Medicare, Medicaid and other government programs that may further limit reimbursements to health care providers;

changes in Federal, state or local regulations affecting the health care industry;

the possible enactment of Federal or state health care reform;

our ability to attract and retain qualified management and personnel, including physicians and nurses;

the departure of key executive officers from Triad;

claims and legal actions relating to professional liabilities and other matters;

fluctuations in the market value of our common stock;

changes in accounting standards;

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changes in general economic conditions or geopolitical events;

future acquisitions, joint venture developments or divestitures which may result in additional charges;

our ability to enter into managed care provider arrangements on acceptable terms;

the availability and terms of capital to fund the expansion of our business;

changes in business strategy or development plans;

our ability to obtain adequate levels of general and professional liability insurance;

potential adverse impact of known and unknown government investigations;

timeliness of reimbursement payments received under government programs; and

other risk factors described herein and in any applicable prospectus supplement.

As a consequence, current plans, anticipated actions and future financial condition and results may differ from those expressed in any forward-looking statements made by us or on our behalf. You are cautioned not to unduly rely on such forward-looking statements when evaluating the information presented in this prospectus or in any prospectus supplement. We do not undertake any obligation to update publicly or revise any forward-looking statements.

## **RISK FACTORS**

An investment in our securities involves a degree of risk. In addition to the other information included and incorporated by reference in this prospectus, you should carefully consider the risk factors and other information included and incorporated by reference in the applicable prospectus supplement when determining whether or not to purchase the securities offered under this prospectus and the applicable prospectus supplement.

## **OUR COMPANY**

We are one of the largest publicly owned hospital companies in the United States and provide health care services through hospitals and ambulatory surgery centers that we own and operate in small cities and selected urban markets primarily in the southern, midwestern and western United States. Our hospital facilities include 52 general acute care hospitals and 14 ambulatory surgery centers located in the states of Alabama, Alaska, Arizona, Arkansas, Indiana, Louisiana, Mississippi, Nevada, New Mexico, Ohio, Oklahoma, Oregon, South Carolina, Texas and West Virginia. Included among these facilities is one hospital operated through a 50/50 joint venture that is not consolidated for financial reporting purposes. We are also a minority investor in three joint ventures that own seven general acute care hospitals in Georgia and Nevada. Through our wholly-owned subsidiary, Quorum Health Resources, LLC, we also provide management and consulting services to independent general acute care hospitals located throughout the United States.

Our general acute care hospitals typically provide a full range of services commonly available in hospitals, such as internal medicine, general surgery, cardiology, oncology, neurosurgery, orthopedics, obstetrics, diagnostic and emergency services. Our hospitals also generally provide outpatient and ancillary health care services such as outpatient surgery, laboratory, radiology, respiratory therapy, cardiology and physical therapy. Outpatient services also are provided by ambulatory surgery centers that we operate. In addition, some of our general acute care hospitals have a limited number of licensed psychiatric beds and provide psychiatric skilled nursing services.

In addition to providing capital resources and general management, we make available a variety of management services to our health care facilities. These services include ethics and compliance programs, national supply and equipment purchasing and leasing contracts, accounting, financial and clinical systems, governmental reimbursement assistance, information systems, legal support, personnel management, internal audit, access to regional managed care networks, resource management, and strategic and business planning.

Our principal executive offices are located at 5800 Tennyson Parkway, Plano, Texas 75024, and our phone number is (214) 473-7000. Our corporate website address is <http://www.triadhospitals.com>. Information contained on our website is not part of this prospectus.



**USE OF PROCEEDS**

Unless we indicate otherwise in an accompanying prospectus supplement, we intend to use the net proceeds from the sale of the securities offered by this prospectus for general corporate purposes, which may include, but not be limited to, working capital, capital expenditures, acquisitions, refinancing of indebtedness and repurchases and redemptions of securities.

**RATIO OF EARNINGS TO FIXED CHARGES**

The following table sets forth our consolidated ratio of earnings to fixed charges for the periods indicated:

	<b>Year Ended December 31</b>				
	<b>2000</b>	<b>2001</b>	<b>2002</b>	<b>2003</b>	<b>2004</b>
Ratio of earnings to fixed charges(1)	1.2x	1.4x	2.5x	2.1x	2.5x

- (1) Our ratios of earnings to combined fixed charges and preferred stock dividends for the periods indicated above are the same as our ratios of earnings to fixed charges set forth above because we had no shares of preferred stock outstanding during the periods indicated and currently have no shares of preferred stock outstanding.

**GENERAL DESCRIPTION OF SECURITIES THAT WE MAY SELL**

We, directly or through agents, dealers or underwriters that we may designate, may offer and sell, from time to time, up to \$800,000,000 (or the equivalent in one or more foreign currency units) aggregate initial offering price of:

shares of our common stock;

shares of our preferred stock, which may be issued in the form of depositary receipts representing a fraction of a share of preferred stock;

our debt securities, in one or more series, which may be senior debt securities or subordinated debt securities, in each case consisting of notes or other evidences of indebtedness;

warrants to purchase any of the other securities that may be sold under this prospectus;

purchase contracts to acquire any of the other securities that may be sold under this prospectus; or

any combination of these securities, individually or as units.

We may offer and sell these securities either individually or as units consisting of one or more of these securities, each on terms to be determined at the time of the offering. We may issue debt securities and/or preferred stock that are exchangeable for and/or convertible into common stock or any of the other securities that may be sold under this prospectus. When particular securities are offered, a supplement to this prospectus will be delivered with this prospectus, which will describe the terms of the offering and sale of the offered securities.

**DESCRIPTION OF COMMON STOCK**

Our authorized capital stock consists of 120,000,000 shares of common stock, par value \$0.01 per share, and 10,000,000 shares of preferred stock, par value \$0.01 per share. We describe the preferred stock under the heading "Description of Preferred Stock" below.

This section summarizes the general terms of our common stock that we may offer. The prospectus supplement relating to the common stock offered will state the number of shares offered, the initial offering price and the market price, dividend information and any other relevant information. The summaries in this section and the prospectus supplement do not describe every aspect of the common stock. When evaluating the common stock, you should also refer to all of the provisions of our charter, our bylaws and the Delaware General Corporation Law ( "DGCL" ). Our charter and bylaws are incorporated by reference in the registration statement.

**Terms of the Common Stock**

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As of February 15, 2005, there were 78,595,093 shares of common stock issued and outstanding and 11,341,021 shares of common stock reserved for issuance upon the exercise of options issued and outstanding pursuant to our stock option plans.

Holders of our common stock are entitled to one vote for each share on all matters voted on by the stockholders, and are not entitled to accumulate votes for the election of directors. Subject to any preferences that may be applicable to any outstanding preferred stock, holders of our 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 legally available funds. In the event of our liquidation, dissolution or winding up, holders of our common stock are entitled to share ratably in all assets remaining after payment of liabilities, subject to satisfaction of any liquidation preference of preferred stock, if any, then outstanding. Holders of our common stock have no preemptive, conversion or other subscription rights, other than the preferred stock purchase rights described below, and there are no redemption or sinking fund provisions applicable to our common stock.

### **Transfer Agent and Registrar**

The transfer agent and registrar for our common stock is National City Bank, Shareholder Services Group, P.O. Box 92301, Cleveland, Ohio, 44193-0900.

### **Preferred Stock Purchase Rights**

We have adopted a stockholders' rights plan, pursuant to which each outstanding share of our common stock is accompanied by one preferred stock purchase right. The rights become operative 10 days after public announcement that a person or group of persons has acquired beneficial ownership of 15% or more of our outstanding common stock, or the commencement of, or announcement of an intention to make, a tender offer or exchange offer the consummation of which would result in the beneficial ownership by a person or group of persons of 15% or more of our outstanding common stock. The rights will expire on May 7, 2009, unless the expiration date is extended or unless the rights are earlier redeemed or exchanged by us. Until a right is exercised, the holder thereof, as such, will have no rights as a stockholder of ours, including, without limitation, the right to vote or to receive dividends.

If the rights become exercisable, each right entitles the holder to purchase from us one one-thousandth of a share of Series A Preferred Stock at a price of \$90 per one one-thousandth of a share, subject to adjustment. Each share of Series A Preferred Stock will be entitled, when, as and if declared, to a preferential quarterly dividend payment in an amount equal to the greater of \$10 or 1,000 times the aggregate of all dividends declared per share of our common stock. In the event of our liquidation, dissolution or winding up, the holders of Series A Preferred Stock will be entitled to a minimum preferential liquidation payment equal to \$1,000 per share, plus an amount equal to accrued and unpaid dividends and distributions thereon, whether or not declared, to the date of such payment, but will be entitled to an aggregate payment of 1,000 times the payment made per share of our common stock. Each share of Series A Preferred Stock will entitle the holder thereof to 1,000 votes on all matters submitted to a vote of our stockholders. In the event of any consolidation, merger, combination or other transaction in which shares of our common stock are exchanged, each share of Series A Preferred Stock will be entitled to receive 1,000 times the aggregate amount of stock, securities, cash and/or other property (payable in kind) as the case may be, into which or for which each share of our common stock is changed or exchanged.

In addition, the rights plan allows holders of the rights to purchase shares of the acquiring person's stock at a discount if we are acquired or 50% or more of our consolidated assets or earnings power is transferred to an acquiring person.

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

*General.* Certain provisions of our charter and the DGCL could make it more difficult to consummate an acquisition of control of us by means of a tender offer, a proxy fight, open market purchases or otherwise in a transaction not approved by our board of directors. The provisions described below may reduce our vulnerability to an unsolicited proposal for the restructuring or sale of all or substantially all of our assets or an unsolicited takeover attempt which is unfair to our stockholders. The summary of the provisions set forth below does not purport to be complete and is qualified in its entirety by reference to our charter and the DGCL.

Our board of directors has no present intention to introduce additional measures that might have an anti-takeover effect; however, our board of directors expressly reserves the right to introduce these measures in the future.

