

ADCARE HEALTH SYSTEMS, INC
Form S-3
October 30, 2015

As filed with the Securities and Exchange Commission on October 30, 2015
Registration No. 333-

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

FORM S-3
REGISTRATION STATEMENT
UNDER
THE SECURITIES ACT OF 1933

ADCARE HEALTH SYSTEMS, INC.

(Exact name of registrant as specified in its charter)

Georgia

8051

31-1332119

(State or other jurisdiction of
incorporation or organization)

(Preliminary Standard Industrial
Classification Code Numbers)

(I.R.S. Employer
Identification Number)

1145 Hembree Road
Roswell, Georgia 30076
(678) 869-5116

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

William McBride, III
Chairman and Chief Executive Officer
AdCare Health Systems, Inc.
1145 Hembree Road
Roswell, Georgia 30076
(678) 869-5116

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

Copy to:

Lori A. Gelchion, Esq.
Rogers & Hardin LLP
2700 International Tower
229 Peachtree Street, N.E.
Atlanta, Georgia 30303
(404) 522-4700

Approximate date of commencement of proposed sale to the public:
From time to time after the effective date of this registration statement.

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

875436

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. x

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. o

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

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

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

Large accelerated filer o

Accelerated filer o

Non-accelerated filer o

Smaller reporting company x

(Do not check if a smaller reporting company)

CALCULATION OF REGISTRATION FEE

Title of Each Class of Securities to be Registered ⁽¹⁾	Amount to be Registered ⁽¹⁾	Proposed Maximum Offering Price Per Unit ⁽²⁾	Proposed Maximum Aggregate Offering Price ⁽²⁾	Amount of Registration Fee
Common Stock, no par value per shares	352,942	\$3.17	\$1,118,826.14	\$112.67

(1) Represents shares of the Registrant's common stock which are issuable upon conversion of a Subordinated Convertible Note Due April 30, 2017 (the "Note") with an aggregate principal amount of \$1.5 million, held by the selling shareholder named in the prospectus contained herein and any supplements thereto. In addition to the shares of the Registrant's common stock set forth in the table above, pursuant to Rule 416 under the Securities Act of 1933, as amended (the "Securities Act"), the Registrant is registering an indeterminate number of shares of the Registrant's common stock issuable upon conversion of the Note in connection with stock splits, stock dividends, recapitalizations or similar events. No additional registration fee has been paid for such shares of the Registrant's common stock.

(2) Estimated solely for the purposes of calculating the registration fee pursuant to Section 6(b) of the Securities Act and computed pursuant to Rule 457(c) promulgated under the Securities Act of 1933, as amended, based upon the average of the high and low prices of the Registrant's common stock on October 27, 2015, as reported by the NYSE MKT.

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, AS AMENDED, OR UNTIL THE REGISTRATION STATEMENT SHALL BECOME EFFECTIVE ON SUCH DATE AS THE SECURITIES AND EXCHANGE COMMISSION, ACTING PURSUANT TO SAID SECTION 8(A), MAY DETERMINE.

The information in this prospectus is not complete and may be changed. The selling shareholder may not sell these securities pursuant to this prospectus until the registration statement of AdCare Health Systems, Inc. filed with the Securities and Exchange Commission is effective. This prospectus is not an offer to sell these securities and it is not soliciting offers to buy these securities in any state where the offer or sale is not permitted.

SUBJECT TO COMPLETION, DATED OCTOBER 30, 2015

PRELIMINARY PROSPECTUS

352,942 SHARES OF COMMON STOCK

OF

ADCARE HEALTH SYSTEMS, INC.

This prospectus relates to the resale, from time to time, of up to 352,942 shares of common stock, no par value per share, by the selling shareholder identified in this prospectus under "Selling Shareholder." We are not selling any shares of common stock under this prospectus and will not receive any proceeds from the sale of shares by the selling shareholder. The selling shareholder will bear all commissions and discounts, if any, attributable to the sale of the shares. We will bear all costs, expenses and fees in connection with the registration of the shares.

The selling shareholder may sell the shares of common stock offered by this prospectus from time to time on terms to be determined at the time of sale through ordinary brokerage transactions or through any other means described in this prospectus under "Plan of Distribution." The prices at which the selling shareholder may sell the shares will be determined by the prevailing market price for the shares or in negotiated transactions.