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*Business Combinations.* We are subject to Section 203 of the DGCL. Section 203 of the DGCL restricts a wide range of transactions ( business combinations ) between a corporation and an interested stockholder. An interested stockholder is, generally, any person who beneficially owns, directly or indirectly, 15% or more of the corporation s outstanding voting stock. Business combinations are broadly defined to include (i) mergers or consolidations with, (ii) sales or other dispositions of more than 10% of the corporation s assets to, (iii) certain

transactions resulting in the issuance or transfer of any stock of the corporation or any subsidiary to, (iv) certain transactions resulting in an increase in the proportionate share of stock of the corporation or any subsidiary owned by, or (v) receipt of the benefit (other than proportionately as a stockholder) of any loans, advances or other financial benefits by, an interested stockholder. Section 203 provides that an interested stockholder may not engage in a business combination with the corporation for a period of three years from the time of becoming an interested stockholder unless (a) the board of directors approved either the business combination or the transaction which resulted in the person becoming an interested stockholder prior to the time that person became an interested stockholder; (b) upon consummation of the transaction which resulted in the person becoming an interested stockholder, that person owned at least 85% of the corporation's voting stock (excluding shares owned by persons who are directors and also officers and shares owned by certain employee stock plans); or (c) the business combination is approved by the board of directors and authorized by the affirmative vote of at least 66 2/3% of the outstanding voting stock not owned by the interested stockholder.

*Board of Directors.* Our charter provides that the board of directors is divided into three classes of directors, with the classes to be as nearly equal in number as reasonably possible and with the term of each class expiring in a different year. Our charter also provides that the number of directors will be fixed from time to time by action of not less than a majority of the board of directors then in office, but in no event will the number of directors be less than three nor more than 15. Any vacancies (including newly-created directorships) will be filled only by the affirmative vote of a majority of the remaining directors, whether or not they constitute a quorum of directors. Directors appointed to fill vacancies created by the resignation or termination of a director will serve the remainder of the term of the resigning or terminated director. Under Delaware law, stockholders may remove members of a classified board only for cause.

*Stockholder Actions and Special Meetings.* Our charter provides that stockholder action can be taken only at an annual or special meeting of stockholders and prohibits stockholder action by written consent in lieu of a meeting. Our charter also provides that special meetings of stockholders can be called only by the Chairman of the Board or the Chief Executive Officer, in either of their discretion or at the written request of a majority of the board of directors. Stockholders are not permitted to call a special meeting or to require that the board of directors call a special meeting of stockholders. The business permitted to be conducted at any special meeting of stockholders is limited to the business brought before the meeting pursuant to the notice of meeting given by us.

*Fair Price Provision.* Our charter contains a fair price provision, requiring that, in addition to any other vote required by our charter or the DGCL, certain proposed business combinations between a related party (a beneficial owner of 10% or more of the voting power of all of the outstanding shares of our voting stock) and us must be approved by the holders of not less than 85% of the voting power of all of the outstanding shares of voting stock held by stockholders other than the related person, unless fair price and procedural requirements are met or unless the business combination is approved by the affirmative vote of at least 66 2/3% of the continuing directors who are not affiliated with the related party. An amendment of the fair price provision included in our charter requires the approval of 66 2/3% of the directors then in office and the affirmative vote of 85% of the voting power of all of the outstanding shares of our voting stock held by stockholders other than any related person, unless the amendment is approved by 66 2/3% of the continuing directors.

## DESCRIPTION OF PREFERRED STOCK

This section summarizes the general terms of the preferred stock that we may offer. The prospectus supplement relating to a particular series or class of preferred stock will describe the specific terms of that series or class, which may be in addition to or different from the general terms summarized in this section. The summaries in this section and the prospectus supplement do not describe every aspect of the preferred stock. If any particular terms of a series or class of preferred stock described in a prospectus supplement differ from any of the terms described in this prospectus, then the terms described in the applicable prospectus supplement will be deemed to supersede the terms described in this prospectus. When evaluating the preferred stock, you also should refer to all of the provisions of our charter, the applicable certificate of designation for the offered series or class of preferred stock and the DGCL. The applicable certificate of designation will be filed as an exhibit to or incorporated by reference in the registration statement.

### General

Our board of directors is authorized to issue shares of preferred stock, in one or more series or classes, and to fix for each series or class voting powers and those preferences and relative, participating, optional or other special rights and those qualifications, limitations or restrictions as are permitted by the DGCL.

Our board of directors is authorized to determine the terms for each series or class of preferred stock, and the prospectus supplement will describe the terms of any series or class of preferred stock being offered, including:

the designation of the shares and the number of shares that constitute the series or class;

the dividend rate (or the method of calculation thereof), if any, on the shares of the series or class and the priority as to payment of dividends with respect to other classes or series of our capital stock;

the dividend periods (or the method of calculation thereof);

the voting rights of the shares;

the liquidation preference and the priority as to payment of the liquidation preference with respect to other classes or series of our capital stock and any other rights of the shares of the class or series upon our liquidation or winding up;

whether or not and on what terms the shares of the series or class will be subject to redemption or repurchase at our option;

whether and on what terms the shares of the series or class will be convertible into or exchangeable for other securities;

whether depositary shares representing shares of the series or class of preferred stock will be offered and, if so, the fraction of a share of the series or class of preferred stock represented by each depositary share (see [Description of Depositary Shares](#) below);

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whether the shares of the series or class of preferred stock will be listed on a securities exchange;

if appropriate, any special United States Federal income tax considerations applicable to the series or class; and

the other rights and privileges and any qualifications, limitations or restrictions of the rights or privileges of the series or class.

### **Dividends**

Holders of shares of preferred stock will be entitled to receive, when and as declared by our board of directors, dividends payable at the dates and at the rates, if any, per share per annum as set forth in the applicable prospectus supplement.



Unless otherwise set forth in the applicable prospectus supplement, each series or class of preferred stock will rank junior as to dividends to any preferred stock that may be issued in the future that is expressly senior as to dividends to that preferred stock. If we should fail at any time to pay accrued dividends on any senior series or class at the time the dividends are payable, we may not pay any dividend on the junior preferred stock or redeem or otherwise repurchase shares of junior preferred stock until the accumulated but unpaid dividends on the senior series or class have been paid or set aside for payment in full by us.

Unless otherwise set forth in the applicable prospectus supplement, no dividends (other than in common stock or other capital stock ranking junior to the preferred stock of any series or class as to dividends and upon liquidation) may be declared or paid or set aside for payment, nor may any other distribution be declared or made upon the common stock, or any of our other capital stock ranking junior to or on a parity with the preferred stock of that series or class as to dividends, nor may any common stock or any of our other capital stock ranking junior to or on a parity with the preferred stock of that series or class as to dividends be redeemed, purchased or otherwise acquired for any consideration (or any monies be paid to or made available for a sinking fund for the redemption of any shares of any of that stock) by us (except by conversion into or exchange for other capital stock of ours ranking junior to the preferred stock of that series or class as to dividends) unless (i) if that series or class of preferred stock has a cumulative dividend, full cumulative dividends on the preferred stock of that series or class have been or contemporaneously are declared and paid or declared and a sum sufficient for the payment thereof set apart for all past dividend periods and the then current dividend period and (ii) if such series or class of preferred stock does not have a cumulative dividend, full dividends on the preferred stock of such series or class have been or contemporaneously are declared and paid or declared and a sum sufficient for the payment thereof set apart for payment for the then current dividend period. However, any monies deposited in any sinking fund with respect to any preferred stock in compliance with the provisions of the sinking fund may be applied to the purchase or redemption of that preferred stock in accordance with the terms of the sinking fund, regardless of whether at the time of the application full dividends, including cumulative dividends, upon shares of the preferred stock outstanding on the last dividend payment date have been paid or declared and set apart for payment. In addition, any junior or parity preferred stock or common stock may be converted into or exchanged for our stock ranking junior to the preferred stock as to dividends.

The amount of dividends payable for the initial dividend period or any period shorter than a full dividend period will be computed on the basis of a 360-day year of twelve 30-day months, unless otherwise set forth in the applicable prospectus supplement. Accrued but unpaid dividends will not bear interest, unless otherwise set forth in the applicable prospectus supplement.

#### **Conversion or Exchange**

If any series or class of preferred stock will be convertible into, or exchangeable for, other securities or property, the applicable prospectus supplement will state the terms on which shares of that series or class may be converted or exchanged.

#### **Redemption and Sinking Fund**

No series or class of preferred stock will be redeemable or receive the benefit of a sinking fund except as set forth in the applicable prospectus supplement.

#### **Liquidation Rights**

Unless otherwise set forth in the applicable prospectus supplement, in the event of our liquidation, dissolution or winding up, the holders of shares of each series or class of preferred stock are entitled to receive out of our assets available for distribution to stockholders, before any

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distribution of assets is made to holders of (i) any other shares of preferred stock ranking junior to that series or class of preferred stock as to rights upon liquidation, dissolution or winding up and (ii) shares of common stock, liquidating distributions per share in the

amount of the liquidation preference specified in the applicable prospectus supplement for that series or class of preferred stock plus any dividends accrued and accumulated but unpaid to the date of final distribution; but the holders of each series or class of preferred stock will not be entitled to receive the liquidating distribution of, plus such dividends on, those shares until the liquidation preference of any shares of our capital stock ranking senior to that series or class of the preferred stock as to the rights upon liquidation, dissolution or winding up will have been paid (or a sum set aside therefor sufficient to provide for payment) in full. If upon our liquidation, dissolution or winding up, the amounts payable with respect to the preferred stock, and any other preferred stock ranking as to any distribution on a parity with the preferred stock are not paid in full, then the holders of the preferred stock and the other parity preferred stock will share ratably in any distribution of assets in proportion to the full respective preferential amount to which they are entitled. Unless otherwise specified in a prospectus supplement for a series or class of preferred stock, after payment of the full amount of the liquidating distribution to which they are entitled, the holders of shares of preferred stock will not be entitled to any further participation in any distribution of our assets. Neither a consolidation or merger of us with another corporation nor a sale of securities will be considered a liquidation, dissolution or winding up of us.

### **Voting Rights**

The holders of each series or class of preferred stock we may issue will have no voting rights, except as required by law and as described below or in the applicable prospectus supplement. Our board of directors may, upon issuance of a series or class of preferred stock, grant voting rights to the holders of that series or class to elect additional board members if we fail to pay dividends in a timely fashion.

Without the affirmative vote of a majority of the shares of any series or class of preferred stock then outstanding, we may not:

increase or decrease the aggregate number of authorized shares of that series or class;

increase or decrease the par value of the shares of that series or class; or

alter or change the powers, preferences or special rights of the shares of that series or class so as to affect them adversely.

If the amendment would adversely alter or change the powers, preferences or special rights of one or more series of a class of preferred stock, but not the entire class, then only the shares of the affected series will have the right to vote on the amendment.

### **Miscellaneous**

The holders of our preferred stock will have no preemptive rights. All shares of preferred stock being offered by the applicable prospectus supplement will be fully paid and not liable to further calls or assessment by us. If we should redeem or otherwise reacquire shares of our preferred stock, then these shares will resume the status of authorized and unissued shares of preferred stock undesignated as to series and class, and will be available for subsequent issuance.

### **No Other Rights**

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The shares of a series or class of preferred stock will not have any preferences, voting powers or relative, participating, optional or other special rights except as set forth above or in the applicable prospectus supplement, our charter or the applicable certificate of designation or as otherwise required by law.

### **Transfer Agent and Registrar**

The transfer agent and registrar for each series or class of preferred stock will be designated in the applicable prospectus supplement.

## DESCRIPTION OF DEPOSITARY SHARES

### General

We may, at our option, elect to offer fractional shares rather than full shares of the preferred stock of a series or class. In the event that we exercise this option, we will issue receipts for depositary shares, each of which will represent a fraction (to be set forth in the prospectus supplement relating to a particular series or class of preferred stock) of a share of a particular series or class of preferred stock as described below.

The shares of any series or class of preferred stock represented by depositary shares will be deposited under one or more deposit agreements among us, a depositary to be named in the applicable prospectus supplement, and the holders from time to time of depositary receipts issued thereunder. Subject to the terms of the applicable deposit agreement, each holder of a depositary share will be entitled, in proportion to the applicable fraction of a share of preferred stock represented by the depositary share, to all the rights and preferences of the preferred stock represented thereby (including, as applicable, dividend, voting, redemption, subscription and liquidation rights).

The depositary shares will be evidenced by depositary receipts issued pursuant to the deposit agreement. Depositary receipts will be distributed to those persons purchasing the fractional shares of the related series or class of preferred stock.

This section summarizes the general terms of the depositary shares that we may offer. The prospectus supplement relating to the depositary shares will describe the specific terms of the depositary shares which may be in addition to or different from the general terms summarized in this section. If any particular terms of the depositary shares or the deposit agreement described in a prospectus supplement differ from any of the terms described below, then the terms described below will be deemed to have been superseded by that prospectus supplement. When evaluating the depositary shares and preferred stock, you also should refer to the applicable deposit agreement and depositary receipt. The applicable deposit agreement and depositary receipt will be filed as exhibits to the registration statement or incorporated by reference in the registration statement.

Immediately following our issuance of shares of a series or class of preferred stock that will be offered as fractional shares, we will deposit the shares with the depositary, which will then issue and deliver the depositary receipts to the purchasers thereof. Depositary receipts will only be issued evidencing whole depositary shares. A depositary receipt may evidence any number of whole depositary shares.

Pending the preparation of definitive depositary receipts, the depositary may, upon our written order, issue temporary depositary receipts substantially identical to (and entitling the holders thereof to all the rights pertaining to) the definitive depositary receipts but not in definitive form. Definitive depositary receipts will be prepared thereafter without unreasonable delay, and such temporary depositary receipts will be exchangeable for definitive depositary receipts at our expense.

### Dividends and Other Distributions

The depositary will distribute all dividends or other distributions received in respect of the related series or class of preferred stock to the record holders of depositary shares relating to the series or class of preferred stock in proportion to the number of the depositary shares owned by the holders.

In the event of a distribution other than in cash, the depositary will distribute property received by it to the record holders of depositary shares entitled thereto in proportion to the number of depositary shares owned by the holders, unless the depositary determines that the distribution cannot be made proportionately among the holders or that it is not feasible to make the distributions, in which case the depositary may, with our approval, adopt any method it deems equitable and practicable for the purpose of effecting the distribution, including the sale (at public or private sale) of the securities or property thus received, or any part thereof, at the place or places and upon those terms as it may deem proper.

### **Redemption of Depositary Shares**

If any series or class of the preferred stock underlying the depositary shares is subject to redemption, the depositary shares will be redeemed from the proceeds received by the depositary resulting from any redemption, in whole or in part, of the series or class of the preferred stock held by the depositary. The redemption price per depositary share will be equal to the applicable fraction of the redemption price per share payable with respect to the series or class of the preferred stock. If we redeem shares of a series or class of preferred stock held by the depositary, the depositary will redeem as of the same redemption date the number of depositary shares representing the shares of preferred stock so redeemed. If less than all of the depositary shares are to be redeemed, the depositary shares to be redeemed will be selected by lot or substantially equivalent method determined by the depositary.

After the date fixed for redemption, the depositary shares so called for redemption will no longer be deemed to be outstanding and all rights of the holders of the depositary shares will cease, except the right to receive the monies payable upon redemption and any money or other property to which the holders of the depositary shares were entitled upon such redemption, upon surrender to the depositary of the depositary receipts evidencing the depositary shares. Any funds deposited by us with the depositary for any depositary shares that the holders thereof fail to redeem will be returned to us after a period of two years from the date the funds are so deposited.

### **Voting the Underlying Preferred Stock**

Upon receipt of notice of any meeting at which the holders of any series or class of the preferred stock are entitled to vote, the depositary will mail the information contained in the notice of meeting to the record holders of the depositary shares relating to the series or class of preferred stock. Each record holder of the depositary shares on the record date (which will be the same date as the record date for the related series or class of preferred stock) will be entitled to instruct the depositary as to the exercise of the voting rights pertaining to the number of shares of the series or class of preferred stock represented by that holder's depositary shares. The depositary will endeavor, insofar as practicable, to vote or cause to be voted the number of shares of preferred stock represented by the depositary shares in accordance with the instructions, provided the depositary receives the instructions sufficiently in advance of the meeting to enable it to so vote or cause to be voted the shares of preferred stock, and we will agree to take all reasonable action that may be deemed necessary by the depositary in order to enable the depositary to do so. The depositary will abstain from voting shares of the preferred stock to the extent it does not receive specific instructions from the holders of depositary shares representing the preferred stock.

### **Withdrawal of Stock**

Upon surrender of the depositary receipts at the corporate trust office of the depositary and upon payment of the taxes, charges and fees provided for in the deposit agreement and subject to the terms thereof, the holder of the depositary shares evidenced thereby is entitled to delivery at such office, to or upon his or her order, of the number of whole shares of the related series or class of preferred stock and any money or other property, if any, represented by the depositary shares. Holders of depositary shares will be entitled to receive whole shares of the related series or class of preferred stock, but holders of the whole shares of preferred stock will not thereafter be entitled to deposit the shares of preferred stock with the depositary or to receive depositary shares therefor. If the depositary receipts delivered by the holder evidence a number of depositary shares in excess of the number of depositary shares representing the number of whole shares of the related series or class of preferred stock to be withdrawn, the depositary will deliver to the holder upon his or her order at the same time a new depositary receipt evidencing the excess number of depositary shares.

### **Amendment and Termination of a Deposit Agreement**

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The form of depositary receipt evidencing the depositary shares of any series or class and any provision of the applicable deposit agreement may at any time and from time to time be amended by agreement between us



and the depositary. However, any amendment that materially adversely alters the rights of the holders of depositary shares of any series or class will not be effective unless the amendment has been approved by the holders of at least a majority of the depositary shares of the series or class then outstanding. Every holder of a depositary receipt at the time the amendment becomes effective will be deemed, by continuing to hold the depositary receipt, to be bound by the deposit agreement as so amended. Notwithstanding the foregoing, in no event may any amendment impair the right of any holder of any depositary shares, upon surrender of the depositary receipts evidencing the depositary shares and subject to any conditions specified in the deposit agreement, to receive shares of the related series or class of preferred stock and any money or other property represented thereby, except in order to comply with mandatory provisions of applicable law. The deposit agreement may be terminated by us at any time upon not less than 60 days' prior written notice to the depositary, in which case, on a date that is not later than 30 days after the date of the notice, the depositary shall deliver or make available for delivery to holders of depositary shares, upon surrender of the depositary receipts evidencing the depositary shares, the number of whole or fractional shares of the related series or class of preferred stock as are represented by the depositary shares. The deposit agreement shall automatically terminate after all outstanding depositary shares have been redeemed or there has been a final distribution in respect of the related series or class of preferred stock in connection with any liquidation, dissolution or winding up of us and the distribution has been distributed to the holders of depositary shares.

### **Charges of Depositary**

We will pay all transfer and other taxes and the governmental charges arising solely from the existence of the depositary arrangements. We will pay the charges of the depositary, including charges in connection with the initial deposit of the related series or class of preferred stock and the initial issuance of the depositary shares and all withdrawals of shares of the related series or class of preferred stock, except that holders of depositary shares will pay transfer and other taxes and governmental charges and any other charges as are expressly provided in the deposit agreement to be for their accounts.

### **Liability and Legal Proceedings**

Neither we nor the depositary will be liable if either of us is prevented or delayed by law or any circumstance beyond our control in performing our obligations under the deposit agreement. Our obligations and those of the depositary will be limited to performance in good faith of our duties under the deposit agreement. Neither we nor the depositary will be obligated to prosecute or defend any legal proceeding in respect of any depositary shares or preferred stock unless satisfactory indemnity is furnished. We and the depositary may rely on written advice of counsel or accountants, on information provided by holders of depositary receipts and other persons believed in good faith to be competent to give such information and on documents believed to be genuine and to have been signed or presented by the proper persons.

### **Resignation and Removal of Depositary**

The depositary may resign at any time by delivering to us written notice of its election to do so, and we may at any time remove the depositary. Any resignation or removal is to take effect upon the appointment of a successor depositary, which successor depositary must be appointed within 60 days after delivery of the notice of resignation or removal and must be a bank or trust company having its principal office in the United States and having a combined capital and surplus of at least \$50,000,000.