The common stock is traded on the NYSE MKT under the symbol "ADK." On October 27, 2015, the last reported sale of the common stock on the NYSE MKT was \$3.12 per share.

You should read carefully both this prospectus and any prospectus supplement together with the additional information described in this prospectus under "Where You Can Find More Information" and "Incorporation of Certain Information by Reference."

Investing in our securities involves a high degree of risk. See "Risk Factors" beginning on page 4 of this prospectus for a discussion of information that should be considered in connection with an investment in our securities.

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

The date of this prospectus is , 2015.

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You should rely only on the information contained or incorporated by reference into this prospectus and in any applicable prospectus supplement. We have not authorized any other person to provide you with different information. The information contained in this prospectus, any applicable prospectus supplement and the documents incorporated by reference herein and therein is accurate only as of the date such information is presented. Our business, financial condition, results of operations and financial condition may have subsequently changed. You should also read this prospectus and any prospectus supplement together with the additional information described under “Where You Can Find More Information” and “Incorporation of Certain Information by Reference.”

This prospectus may be supplemented from time to time to add, update or change the information in this prospectus. Any statement contained in this prospectus will be deemed to be modified or superseded for purposes of this prospectus to the extent that a statement contained in a prospectus supplement modifies or supersedes such statement. Any statement so modified will be deemed to constitute a part of this prospectus only as so modified, and any statement so superseded will be deemed not to constitute a part of this prospectus.

The registration statement containing this prospectus, including the exhibits to the registration statement, provides additional information about us and the securities offered under this prospectus. The registration statement, including the exhibits, can be found on the Internet website maintained by the Securities and Exchange Commission (the “SEC”) or at the SEC’s offices as further discussed under “Where You Can Find More Information.”

Except as otherwise indicated or unless the context requires, as used in this prospectus, references to “AdCare,” “we,” “us” and “our” refer to AdCare Health Systems, Inc., a Georgia corporation, and its consolidated subsidiaries.

PROSPECTUS SUMMARY

This summary highlights certain information contained elsewhere in this prospectus or in the documents incorporated by reference into this prospectus. It may not contain all of the information that is important to you or that you should consider before investing in our securities. Before making an investment decision, you should read this entire prospectus carefully, including “Risk Factors” and the documents incorporated by reference into this prospectus, which are described under “Where You Can Find More Information” and “Incorporation of Certain Information by Reference.”

THE COMPANY

Overview

We are a self-managed healthcare real estate investment company that invests primarily in real estate purposed for senior living and long-term healthcare through facility lease and sub-lease transactions. We currently own, lease or manage for third parties 39 facilities, primarily in the Southeast. Our facilities provide a range of health care services to patients and residents, including, but not limited to, skilled nursing and assisted living services, social services, various therapy services and other rehabilitative and healthcare services for both long-term residents and short-stay patients.

In July 2014, our Board of Directors approved and begun to implement a strategic plan to transition AdCare to a healthcare property holding and leasing company. Through a series of leasing and subleasing transactions, we are in the process of transitioning to third parties the operations of our currently owned and operated healthcare facilities, which are principally skilled nursing facilities. We are now focused on the ownership, acquisition and leasing of healthcare related properties and are evolving into a self-managed healthcare real estate investment company.

The Transition to a Facilities Holding Company

We are effecting our transition from an owner and operator of healthcare properties to lessor and sublessor of healthcare properties through a series of leasing and subleasing transactions. Specifically, we are in the process of:

- Leasing to third-party operators the healthcare properties which we currently own and operate;
- Subleasing to third-party operators the healthcare properties which we do not own but currently lease and operate; and
- Continuing in effect management agreements to manage two skilled nursing facilities and one independent living facility.

Upon the completion of the transition, AdCare will take on the characteristics and general structure of a real estate investment trust.

We are seeking to lease our currently-owned healthcare properties, and sublease our currently-leased healthcare properties, on a triple net basis, meaning that the lessee (i.e., the new third-party operator of the property) is obligated under the lease or sublease, as applicable, for all liabilities of the property in respect to insurance, taxes and facility maintenance, as well as the lease or sublease payments, as applicable. These leases typically have ten-year terms with renewal options and annual escalation clauses.