### **Miscellaneous**

The depositary will forward to the holders of depositary shares all reports and communications from us that are delivered to the depositary and which we are required to furnish to the holders of the related preferred stock.



The depositary's corporate trust office will be identified in the applicable prospectus supplement. Unless otherwise set forth in the applicable prospectus supplement, the depositary will act as transfer agent and registrar for depositary receipts and if shares of a series or class of preferred stock are redeemable, the depositary also will act as redemption agent for the corresponding depositary receipts.

## DESCRIPTION OF DEBT SECURITIES

We may issue debt securities either separately, or together with, or upon the conversion of or in exchange for, other securities. The debt securities may be our unsubordinated obligations, which we refer to as senior debt securities, or our subordinated obligations, which we refer to as subordinated debt securities. The subordinated debt securities of any series may be our senior subordinated obligations, subordinated obligations, junior subordinated obligations or may have such other ranking as will be described in the relevant prospectus supplement. We may issue any of these types of debt securities in one or more series.

Our senior debt securities may be issued from time to time under a Senior Debt Securities Indenture, dated as of May 6, 2004, between us and Citibank, N.A., as trustee, to be supplemented by a supplemental indenture relating to each series of senior debt securities issued thereunder. Our subordinated debt securities may be issued from time to time under a subordinated debt securities indenture, as supplemented, entered into by us with a financial institution as trustee. Copies of the senior debt securities indenture and a form of subordinated debt securities indenture have been filed as exhibits to the registration statement of which this prospectus is a part. Each of the senior debt securities indenture and the subordinated debt securities indenture is referred to individually as an indenture and they are referred to collectively as the indentures. Each trustee is referred to individually as a trustee and the trustees are collectively referred to as the trustees.

This section summarizes selected terms of the debt securities that we may offer. The applicable prospectus supplement and indenture relating to any particular debt securities offered will describe the specific terms of that series, which may be in addition to or different from the general terms summarized in this section. If any particular terms of the debt securities described in a prospectus supplement differ from any of the terms described in this prospectus, then the terms described in the applicable prospectus supplement will supersede the terms described in this prospectus. The following summary and any description of our debt securities contained in an applicable prospectus supplement do not describe every aspect of the applicable indenture or the debt securities. When evaluating the debt securities, you also should refer to all provisions of the applicable indenture and the debt securities. When we refer to Triad, we, us or our in this section or when we otherwise refer to ourselves in this section, we mean Triad Hospitals, Inc., excluding, unless otherwise expressly stated or the context requires, our subsidiaries.

### General

We can issue an unlimited amount of debt securities under the indentures. However, certain of our existing or future debt agreements may limit the amount of debt securities we may issue. We can issue debt securities from time to time and in one or more series as determined by us. In addition, we can issue debt securities of any series with terms different from the terms of debt securities of any other series and the terms of particular debt securities within any series may differ from each other, all without the consent of the holders of previously issued series of debt securities.

The applicable prospectus supplement relating to the series of debt securities will describe the specific terms of the debt securities being offered, including, where applicable, the following:

the title and series designation of the series of debt securities;

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any limit on the aggregate principal amount of debt securities of the series;

the price or prices at which the debt securities of the series will be issued;

whether the debt securities of the series will be senior debt securities or subordinated debt securities;

the date or dates on which the principal amount and premium, if any, are payable;

the interest rate or rates of the debt securities of the series or the method for calculating the interest rate, and the date or dates from which interest will accrue;

the date or dates on which interest, if any, will be payable and the record dates for payment of interest;

the place or places where the principal and premium, if any, and interest, if any, will be payable and where the debt securities of the series can be surrendered for transfer, conversion or exchange;

our right, if any, to redeem the debt securities and the terms and conditions upon which the debt securities of the series may be redeemed, in whole or in part;

any mandatory or optional sinking fund or analogous provisions;

if the debt securities of the series will be secured, any provisions relating to the security provided;

whether the debt securities of the series are convertible or exchangeable into other debt or equity securities, and, if so, the terms and conditions upon which such conversion or exchange will be effected;

whether any portion of the principal amount of the debt securities of the series will be payable upon declaration or acceleration of the maturity thereof pursuant to an event of default;

whether the debt securities of the series, in whole or any specified part, will not be defeasible pursuant to the applicable indenture and, if other than by an officers certificate, the manner in which any election by us to defease the debt securities of the series will be evidenced;

any deletions from, modifications of or additions to the events of default or our covenants pertaining to the debt securities of the series;

the denominations in which any registered securities of the series are to be issuable;

if other than U.S. dollars, the currency or currencies, including composite currencies, of payment of principal of, premium, if any, and interest, if any, on the debt securities of the series and whether the debt securities of the series may be satisfied and discharged other than as provided in the applicable indenture;

any terms applicable to debt securities of any series issued at an issue price below their stated principal amount, including the issue price thereof and the rate or rates at which the original issue discount will accrue;

whether the debt securities of the series are to be issued or delivered (whether at the time of original issuance or at the time of exchange of a temporary security of such series or otherwise), or any installment of principal or any premium or interest is to be

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payable only, upon receipt of certificates or other documents or satisfaction of other conditions in addition to those specified in the applicable indenture;

whether the debt securities of the series are to be issued in fully registered form without coupons or are to be issued in the form of one or more global securities in temporary global form or permanent global form;

whether the debt securities of the series are to be issuable in registered or bearer form and any other terms required to establish a series of bearer securities, including, but not limited to, tax compliance, registration and transfer procedures;

if appropriate, any special United States Federal income tax considerations applicable to the debt securities of the series; and

any other terms of the debt securities of the series not inconsistent with the provisions of the applicable indenture.

The prospectus supplement relating to any series of subordinated debt securities being offered also will describe the subordination provisions applicable to that series, if different from the subordination provisions described in this prospectus. In addition, the prospectus supplement relating to a series of subordinated debt will describe our rights, if any, to defer payments of interest on the subordinated debt securities by extending the interest payment period.

Debt securities may be issued as original issue discount securities to be sold at a discount below their principal amount or at a premium above their principal amount. In the event of an acceleration of the maturity of any original issue discount security, the amount payable to the holder upon acceleration will be determined in the manner described in the applicable prospectus supplement.

The above is not intended to be an exclusive list of the terms that may be applicable to any debt securities and we are not limited in any respect in our ability to issue debt securities with terms different from or in addition to those described above or elsewhere in this prospectus, *provided* that the terms are not inconsistent with the applicable indenture. Any applicable prospectus supplement also will describe any special provisions for the payment of additional amounts with respect to the debt securities.

#### **Subordination Provisions Relating to Subordinated Debt**

Debt securities may be subject to contractual subordination provisions contained in the subordinated debt securities indenture. These subordination provisions may prohibit us from making payments on the subordinated debt securities in certain circumstances before a defined class of senior indebtedness is paid in full or during certain periods when a payment or other default exists with respect to certain senior indebtedness. If we issue subordinated debt securities, the applicable prospectus supplement relating to the subordinated debt securities will include a description of the subordination provisions and the definition of senior indebtedness that apply to the subordinated debt securities.

If the trustee under the subordinated debt indenture or any holder of the series of subordinated debt securities receives any payment or distribution that is prohibited under the subordination provisions, then the trustee or the holders will have to repay that money to the holders of senior indebtedness.

Even if the subordination provisions prevent us from making any payment when due on the subordinated debt securities of any series, we will be in default on our obligations under that series if we do not make the payment when due. This means that the trustee under the subordinated debt indenture and the holders of that series can take action against us, but they will not receive any money until the claims of the holders of senior indebtedness have been fully satisfied.

#### **Consequences of Operating through Subsidiaries**

We hold many of our assets and conduct many of our operations through subsidiaries. Accordingly, our cash flow and our ability to service our debt, including the debt securities, are dependent upon the earnings of our subsidiaries and the distribution of those earnings to us, whether by dividends, loans or otherwise. The payment of dividends and the making of loans and advances to us by our subsidiaries may be subject to statutory or contractual restrictions, are contingent upon the earnings of our subsidiaries and are subject to various business considerations. Our right to receive assets of any of our subsidiaries upon their liquidation or reorganization (and the consequent right of holders of the debt securities to participate in those assets) will be effectively subordinated to the claims of that subsidiary's creditors (including trade creditors), except to the extent that we are recognized as a creditor of that subsidiary, in which case our claims would still be subordinate to any security interests in the assets of the subsidiary and any indebtedness of the subsidiary senior to that held by us.

**Form, Exchange, Registration and Transfer**

The debt securities of a series may be issued as registered securities, as bearer securities (with or without coupons attached) or as both registered securities and bearer securities. Debt securities of a series may be



issuable in whole or in part in the form of one or more global debt securities, as described below under Global Debt Securities. Unless otherwise indicated in an applicable prospectus supplement, registered securities will be issuable in denominations of \$1,000 and integral multiples thereof.

Registered securities of any series will be exchangeable for other registered securities of the same series of any authorized denominations and of a like aggregate principal amount and tenor. Debt securities may be presented for exchange as provided above, and unless otherwise indicated in an applicable prospectus supplement, registered securities may be presented for registration of transfer, at the office or agency designated by us as registrar or co-registrar with respect to any series of debt securities, without service charge and upon payment of any taxes, assessments or other governmental charges as described in the applicable indenture. The transfer or exchange will be effected on the books of the registrar or any other transfer agent appointed by us upon the registrar or transfer agent, as the case may be, being satisfied with the documents of title and identity of the person making the request. We intend to initially appoint the trustee as registrar and the name of any different or additional registrar designated by us with respect to the debt securities of any series will be included in the applicable prospectus supplement. If a prospectus supplement refers to any transfer agents (in addition to the registrar) designated by us with respect to any series of debt securities, we may at any time rescind the designation of any transfer agent or approve a change in the location through which any transfer agent acts, except that, if debt securities of a series are issuable only as registered securities, we will be required to maintain a transfer agent in each place of payment for that series. We may at any time designate additional transfer agents with respect to any series of debt securities.

In the event of any redemption of debt securities of any series, we will not be required to (i) issue, register the transfer of or exchange debt securities of that series during a period beginning at the opening of business 15 days before any selection of debt securities of that series to be redeemed and ending at the close of business on the day of mailing of the relevant notice of redemption and (ii) register the transfer of or exchange any registered security, or portion thereof, called for redemption, except the unredeemed portion of any registered security being redeemed in part.

### **Conversion or Exchange Rights**

Debt securities may be convertible into or exercisable or exchangeable for shares of our common stock, shares of our preferred stock or depositary shares that we are registering under this registration statement, or into or for other of our securities or securities of third parties. The terms and conditions of conversion or exchange will be stated in the applicable prospectus supplement. The terms will include, among others, the following:

the conversion, exercise or exchange price;

the conversion, exercise or exchange period;

other provisions regarding the convertibility, exercisability or exchangeability of the debt securities, including whether the conversion, exercise or exchange is at our option or at the option of the holder;

events requiring adjustment to the conversion, exercise or exchange price; and

provisions affecting conversion, exercise or exchange in the event of our redemption of the debt securities.

### **Covenants**

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*Provision of Financial Information.* We will deliver to the trustee a copy of our reports on Forms 10-K, 10-Q and 8-K and any other reports that we are required to file with the Securities and Exchange Commission pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934, as amended.

Any additional covenants with respect to any series of debt securities will be set forth in the applicable prospectus supplement.

Unless otherwise indicated in an applicable prospectus supplement, the indentures do not include covenants restricting our ability to enter into a highly leveraged transaction, including a reorganization, restructuring, merger or similar transaction involving us that may adversely affect the holders of the debt securities, if the transaction is a permissible consolidation, merger or similar transaction. In addition, unless otherwise specified in an applicable prospectus supplement, the indentures do not afford the holders of the debt securities the right to require us to repurchase or redeem the debt securities in the event of a highly leveraged transaction. See Consolidation, Merger and Sale of Assets.

### **Consolidation, Merger and Sale of Assets**

Unless otherwise indicated in an applicable prospectus supplement, each indenture provides that we may not, in a single transaction or through a series of transactions, (i) consolidate with or merge into any other person or (ii) sell, assign, convey, transfer, lease or otherwise dispose of all or substantially all of our assets to another person, unless,

(a) either:

(x) we are the continuing corporation, or

(y) the person (if other than us) formed by or surviving any such consolidation or merger or to which such sale, assignment, conveyance, transfer, lease or disposition will have been made is a corporation organized and existing under the laws of the United States, any state thereof or the District of Columbia and that person expressly assumes our obligations for due and punctual payment of the principal of, premium, if any, and interest on all the notes and the performance and observance of every covenant of the indenture on our part to be performed or observed; and

(b) immediately before and immediately after giving effect to such transaction or series of transactions on a pro forma basis, no default or event of default will have occurred and be continuing.

Upon any consolidation or merger, or any sale, assignment, conveyance, transfer, lease or disposition of all or substantially all of our assets in accordance with the immediately preceding paragraph, the successor person formed by such consolidation or into which we are merged or to which such sale, assignment, conveyance, transfer, lease or disposition is made, will succeed to, and be substituted for, and may exercise every right and power of ours under the indenture with the same effect as if such successor had been named as us therein. When a successor assumes all the obligations of its predecessor under the indenture or the debt securities, the predecessor will be released from those obligations; *provided* that, in the case of a transfer by a lease, the predecessor will not be released from the payment of principal and interest on the debt securities.

### **Payment and Paying Agents**

Unless otherwise indicated in an applicable prospectus supplement, payment of principal of, premium, if any, and interest, if any, on registered securities will be made at the office of the paying agent or paying agents designated by us from time to time, except that at our option, payment of principal and premium, if any, or interest also may be made by wire transfer to an account maintained by the payee. Unless otherwise indicated in an applicable prospectus supplement, payment of any installment of interest on registered securities will be made to the person in whose name the registered security is registered at the close of business on the regular record date for the interest payment.

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Unless otherwise indicated in an applicable prospectus supplement, the trustee will be designated as our sole paying agent for payments with respect to debt securities which are issuable solely as registered securities. Any paying agents outside the United States and any other paying agents in the United States initially designated by us for any series of debt securities will be named in an applicable prospectus supplement. We may at any time designate additional paying agents or rescind the designation of any paying agent or approve a change in the office through which any paying agent acts, except that, if debt securities of a series are issuable only as registered securities, we will be required to maintain a paying agent in each place of payment for that series.

All monies paid by us to a paying agent for the payment of principal of and premium, if any, or interest, if any, on any debt security which remains unclaimed at the end of two years after that principal or interest will have become due and payable will be repaid to us, and the holder of the debt security or any coupon will thereafter look only to us for payment of those amounts.

### **Global Debt Securities**

The debt securities of a series may be issued in whole or in part in global form. A debt security in global form will be deposited with, or on behalf of, a depository, which will be identified in an applicable prospectus supplement. A global debt security may be issued in either registered or bearer form and in either temporary or permanent form. A debt security in global form may not be transferred except as a whole to the depository for the debt security or to a nominee or successor of the depository. If any debt securities of a series are issuable in global form, the applicable prospectus supplement will describe the circumstances, if any, under which beneficial owners of interests in a global debt security may exchange their interests for definitive debt securities of that series of like tenor and principal amount in any authorized form and denomination, the manner of payment of principal of, premium, if any, and interest, if any, on the global debt securities and the specific terms of the depository arrangement with respect to any global debt security.

### **Events of Default**

Under each indenture, unless otherwise specified with respect to a series of debt securities, the following events will constitute an event of default with respect to any series of debt securities:

default for 30 days in payment when due of any interest on any debt security of that series;

default in the payment of the principal of or premium, if any, on any debt security of that series at its maturity, upon acceleration, optional redemption, mandatory redemption, required purchase or otherwise;

default in the performance, or breach, of any covenant or warranty by us, which default or breach continues for a period of 60 days after we receive written notice specifying the default from the trustee or the holders of at least 25% of the outstanding principal amount of the debt security of that series;

certain events of bankruptcy, insolvency or reorganization with respect to us; or

any other event of default applicable to the series of debt securities and set forth in the applicable prospectus supplement.

Each indenture provides that if an event of default other than an event of bankruptcy or insolvency occurs and is continuing with respect to a series of debt securities, the trustee or the holders of not less than 25% in aggregate principal amount of the outstanding debt securities of that series may declare the principal amount (or, if any of the debt securities of that series are original issue discount securities, that portion of the principal amount of the debt securities as may be specified by the terms thereof) of the debt securities of that series to be immediately due and payable.

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Each indenture provides that if an event of default due to bankruptcy or insolvency occurs and is continuing, then the debt securities of that series will *ipso facto* become and be immediately due and payable without any declaration or other act on the part of the trustee or any holder of debt securities.

Under certain circumstances, the holders of a majority in aggregate principal amount of the outstanding debt securities of the series may rescind a declaration of default. No such rescission will affect any subsequent default or impair any right consequent thereto.

With respect to each series of debt securities, no holder will have any right to pursue any remedy with respect to the applicable indenture or the debt securities, unless

(a) the holders of at least 25% in aggregate principal amount of the outstanding debt securities of the series have made a written request, and offered reasonable indemnity, to the trustee to institute such proceeding;

(b) the trustee has failed to institute such proceeding within 60 days after receipt of such notice; and

(c) the trustee, within such 60-day period, has not received directions inconsistent with such written request by holders of a majority in principal amount of the outstanding debt securities of the series.

Such limitations do not apply, however, to a suit instituted by a holder of any debt security for the enforcement of the payment of the principal of, premium, if any, and interest in respect of a debt security on the date specified for payment in the debt security. The holders of at least a majority in aggregate principal amount of the outstanding debt securities of any series may, on behalf of the holders of the debt securities of any series, waive any past defaults under the applicable indenture, other than (i) a default in any payment of the principal of, and premium, if any, or interest on, any debt security of the series or (ii) any default in respect of the covenants or provisions in the applicable indenture which may not be modified without the consent of the holder of each outstanding debt security of the series affected.

If a default or an event of default occurs and is continuing and is known to the trustee, the trustee will mail to each holder of the debt securities of any series notice of the default or event of default within 10 days after the trustee obtains knowledge of the occurrence thereof. Except in the case of a default or event of default in payment of any debt securities of any series, the trustee may withhold the notice to the holders of the debt securities of any series, if a committee of its trust officers in good faith determines that withholding the notice is in the interests of the holders of the debt securities of any series. Each indenture provides for us to deliver to the trustee annual statements as to our performance under the indenture.

#### **Amendments and Waivers**

The indentures permit us and the applicable trustee to execute a supplemental indenture without the consent of the holders of the debt securities or any related coupons:

to evidence the succession of another person to us and the assumption by any such successor of the covenants of us, any applicable guarantor or any other obligor upon the debt securities of any series in the applicable indenture, the debt securities of such series and any applicable guarantee in accordance with Consolidation, Merger and Sale of Assets;

to add to our covenants or the covenants of any other obligor upon the debt securities of any series for the benefit of the holders of all the debt securities of such series or to surrender any right or power conferred upon us or any other obligor upon the debt securities of any series in the applicable indenture or the debt securities of such series;

to cure any ambiguity, or to correct or supplement any provision in the indenture or the debt securities of any series which may be defective or inconsistent with any other provision in the indenture, debt securities or any applicable guarantee of any series or make any other provisions with respect to matters or questions arising under the indenture, debt securities of any series or applicable guarantee; *provided* that, in each case, such provisions will not adversely affect the interest of the holders of any such debt securities in any material respect;

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to comply with the requirements of the Commission in order to effect or maintain the qualification of the indenture under the Trust Indenture Act;

to add a guarantor under the indenture;

to evidence and provide the acceptance of the appointment of a successor trustee under the applicable indenture;

to mortgage, pledge, hypothecate or grant a security interest in favor of the trustee for the benefit of the holders of debt securities of any series as additional security for the payment and performance of our or any applicable guarantor's obligations under the applicable indenture, in any property or assets;



to add to, change or eliminate any provisions of the applicable indenture (which addition, change or elimination may apply to one or more series of debt securities); *provided* that, any such addition, change or elimination (A) shall neither (i) apply to any debt security of any series created prior to the execution of such supplemental indenture and entitled to the benefit of such provision nor (ii) modify the rights of the holders of such debt securities with respect to such provisions or (B) shall become effective only when there is no such outstanding debt securities of such series; and

to establish the form and terms of debt securities of any series as permitted by the indenture.