Corporate Information

Our principal executive offices are located at 1145 Hembree Road, Roswell, Georgia 30076, and our telephone number is (678) 869-5116. We maintain an Internet website at www.adcarehealth.com. This reference to our website is an inactive textual reference only and is not a hyperlink. The contents of our website are not part of this supplement, and you should not consider the contents of our website in making an investment decision with respect to our securities.

THE OFFERING

Common stock offered by us	None
Common stock offered by the selling shareholder	352,942 shares ⁽¹⁾
Common stock outstanding immediately prior to this offering, as of October 27, 2015	19,902,283 shares ⁽²⁾
Common stock outstanding immediately after the offering	20,255,225 shares ⁽²⁾⁽³⁾
Use of Proceeds	We will not receive any proceeds from the resale by the selling shareholder of the common stock offered by this prospectus. An investment in our securities involves a high degree of risk and could result in a complete loss of your entire investment. Prior to making an investment decision, you should carefully consider all of the information in this prospectus and, in particular, you should evaluate the risk factors identified in this prospectus under “Risk Factors” beginning on page 4.
Risk Factors	
NYSE MKT Symbol	The common stock is traded on the NYSE MKT under the symbol “ADK.”

⁽¹⁾ The shares of the common stock registered hereunder consist of 352,942 shares of common stock issuable upon conversion of a Subordinated Convertible Note Due October 31, 2017, with an aggregate principal amount of \$1.5 million and a conversion price of \$4.25 per share (the “Note”).

Excludes: (i) 744,172 shares of the common stock issuable upon exercise of outstanding options, at a current weighted-average exercise price of \$5.15 per share of the common stock; (ii) 2,126,475 shares of the common stock issuable upon exercise of outstanding warrants, at a current weighted-average exercise price of \$3.47 per share of the common stock; (iii) 1,811,765 shares of the common stock issuable upon conversion of convertible subordinated notes due April 30, 2017 with an aggregate principal amount of \$7.7 million and a conversion price of \$4.25 per share; and (iv) 483,923 shares of the common stock reserved for issuance under our existing equity incentive plans.

⁽³⁾ Assumes the conversion of the Note at a conversion price of \$4.25 per share.

RISK FACTORS

An investment in our securities involves a high degree of risk. You should carefully consider the risks and uncertainties described in this prospectus and the documents incorporated by reference into this prospectus, including the risks and uncertainties described in our Annual Report on Form 10-K for the year ended December 31, 2014 and our subsequently filed Quarterly Reports on Form 10-Q and Current Reports on Form 8-K. The risks and uncertainties described in this prospectus and the documents incorporated by reference into this prospectus are not the only ones we face. Additional risks and uncertainties that we do not presently know about or that we currently believe are not material may also adversely affect our business, results of operations or financial condition. If any of the risks and uncertainties described in this prospectus or the documents incorporated by reference into this prospectus actually occurs, then our business, results of operations and financial condition could be adversely affected in a material way. This could cause the market price of the common stock to decline, perhaps significantly, and you may lose part or all of your investment.

Additional Risks Related to the Offering

The price of the common stock has fluctuated, and a number of factors may cause the price of the common stock to decline.

The market price of our stock has fluctuated and could fluctuate significantly in the future as a result of various factors and events, many of which are beyond our control. These factors may include:

- Variations in our operating results;
- Changes in our financial condition, performance and prospects;
- Changes in general economic and market conditions;
- The departure of any of our key executive officers and directors;
- Announcements by us or our competitors of significant acquisitions, strategic partnerships, or transactions;
- Press releases or negative publicity relating to us or our competitors or relating to trends in health care;
- Government action or regulation, including changes in federal, state, and local health-care regulations to which we or our tenants are subject;
- The level and quality of securities analysts' coverage for the common stock;
- Changes in financial estimates or recommendations by securities analysts with respect to us or our competitors; and
- Future sales of our common stock.

Furthermore, the stock market in recent years has experienced sweeping price and volume fluctuations that often have been unrelated to the operating performance of affected companies. These market fluctuations may also cause the price of the common stock to decline.

In the event of fluctuations in the price of the common stock, shareholders may be unable to resell shares of the common stock at or above the price at which they purchased such shares. Additionally, due to fluctuations in the price of the common stock, comparing our operating results on a period-to-period basis may not be meaningful, and you should not rely on past results as an indication of future performance.

Sales of a significant number of shares of the common stock in the public markets, or the perception that such sales could occur, could depress the market price of the common stock and impair our ability to raise capital.

Sales of a substantial number of shares of the common stock or other equity-related securities in the public markets, including the issuance of the common stock upon exercise of options or warrants or upon conversion of convertible notes, could depress the market price of the common stock. Such sales also may impair our ability to raise capital through the sale of additional equity securities in the future at a time and price that our management deems acceptable, if at all.

We could be prevented from paying dividends on the common stock.

We are a holding company, and we have no significant operations. We rely primarily on dividends and other distributions from our subsidiaries to us so we may, among other things, pay dividends on the common stock, if and to the extent declared by our Board of Directors. The ability of our subsidiaries to pay dividends and other distributions to us depends on their earnings and is restricted by the terms of certain agreements governing their indebtedness. If our subsidiaries are in default under such agreements, then they may not pay dividends or other distributions to us.

In addition, no cash dividends may be declared or paid on the common stock unless full cumulative dividends on our Series A Preferred Stock have been, or contemporaneously are, declared and paid, or declared and a sum sufficient for the payment thereof is set apart for payment, for all past dividend periods. Furthermore, we may only pay dividends on the common stock if we have funds legally available for the payment of dividends and such payment is not restricted or prohibited by law, the terms of any other shares with higher priority with respect to dividends or any documents governing our indebtedness. Certain of our current mortgage loans prohibit the payment of dividends by us unless specified requirements are met, including obtaining the approval of the lender in certain circumstances. There is no assurance that we will meet all such requirements. As such, we could become unable, on a temporary or permanent basis, to pay dividends on the common stock. In addition, future debt, contractual covenants or arrangements we or our subsidiaries enter into may restrict or prevent future dividend payments. Accordingly, there is no guarantee that we will be able to pay any cash dividends on the common stock.

The payment of any future dividends on the common stock will be at the discretion of our Board of Directors and will depend, among other things, the earnings and results of operations of our subsidiaries, their ability to pay dividends and other distributions to us under agreements governing their indebtedness, our financial condition and capital requirements, any debt service requirements and any other factors our Board of Directors deems relevant.

Takeover defense provisions may adversely affect the market price of the common stock.

Various provisions of Georgia corporation law and of our corporate governance documents may inhibit changes in control not approved by our Board of Directors and may have the effect of depriving our investors of an opportunity to receive a premium over the prevailing market price of the common stock in the event of an attempted hostile takeover. In addition, the existence of these provisions may adversely affect the market price of the common stock.

These provisions include:

- A requirement that special meetings of shareholders be called by our Board of Directors, the Chairman, the President, or the holders of shares with voting power of at least 25%;
- A classified Board of Directors;
- A requirement that directors may only be removed for cause and then only by an affirmative vote of at least a majority of all votes entitled to be cast in the election of such directors;
- Advance notice requirements for shareholder proposals and nominations; and
- Availability of “blank check” preferred stock.

Furthermore, we have elected to be governed by the “business combination” and “fair price” provisions of the Georgia Business Corporation Code (the “GBCC”) that could be viewed as having the effect of discouraging an attempt to take control of us. The business combination provisions would prohibit us from engaging in various business combination transactions with any interested shareholder for a period of five years after the date of the transaction in which the person became an interested shareholder unless certain designated conditions are met. The fair price provision generally restricts us from entering into certain Business Combinations (as defined in the GBCC) with an interested shareholder unless the transaction is unanimously approved by the continuing directors who must constitute at least three members of our Board of Directors at the time of such approval; or the transaction is recommended by at least two-thirds of the continuing directors and approved by a majority of the shareholders excluding the interested shareholder.

Our Board of Directors can use these and other provisions to prevent, delay or discourage a change in control of AdCare or a change in our management. Any such delay or prevention of a change in control or management could deter potential acquirers or prevent the completion of a takeover transaction pursuant to which our shareholders could receive a substantial premium over the current market price of the common stock, which in turn may limit the price investors might be willing to pay for the common stock.