The holders of a majority in principal amount of outstanding debt securities of any series may waive compliance with certain restrictive covenants and provisions of the applicable indenture.

Each indenture also permits us and the applicable trustee, with the consent of the holders of not less than a majority in aggregate principal amount of the outstanding debt securities of the series affected by the supplemental indenture, to execute a supplemental indenture to add provisions to, or change in any manner or eliminate any provisions of, the indenture with respect to that series of debt securities or modify in any manner the rights of the holders of the debt securities of that series and any related coupons under the applicable indenture. However, the supplemental indenture will not, without the consent of the holder of each outstanding debt security of that series affected thereby:

change the stated maturity of the principal of, or any installment of principal or interest on, the debt securities of that series or any premium payable upon redemption thereof;

reduce the principal amount of, or premium, if any, or the rate of interest on, the debt securities of that series;

change the place or currency of payment of principal and premium, if any, or interest, if any, on the debt securities of that series;

impair the right to institute suit for the enforcement of any payment after the stated maturity date on any debt securities of that series, or in the case of redemption, on or after the redemption date;

reduce the principal amount of outstanding debt securities of any series necessary to modify or amend the indenture;

modify the foregoing requirements necessary to waive any covenant or past default, except (i) to increase the percentage in principal amount of outstanding debt securities of any series necessary for such actions or (ii) to provide that certain other provisions of the indenture cannot be modified or waived without the consent of the holder of each debt security of a series affected thereby; and

such other matters as may be specified in an applicable prospectus supplement for any series of debt securities.

### **Discharge and Defeasance**

Unless otherwise indicated in an applicable prospectus supplement, each indenture provides that we may satisfy and discharge obligations thereunder with respect to the debt securities of any series by delivering to the trustee for cancellation all outstanding debt securities of the series or depositing with the trustee, after the outstanding debt securities have become due and payable, or will become due and payable within one year or will be called for redemption within one year, cash sufficient to pay at stated maturity or redemption all of the outstanding debt securities of the series and all other sums payable under the indenture with respect to the series.

In addition, unless otherwise indicated in an applicable prospectus supplement, each indenture provides that we may:

(a) be discharged from our obligations in respect of the debt securities of a series ( discharge and defeasance ), or

(b) cease to comply with specified restrictive covenants in respect of the debt securities of a series ( covenant defeasance ), including those described under Consolidation, Merger and Sale of Assets ;

and the omission will not be an event of default with respect to the debt securities of that series, in each case at any time prior to the stated maturity or redemption thereof, if we irrevocably deposit with the trustee, in trust:

(i) sufficient funds in the currency or currency unit in which the debt securities are denominated to pay the principal of, premium, if any, and interest to stated maturity or redemption on, the debt securities of that series, or

(ii) that amount of direct obligations of, or obligations the principal of, premium, if any, and interest on which are fully guaranteed by, the government which issued the currency in which the debt securities are denominated, and which are not subject to prepayment, redemption or call, as will, together with the predetermined and certain income to accrue thereon without consideration of any reinvestment thereof, be sufficient to pay when due the principal of, premium, if any, and interest to stated maturity or redemption on, the debt securities of that series.

The discharge and defeasance and covenant defeasance described above are effective only if, among other things, we deliver an opinion of counsel to the effect that (i) we have met all of the conditions precedent to the defeasance and the holders of the debt securities of the series will not recognize income, gain or loss for United States Federal income tax purposes as a result of the defeasance, and will be subject to tax in the same manner as if no defeasance had occurred and (ii) in the case of discharge and defeasance, the opinion as to tax consequences is based upon an Internal Revenue Service ruling or a change in applicable Federal income tax law.

Upon the discharge and defeasance, the holders of the debt securities of the series will no longer be entitled to the benefits of the applicable indenture, except for the purposes of registration of transfer and exchange of the debt securities of the series and replacement of lost, stolen or mutilated debt securities and may look only to the deposited funds or obligations for payment.

#### **The Trustees under the Indentures**

The trustees under the indentures, and/or one or more of their respective affiliates, may be lenders under our credit agreements and may provide other commercial banking, investment banking and other services to us and/or our subsidiaries and affiliates. Each trustee will be permitted to engage in other transactions with us and/or our subsidiaries and affiliates. However, if any trustee acquires any conflicting interest, as defined in the Trust Indenture Act, it must eliminate the conflict or resign.

The trustees will perform only those duties that are specifically set forth in the indentures, unless an event of default occurs and is continuing. In case an event of default occurs and is continuing, a trustee will exercise the same degree of care and skill as a prudent individual would exercise in the conduct of his or her own affairs.

#### **Applicable Law**

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The debt securities and the indentures will be governed by and construed in accordance with the laws of the State of New York.

## DESCRIPTION OF WARRANTS

We may issue, either separately or together with other securities, warrants for the purchase of any of the other types of securities that we may sell under this prospectus.

This section summarizes the general terms of the warrants that we may offer. The warrants will be issued under warrant agreements to be entered into between us and a bank or trust company, as warrant agent. The prospectus supplement relating to a particular series of warrants will describe the specific terms of that series, which may be in addition to or different from the general terms summarized in this section. The summaries in this section and the prospectus supplement do not describe every aspect of the warrants. If any particular terms of a series of warrants described in a prospectus supplement differ from any of the terms described in this prospectus, then the terms described in the applicable prospectus supplement will be deemed to supersede the terms described in this prospectus. When evaluating the warrants, you also should refer to all the provisions of the applicable warrant agreement, the certificates representing the warrants and the specific descriptions in the applicable prospectus supplement. The applicable warrant agreement and warrant certificates will be filed as exhibits to or incorporated by reference in the registration statement.

### General

The prospectus supplement will describe the terms of the warrants in respect of which this prospectus is being delivered as well as the related warrant agreement and warrant certificates, including the following, where applicable:

the principal amount of, or the number of securities, as the case may be, purchasable upon exercise of each warrant and the initial price at which the principal amount or number of securities, as the case may be, may be purchased upon such exercise;

the designation and terms of the securities, if other than common stock, purchasable upon exercise thereof and of any securities, if other than common stock, with which the warrants are issued;

the procedures and conditions relating to the exercise of the warrants;

the date, if any, on and after which the warrants, and any securities with which the warrants are issued, will be separately transferable;

the offering price of the warrants, if any;

the date on which the right to exercise the warrants will commence and the date on which that right will expire;

if appropriate, a discussion of any special United States Federal income tax considerations applicable to the warrants;

whether the warrants represented by the warrant certificates will be issued in registered or bearer form, and, if registered, where they may be transferred and registered;

call provisions of the warrants, if any;

antidilution provisions of the warrants, if any; and

any other material terms of the warrants.

**Exercise of Warrants**

Each warrant will entitle the holder to purchase for cash that principal amount of or number of securities, as the case may be, at the exercise price set forth in, or to be determined as set forth in, the applicable prospectus supplement relating to the warrants. Unless otherwise specified in the applicable prospectus supplement, warrants may be exercised at the corporate trust office of the warrant agent or any other office indicated in the

applicable prospectus supplement at any time up to 5:00 p.m. New York City time on the expiration date set forth in the applicable prospectus supplement. After 5:00 p.m. New York City time on the expiration date, unexercised warrants will become void. Upon receipt of payment and the warrant certificate properly completed and duly executed, we will, as soon as practicable, issue the securities purchasable upon exercise of the warrant. If less than all of the warrants represented by the warrant certificate are exercised, a new warrant certificate will be issued for the remaining amount of warrants.

#### **No Rights of Security Holder Prior to Exercise**

Prior to the exercise of their warrants, holders of warrants will not have any of the rights of holders of the securities purchasable upon the exercise of the warrants, and will not be entitled to:

in the case of warrants to purchase debt securities, payments of principal of, premium, if any, or interest, if any, on the debt securities purchasable upon exercise; or

in the case of warrants to purchase equity securities, the right to vote or to receive dividend payments or similar distributions on the securities purchasable upon exercise.

#### **Exchange of Warrant Certificates**

Warrant certificates will be exchangeable for new warrant certificates of different denominations at the corporate trust office of the warrant agent or any other office indicated in the applicable prospectus supplement.

### **DESCRIPTION OF PURCHASE CONTRACTS**

We may issue, from time to time, purchase contracts, including contracts obligating holders to purchase from us and us to sell to the holders, a specified principal amount of debt securities or a specified number of shares of common stock or preferred stock or any of the other securities that we may sell under this prospectus at a future date or dates. The consideration payable upon settlement of the purchase contracts may be fixed at the time the purchase contracts are issued or may be determined by a specific reference to a formula set forth in the purchase contracts. The purchase contracts may be issued separately or as part of units consisting of a purchase contract and other securities or obligations issued by us or third parties, including United States treasury securities, securing the holders' obligations to purchase the relevant securities under the purchase contracts. The purchase contracts may require us to make periodic payments to the holders of the purchase contracts or units or vice versa, and the payments may be unsecured or prefunded on some basis. The purchase contracts may require holders to secure their obligations under the purchase contracts.

The prospectus supplement will describe, among other things, the material terms of any purchase contracts and of the securities being sold pursuant to such purchase contracts, a discussion, if appropriate, of any special United States Federal income tax considerations applicable to the purchase contracts and any material provisions governing the purchase contracts that differ from those described above. The description in the prospectus supplement will not necessarily be complete and will be qualified in its entirety by reference to the purchase contracts, and, if applicable, collateral arrangements and depository arrangements, relating to the purchase contracts. The applicable purchase contract and purchase contract certificates will be filed as exhibits to or incorporated by reference in the registration statement.

**DESCRIPTION OF UNITS**

We may, from time to time, issue units comprised of one or more of the other securities that may be offered under this prospectus, 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 the securities included in the unit may not be held or transferred separately at any time, or at any time before a specified date.



Any applicable prospectus supplement will describe, among other things:

the material 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 material provisions relating to the issuance, payment, settlement, transfer or exchange of the units or of the securities comprising the units;

if appropriate, a discussion of any special United States Federal income tax considerations applicable to the units; and

any material provisions of the governing unit agreement that differ from those described above.