FORWARD-LOOKING STATEMENTS

This prospectus, including the information we incorporate by reference herein and therein, contain forward-looking statements within the meaning of Section 21E of the Securities Exchange Act of 1934, as amended (the “Exchange Act”), which are subject to the “safe harbor” created in Section 21E thereof. All statements other than statements of historical facts contained in this prospectus are forward-looking statements. These forward-looking statements can generally be identified by the use of words such as “may,” “will,” “intends,” “plans,” “believes,” “anticipates,” “expects,” “estimates,” “predicts,” “potential,” the negative of these words or similar expressions. Statements that describe our future plans, strategies, intentions, expectations, objectives, goals or prospects are also forward-looking statements. These forward-looking statements include, but are not limited to, statements about:

- Our ability to lease our healthcare properties on favorable terms and to otherwise transition successfully from an owner/operator of healthcare properties to a healthcare property holding and leasing company;
- The significant amount of our indebtedness, our ability to service our indebtedness and our ability to refinance our indebtedness on favorable terms;
- Covenants in our debt agreements that may restrict our ability to pay dividends, make investments, incur additional indebtedness and refinance indebtedness on favorable terms;
- Our ability to raise capital through equity and debt financings;
- The availability and cost of capital;
- Increases in market interest rates;
- Our dependence on the operating success of our tenants;
- The effect of increasing healthcare regulation and enforcement on us and our tenants and the dependence by us and our tenants on reimbursement from governmental and other third-party payors;
- The impact of litigation and rising insurance costs on our business and that of our tenants;
- The effect of our tenants declaring bankruptcy or becoming insolvent;
- Our ability to find replacement tenants as needed;
- The impact of required regulatory approvals of transfers of healthcare properties;
- Our ability to successfully engage in strategic acquisitions;
- Competition in the acquisition and ownership of healthcare properties;
- The relatively illiquid nature of real estate investments;
- The loss of key management personnel or other employees;

- Uninsured or underinsured losses affecting our properties and the possibility of environmental compliance costs and liabilities;
- Fluctuations in the market price of the common stock; and
- The risks related to our continued listing of the common stock on the NYSE MKT.

These statements relate to future events or to our future financial performance and involve known and unknown risks, uncertainties and other important factors that may cause our actual results, performance or achievements to be materially different from any future results, performance or achievements expressed or implied by these forward-looking statements. Factors that may cause actual results to differ materially from current expectations include, among other things, those listed under “Risk Factors” and elsewhere in this prospectus. Any forward-looking statement in this prospectus reflects our current views with respect to future events and is subject to these and other risks, uncertainties and assumptions relating to our operations, results of operations, industry and future growth. Except as required by law, we assume no obligation to update or revise these forward-looking statements for any reason, even if new information becomes available in the future.

Discussions containing these forward-looking statements are also contained in “Risk Factors” and “Management’s Discussion and Analysis of Financial Condition and Results of Operations” included in our Annual Reports on Form 10-K and our Quarterly Reports on Form 10-Q, and contained in our Current Reports on Form 8-K, as well as any amendments we make to those filings with the SEC, which reports and amendments are incorporated by reference into this prospectus.

SELLING SHAREHOLDER

The selling shareholder may use this prospectus for the resale of the shares of the common stock being offered by this prospectus for its account, although the selling shareholder is not obligated to sell any such shares. The following table sets forth certain information regarding the selling shareholder and the shares of the common stock beneficially owned by it, which information is available to us as of October 20, 2015. We are not able to estimate the number of shares of the common stock that will be held by the selling shareholder after the completion of this offering because the selling shareholder may offer all, some, or none of the shares and because, to our knowledge, there currently are no agreements, arrangements or understandings with respect to the sale of any such shares. See “Plan of Distribution.” The Note was originally issued to the selling shareholder in July 2012, with an original principal amount of \$5,497,000, an original conversion price of \$4.17 per share (subject to adjustment) and an original maturity date of July 31, 2015. In June 2015, a portion of the Note was prepaid pursuant to a prepayment agreement between the Company and the selling shareholder. In July 2015, the Note was amended pursuant to an agreement between the Company and the selling shareholder pursuant to which \$1,500,000 in principal amount was extended to a maturity date of October 31, 2017, the conversion price was increased from a then-current conversion price of \$3.97 per share to \$4.25 per share and the interest rate was increased from 8% to 10% per annum, among other things. Pursuant to the amendment, the Company paid to Cantone Research, Inc. (“CRI”), an affiliate of the selling shareholder, a fee equal to \$37,500 and amended that certain Consulting Agreement, dated July 2, 2012, between the Company and CRI to: (i) reduce the annual consulting fee payable thereunder to \$15,000 and further reduce such fee proportionately upon each repayment, redemption or conversion of the principal amount of the Note; and (ii) terminate the Consulting Agreement upon the earlier of October 31, 2017, or the conversion, redemption or prepayment of the entire principal amount of the Note.

Selling Shareholder	Shares of Common Stock Beneficially Owned Prior to the Offering ⁽¹⁾⁽²⁾⁽³⁾	Number of Shares Being Offered ⁽²⁾⁽³⁾⁽⁴⁾	Shares of Common Stock Beneficially Owned After the Offering ⁽¹⁾⁽³⁾⁽⁵⁾⁽⁶⁾	
			Number	Percent
Cantone Asset Management LLC ⁽⁷⁾	597,978	352,942	245,036	1.2%

*Represents less than 1% of the issued and outstanding shares of the common stock as of October 27, 2015.

For purposes of this table, “beneficial ownership” is determined in accordance with Rule 13d-3 under the Exchange Act, pursuant to which the selling shareholder is deemed to have beneficial ownership of any shares of the common stock that the selling shareholder has the right to acquire within 60 days of October 27, 2015.

¹ The number of shares of the common stock beneficially owned by the selling shareholder prior to the offering and ² the number of shares of the common stock being offered by this prospectus for the account of the selling shareholder represent shares of the common stock issuable upon conversion of the Note.

Shares of the common stock are beneficially owned directly by the selling shareholder, unless otherwise indicated.

³ Under the terms of the Note, the selling shareholder may not convert the Note to the extent such conversion would cause the selling shareholder, together with its affiliates, to beneficially own a number of shares of the common stock which would exceed 4.9% (or 9.9% upon the election of the

holder) of our then outstanding shares of the common stock following such conversion, excluding for purposes of such determination the number of shares of the common stock issuable upon: (i) conversion of the portion of the Note which has not been converted and (ii) exercise or conversion of the unexercised or unconverted portion of any other of our securities subject to an analogous limitation on conversion or exercise. The number of shares of the common stock beneficially owned by the selling shareholder prior to the offering and after the offering does not reflect this limitation on conversion.

4 Because the conversion price of the Note may be adjusted, the number of shares that will actually be issued upon conversion of the Note may be more or less than the number of shares being offered by this prospectus.

5 Based upon 19,902,283 shares of the common stock outstanding as of October 27, 2015. For the purposes of computing the percentage of outstanding shares of the common stock held by the selling shareholder named above, any shares which any selling shareholder has the right to acquire within 60 days of October 27, 2015, are deemed to be outstanding.

6 Assumes that all shares of the common stock being offered and registered hereunder are sold, although the selling shareholder is not obligated to sell any such shares.

7 Anthony J. Cantone, the managing member of Cantone Asset Management LLC (“CAM”), has voting and investment control with respect to the shares of common stock registered hereby for the account of CAM. CAM is affiliated with CRI, a registered broker-dealer. CAM has represented to us that it received and amended the Note (which is convertible into the shares of common stock registered for CAM’s account) in the ordinary course of business, and at the time of such receipt and amendment, CAM had no agreements or understandings, directly or indirectly, with any person to distribute such shares.

USE OF PROCEEDS

All proceeds from the resale of the shares of the common stock offered by this prospectus will belong to the selling shareholder. We will not receive any proceeds from the resale of the shares of the common stock by the selling shareholder.

PLAN OF DISTRIBUTION

We are registering the common stock issuable to the selling shareholder upon conversion of the Note to permit the resale of the common stock by the selling shareholder from time to time after the date of this prospectus. We will not receive any of the proceeds from the sale by the selling shareholder of the common stock. We will bear all fees and expenses incident to our obligation to register the common stock.

The selling shareholder may sell all or a portion of the common stock beneficially owned by it and offered hereby from time to time directly or through one or more underwriters, broker-dealers or agents. If the common stock is sold through underwriters or broker dealers, the selling shareholder will be responsible for underwriting discounts or commissions or agent’s commissions. The common stock may be sold on any national securities exchange or quotation service on which the securities may be listed or quoted at the time of sale, in the over-the-counter market or in transactions otherwise than on the