#### **PLAN OF DISTRIBUTION**

We may sell the securities to one or more underwriters for public offering and sale by them or may sell the securities to investors through agents or dealers. Any underwriter, agent or dealer involved in the offer and sale of the securities will be named in the applicable prospectus supplement. We also reserve the right to sell securities directly to investors in those jurisdictions where we are authorized to do so. The distribution of securities may be effected from time to time in one or more transactions at a fixed price or prices, which may be changed, or from time to time at market prices prevailing at the time of sale, at prices related to prevailing market prices or at negotiated prices.

We may, from time to time, authorize underwriters acting as our agents to offer and sell the securities upon the terms and conditions set forth in any prospectus supplement. In connection with the sale of the securities, underwriters may be deemed to have received compensation from us in the form of underwriting discounts or commissions and may also receive commissions from purchasers of the securities for whom they may act as agent. Any underwriting compensation paid by us to underwriters or agents in connection with the offering of the securities, and any discounts, concessions or commissions allowed by underwriters to participating dealers, will be set forth in an applicable prospectus supplement. If a dealer is utilized in the sale of the securities in respect of which this prospectus is delivered, we may sell the securities to the dealer, as principal. The dealer may then resell the securities to the public at varying prices to be determined by the dealer at the time of resale. Underwriters, dealers and agents participating in the distribution of the securities may be deemed to be underwriters under the Securities Act, and any discounts and commissions received by them and any profit realized by them on resale of the securities may be deemed to be underwriting discounts and commissions under the Securities Act. Underwriters, dealers and agents may be entitled under agreements with us to indemnification against and contribution toward certain civil liabilities, including liabilities under the Securities Act, and to reimbursement by us for certain expenses.

Securities offered may be a new issue of securities with no established trading market. Any underwriters to whom or agents through whom these securities are sold by us for public offering and sale may make a market in these securities, but such underwriters or agents will not be obligated to do so and may discontinue any market making at any time without notice. No assurance can be given as to the liquidity of or the trading market for any such securities.

If so indicated in an applicable prospectus supplement, we may authorize dealers acting as our agents to solicit offers by institutions to purchase the securities from us at the public offering price set forth in the prospectus supplement pursuant to delayed delivery contracts providing for payment and delivery on the date or dates stated in the prospectus supplement. Each delayed delivery contract will be for an amount not less than, and the aggregate principal amount or offering price of the securities sold pursuant to delayed delivery contracts will not be less nor more than, the respective amounts stated in the prospectus supplement. Institutions with whom delayed delivery contracts, when authorized, may be entered into include commercial and savings banks, insurance companies, pension funds, investment companies, educational and charitable

institutions and other institutions, but will in all cases be subject to approval by us.

The securities also may be offered and sold, if so indicated in the prospectus supplement, in connection with a remarketing upon their purchase, in accordance with a redemption or repayment pursuant to their terms, or otherwise, by one or more firms ( remarketing firms ), acting as principals for their own accounts or as agents for us. Any remarketing firm will be identified and the terms of its agreement, if any, with us will be described in the applicable prospectus supplement. Remarketing firms may be deemed to be underwriters in connection with the securities remarketed thereby. Remarketing firms may be entitled under agreements which may be entered into with us to indemnification by us against certain liabilities, including liabilities under the Securities Act.

We may enter into derivative transactions with third parties, or sell securities not covered by this prospectus to third parties in privately negotiated transactions. If the applicable prospectus supplement indicates, in connection with those derivatives, the third parties may sell securities covered by this prospectus and the applicable prospectus supplement, including in short sale transactions. If so, the third party may use securities pledged by us or borrowed from us or others to settle those sales or to close out any related open borrowings of stock, and may use securities received from us in settlement of those derivatives to close out any related open borrowings of stock. The third parties in such sale transactions will be underwriters and, if not identified in this prospectus, will be identified in the applicable prospectus supplement (or a post-effective amendment).

To facilitate the offering of securities, certain persons participating in the offering may engage in transactions that stabilize, maintain, or otherwise affect the price of the securities. These may include over-allotment, stabilization, syndicate short covering transactions and penalty bids. Over-allotment involves sales in excess of the offering size, which creates a short position. Stabilizing transactions involve bids to purchase the underlying security so long as the stabilizing bids do not exceed a specified maximum. Syndicate short covering transactions involve purchases of securities in the open market after the distribution has been completed in order to cover syndicate short positions. Penalty bids permit the underwriters to reclaim selling concessions from dealers when the securities originally sold by the dealers are purchased in covering transactions to cover syndicate short positions. These transactions, if commenced, may be discontinued by the underwriters at any time.

One or more of the underwriters, dealers or agents, and/or one or more of their respective affiliates, may be a lender under our credit agreement and may provide other commercial banking, investment banking and other services to us and/or our subsidiaries and affiliates in the ordinary course of business.

During such time as we may be engaged in a distribution of the securities covered by this prospectus we are required to comply with Regulation M promulgated under the Securities Exchange Act of 1934. With certain exceptions, Regulation M precludes us, any affiliated purchasers, and any broker-dealer or other person who participates in such distributing from bidding for or purchasing, or attempting to induce any person to bid for or purchase, any security which is the subject of the distribution until the entire distribution is complete. Regulation M also restricts bids or purchases made in order to stabilize the price of a security in connection with the distribution of that security.

#### **WHERE YOU CAN FIND MORE INFORMATION**

We file reports, proxy statements and other information with the Securities and Exchange Commission. You may read and copy this information at the Public Reference Room maintained by the Securities and Exchange Commission at 450 Fifth Street, N.W., Judiciary Plaza, Washington, D.C., 20549. You may obtain information on the operation of the Public Reference Room by calling the Commission at 1-800-SEC-0330. Our filings are also available on the Securities and Exchange Commission's website on the Internet at <http://www.sec.gov>. This information may also be inspected and copied at the offices of the New York Stock Exchange, 20 Broad Street, New York, New York 10005.

This prospectus constitutes part of a registration statement on Form S-3 that we filed with the Securities and Exchange Commission under the Securities Act. As permitted by the rules and regulations of the Securities and Exchange Commission, this prospectus omits some of the information, exhibits and undertakings included in the registration statement. You may read and copy the information omitted from this prospectus but contained in the registration statement, as well as the periodic reports and other information we file with the Securities and Exchange Commission, at the public reference facilities maintained by the Securities and Exchange Commission in Washington, D.C.

Statements contained in this prospectus, in any prospectus supplement or in any document incorporated by reference herein or therein as to the contents of any contract or other document referred to herein or therein are not necessarily complete, and in each instance reference is made to the copy of the contract or other document filed as an exhibit to, or incorporated by reference in, the registration statement, each statement being qualified in all respects by such reference.

We have elected to incorporate by reference certain information into this prospectus. By incorporating by reference, we can disclose important information to you by referring you to another document we have filed separately with the Securities and Exchange Commission. The information incorporated by reference is deemed to be part of this prospectus, except for information incorporated by reference that is superseded by information contained in this prospectus, any applicable prospectus supplement or any document we subsequently file with the Securities and Exchange Commission that is incorporated or deemed to be incorporated by reference in this prospectus. Likewise, any statement in this prospectus or any document which is incorporated or deemed to be incorporated by reference herein will be deemed to have been modified or superseded to the extent that any statement contained in any applicable prospectus supplement or any document that we subsequently file with the Securities and Exchange Commission that is incorporated or deemed to be incorporated by reference herein modifies or supersedes that statement. We incorporate by reference the following documents that we have previously filed with the Securities and Exchange Commission (other than information in such documents that is deemed not to be filed):

- (a) Annual Report on Form 10-K for the fiscal year ended December 31, 2004;
- (b) Current Report on Form 8-K, dated February 7, 2005;
- (c) Current Report on Form 8-K, dated February 11, 2005; and
- (d) Description of our capital stock set forth in our Registration Statement on Form 10 dated March 15, 1999.

We also are incorporating by reference all future reports that we file with the Securities and Exchange Commission, including any reports that we file after the date of the initial registration statement and before the registration statement becomes effective, pursuant to Section 13(a), 13(c), 14 or 15(d) of the Securities Exchange Act of 1934 prior to the termination of the offering of the securities made hereby (other than information in such documents that is deemed not to be filed).

We will provide without charge to each person to whom a copy of this prospectus has been delivered, on the written or oral request of that person, a copy of any or all of the documents referred to above which have been or may be incorporated by reference in this prospectus other than exhibits to these documents, unless the exhibits are also specifically incorporated by reference herein. Requests for copies should be directed to Triad Hospitals, Inc., 5800 Tennyson Parkway, Plano, Texas 75024, Attention: Corporate Secretary, telephone number (214) 473-7000.



**LEGAL MATTERS**

Legal matters with respect to the validity of the securities being offered hereby will be passed upon for us by Dewey Ballantine LLP, New York, New York. Any underwriters will be advised about other issues relating to any transaction by their own legal counsel.

**EXPERTS**

The consolidated financial statements of Triad Hospitals, Inc. appearing in Triad Hospitals, Inc.'s Annual Report (Form 10-K) for the year ended December 31, 2004, and Triad Hospitals, Inc. management's assessment of the effectiveness of internal control over financial reporting as of December 31, 2004 included therein, have been audited by Ernst & Young LLP, independent registered public accounting firm, as set forth in their reports thereon, included therein, and incorporated herein by reference. Such financial statements and management's assessment are, and audited financial statements and management's assessments of the effectiveness of internal control over financial reporting to be included in subsequently filed documents will be, incorporated herein in reliance upon the reports of Ernst & Young LLP pertaining to such financial statements and management's assessments (to the extent covered by consents filed with the Securities and Exchange Commission) given on the authority of such firm as experts in accounting and auditing.

## PART II

## INFORMATION NOT REQUIRED IN PROSPECTUS

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

The table below sets forth the various expenses and costs to be incurred by Triad Hospitals, Inc. in connection with the sale and distribution of the securities offered hereby. All the amounts shown are estimated except the Securities and Exchange Commission Registration Fee.

Securities and Exchange Commission Registration Fee	\$ 75,760
Accounting fees and expenses	10,000
Legal fees and expenses	100,000
Printing and engraving expenses	50,000
Trustee s and registrar s fees and expenses	10,000
Miscellaneous expenses	4,240
	<hr/>
<b>Total:</b>	<b>\$ 250,000</b>
	<hr/>

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

Triad is a Delaware corporation. Reference is made to Section 145 of the Delaware General Corporation Law as to indemnification by Triad of its officers and directors. The general effect of such law is to empower a corporation to indemnify any of its officers and directors against certain expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by the person to be indemnified in connection with certain actions, suits or proceedings (threatened, pending or completed) if the person to be indemnified acted in good faith and in a manner he or she reasonably believed to be in, or not opposed to, the best interests of the corporation and, with respect to any criminal action or proceeding, had no reasonable cause to believe his or her conduct was unlawful. In the case of a threatened, pending or completed action brought by or in the right of a corporation, the corporation may indemnify any of its officers or directors against expenses (including attorneys' fees) actually and reasonably incurred by the person to be indemnified if such person acted in good faith and in a manner he or she reasonably believed to be in, or not opposed to, the best interests of the corporation, except that no indemnification may be made in respect of any claim, issue or matter as to which such person shall have been adjudged to be liable to the corporation unless and only to the extent a court finds that, in view of all the circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses as the court shall deem proper. Section 145 further provides that to the extent an officer or director of a corporation has been successful in the defense of any action, suit or proceeding referred to above or in the defense of any claim, issue or matter therein, he or she shall be indemnified against expenses (including attorneys' fees) actually and reasonably incurred by him or her in connection therewith.

Article Fourteen of Triad's Certificate of Incorporation provides for the indemnification of Triad's officers and directors in accordance with the Delaware General Corporation Law. Article Ten of Triad's Certificate of Incorporation includes, as permitted by the Delaware General Corporation Law, certain limitations on the potential personal liability of members of Triad's board of directors for monetary damages as a result of actions taken in their capacity as board members.

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The directors and officers of Triad are covered by insurance policies indemnifying them against certain liabilities arising under the Securities Act, which might be incurred by them in such capacities.

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**Item 16. Exhibits**

<u>Exhibit No.</u>	<u>Description</u>
*1.1	Form of Underwriting Agreement with respect to the Common Stock, Preferred Stock, Depositary Shares, Debt Securities, Warrants, Purchase Contracts and Units.
3.1	Restated Certificate of Incorporation of the Company, as amended April 27, 2001, incorporated herein by reference from Exhibit 3.1 to the Company's Post Effective Amendment No. 1 on Form S-8 to the Registration Statement on Form S-4, filed with the Commission on April 27, 2001.
3.2	Bylaws of the Company, as amended February 18, 2000, incorporated herein by reference from Exhibit 3.2 to the Company's Annual Report on Form 10-K for the fiscal year ended December 31, 2000, filed with the Commission on March 1, 2001.
4.1	Senior Debt Securities Indenture (including form of Senior Debt Securities), dated as of May 6, 2004, between Triad Hospitals, Inc. and Citibank, N.A., as Trustee, incorporated herein by reference from Exhibit 4.2(a) to the Company's Current Report on Form 8-K, filed with the Commission on May 6, 2004.
4.2	First Supplemental Indenture, dated as of May 6, 2004, between Triad Hospitals, Inc. and Citibank, N.A., as Trustee, incorporated herein by reference from Exhibit 4.2(b) to the Company's Current Report on Form 8-K, filed with the Commission on May 6, 2004.
4.3	Form of Subordinated Debt Securities Indenture (including form of Subordinated Debt Securities), incorporated herein by reference from Exhibit 4.2 to the Company's Registration Statement on Form S-3, filed with the Commission on October 9, 2002.
*4.4	Form of Deposit Agreement (including form of Depositary Receipt).
*4.5	Form of Warrant Agreement (including form of Warrant Certificate).
*4.6	Form of Purchase Contract (including form of Purchase Contract Certificate) and, if applicable, Pledge Agreement.
*4.7	Form of Unit Agreement (including form of Unit Certificate).
*4.8	Certificate of Designation of Preferred Stock.
*4.9	Form of Preferred Stock Certificate.
4.10	Rights Agreement, dated as of May 11, 1999, between Triad Hospitals, Inc. and National City Bank, as Rights Agent, incorporated herein by reference from Exhibit 4.1 to the Company's Quarterly Report on Form 10-Q for the quarter ended March 31, 1999, filed with the Commission on June 11, 1999.
5.1	Opinion of Dewey Ballantine LLP.
12.1	Computation of Ratio of Earnings to Fixed Charges.
23.1	Consent of Dewey Ballantine LLP (included in its opinion filed as Exhibit 5.1).
23.2	Consent of Independent Registered Public Accounting Firm (Ernst & Young LLP).
24	Powers of Attorney (included on the signature page hereto).
25.1	Form T-1 Statement of Eligibility under the Trust Indenture Act of 1939, as amended, of Citibank, N.A., as Trustee under the Senior Debt Securities Indenture.
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\* To be filed with a post-effective amendment to the Registration Statement or incorporated by reference from a Current Report on Form 8-K.

\*\* To be filed separately pursuant to Trust Indenture Act Section 305(b)(2).

**Item 17. Undertakings**

(a) The undersigned registrant hereby undertakes:

(1) To file, during any period in which offers or sales are being made, a post-effective amendment to this registration statement:

(i) To include any prospectus required by Section 10(a)(3) of the Securities Act of 1933;

(ii) To reflect in the prospectus any facts or events arising after the effective date of the registration statement (or the most recent post-effective amendment thereof) which, individually or in the aggregate, represent a fundamental change in the information set forth in the registration statement. Notwithstanding the foregoing, any increase or decrease in the volume of securities offered (if the total dollar value of securities offered would not exceed that which was registered) and any deviation from the low or high end of the estimated maximum offering range may be reflected in the form of prospectus filed with the Commission pursuant to Rule 424(b) if, in the aggregate, the changes in volume and price represent no more than 20 percent change in the maximum aggregate offering price set forth in the Calculation of Registration Fee table in the effective registration statement; and

(iii) To include any material information with respect to the plan of distribution not previously disclosed in the registration statement or any material change to such information in the registration statement;

*provided, however*, that paragraphs 1(i) and 1(ii) above do not apply if the information required to be included in a post-effective amendment by those paragraphs is contained in periodic reports filed with or furnished to the Commission by the registrant pursuant to Section 13 or Section 15(d) of the Securities Exchange Act of 1934 that are incorporated by reference in the registration statement;

(2) That, for the purpose of determining any liability under the Securities Act of 1933, each such post-effective amendment will be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial *bona fide* offering thereof; and

(3) To remove from registration by means of a post-effective amendment any of the securities being registered which remain unsold at the termination of the offering.

(b) The undersigned registrant hereby undertakes that, for purposes of determining any liability under the Securities Act of 1933, each filing of the registrant's annual report pursuant to Section 13(a) or 15(d) of the Securities Exchange Act of 1934 (and, where applicable, each filing of an employee benefit plan's annual report pursuant to Section 15(d) of the Securities and Exchange Act of 1934) that is incorporated by reference in the registration statement shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial *bona fide* offering thereof.

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(c) Insofar as indemnification for liabilities arising under the Securities Act of 1933 may be permitted to directors, officers and controlling persons of the registrant pursuant to the foregoing provisions, or otherwise, the registrant has been advised that in the opinion of the Securities and Exchange Commission such indemnification is against public policy as expressed in the Securities Act of 1933 and is, therefore, unenforceable. In the event that a claim for indemnification against such liabilities (other than the payment by the registrant of expenses incurred or paid by a director, officer or controlling person of the registrant in the successful defense of any action, suit or proceeding) is asserted by such director, officer or controlling person in connection with the securities being registered, the registrant will, unless in the opinion of its counsel the matter has been settled by controlling precedent, submit to a court of appropriate jurisdiction the question whether such indemnification by it is against public policy as expressed in the Securities Act of 1933 and will be governed by the final adjudication of such issue.

(d) The undersigned registrant hereby undertakes 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 in accordance with the rules and regulations prescribed by the Commission under Section 305(b)(2) of the Act.

**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 Registration Statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Plano, State of Texas, on March 14, 2005.

TRIAD HOSPITALS, INC

By:         /s/ JAMES D. SHELTON        

**James D. Shelton**

**Chairman of the Board and Chief Executive Officer**

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

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

<u>Signature</u>	<u>Title</u>	<u>Date</u>
<u>        /s/ JAMES D. SHELTON        </u> <b>James D. Shelton</b>	Chairman of the Board, President, Chief Executive Officer and Director (Principal Executive Officer)	March 14, 2005
<u>        /s/ MICHAEL J. PARSONS        </u> <b>Michael J. Parsons</b>	Executive Vice President, Chief Operating Officer and Director	March 14, 2005
<u>        /s/ BURKE W. WHITMAN        </u> <b>Burke W. Whitman</b>	Executive Vice President and Chief Financial Officer (Principal Financial Officer and Principal Accounting Officer)	March 14, 2005
<u>        /s/ THOMAS F. FRIST III        </u> <b>Thomas F. Frist III</b>	Director	March 14, 2005
<u>        /s/ DALE V. KESLER        </u> <b>Dale V. Kesler</b>	Director	March 14, 2005

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<hr/>	Director	March 14, 2005
<b>Uwe E. Reinhardt, Ph.D.</b>		
<i>/s/</i> GALE E. SAYERS	Director	March 14, 2005
<hr/>		
<b>Gale E. Sayers</b>		

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<u>Signature</u>	<u>Title</u>	<u>Date</u>
<u>/s/ THOMAS G. LOEFFLER, ESQ.</u> <b>Thomas G. Loeffler, Esq.</b>	Director	March 14, 2005
<u>/s/ DONALD B. HALVERSTADT, M.D.</u> <b>Donald B. Halverstadt, M.D.</b>	Director	March 14, 2005
<u>Barbara A. Durand, Ed.D.</u>	Director	March 14, 2005
<u>Nancy-Ann DeParle</u>	Director	March 14, 2005
<u>/s/ MICHAEL K. JHIN</u> <b>Michael K. Jhin</b>	Director	March 14, 2005
<u>Harriet R. Michel</u>	Director	March 14, 2005

**EXHIBIT INDEX**

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