

PROSPECTUS SUPPLEMENT  
(To Prospectus Dated January 6, 2017)

4,815,010 Shares



**Class A Common Stock**

We are offering 4,815,010 shares of our Class A Common Stock. Of this amount, certain investors purchased shares of our Class A Common Stock directly from us pursuant to this prospectus. The underwriters are acting as placement agents in connection with such sales.

Our Class A Common Stock is listed on The Nasdaq Capital Market, or Nasdaq, under the symbol “HSDT” and on the Toronto Stock Exchange, or TSX, under the symbol “HSM.” On November 21, 2019, the last reported sale price of our Class A Common Stock as reported on (a) Nasdaq was US\$0.595 per share and (b) the TSX was CAD\$0.77 per share.

**This investment involves a high degree of risk. See “Risk Factors” beginning on page S-7 of this prospectus supplement, on page 8 of the accompanying prospectus and under similar headings in the documents incorporated by reference into this prospectus supplement and the accompanying prospectus.**

We are an “emerging growth company” under applicable Securities and Exchange Commission, or the SEC, rules and are eligible for reduced public company disclosure requirements. See “Prospectus Supplement Summary—Implications of Being an Emerging Growth Company.”

**Neither the SEC nor any state securities commission has approved or disapproved of these securities or determined if this prospectus supplement or the accompanying prospectus is truthful or complete. Any representation to the contrary is a criminal offense.**

|   | <u>PER SHARE</u> | <u>TOTAL</u>  |
|---|------------------|---------------|
| Public Offering Price   | US\$ 0.35        | US\$1,685,254 |
| Underwriting Discounts and Commissions(1)                     | US\$ 0.02        | US\$ 97,433   |
| Proceeds to Helius Medical Technologies, Inc. before expenses | US\$ 0.33        | US\$1,587,821 |

(1) We have agreed to reimburse the underwriters for certain expenses. See “Underwriting” beginning on page S-29 of this prospectus supplement for additional information regarding underwriter compensation. The underwriting discounts and commissions include the cash fee payable to the underwriters acting as placement agents in connection with the securities sold directly to certain investors solely pursuant to this prospectus.

Delivery of the shares of Class A Common Stock is expected to be made on or about November 26, 2019 through the book-entry facilities of the Depository Trust Company.

Entities affiliated with Dane C. Andreeff, our director, have agreed to purchase approximately \$0.2 million of the shares Class A Common Stock offered hereby.

*Sole Book-Running Manager*

**H.C. Wainwright & Co.**

*Co-Manager*

**Haywood Securities Inc.**

Prospectus Supplement dated November 22, 2019

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## ABOUT THIS PROSPECTUS SUPPLEMENT

This document is part of a “shelf” registration statement on Form S-3 that we filed with the SEC and is in two parts. The first part is this prospectus supplement, which describes the specific terms of this offering and also adds to and updates information contained in the accompanying prospectus and the documents incorporated by reference herein. The second part, the accompanying prospectus, provides more general information. Generally, when we refer to this prospectus, we are referring to both parts of this document combined. To the extent there is a conflict between the information contained in this prospectus supplement and the information contained in the accompanying prospectus or any document incorporated by reference therein filed prior to the date of this prospectus supplement, you should rely on the information in this prospectus supplement; provided that if any statement in one of these documents is inconsistent with a statement in another document having a later date—for example, a document incorporated by reference in the accompanying prospectus—the statement in the document having the later date modifies or supersedes the earlier statement.

We further note that the representations, warranties and covenants made by us in any agreement that is filed as an exhibit to any document that is incorporated by reference herein or in the accompanying prospectus were made solely for the benefit of the parties to such agreement, including, in some cases, for the purpose of allocating risk among the parties to such agreements, and should not be deemed to be a representation, warranty or covenant to you. Moreover, such representations, warranties or covenants were accurate only as of the date when made. Accordingly, such representations, warranties and covenants should not be relied on as accurately representing the current state of our affairs.

We and the underwriters have not authorized anyone to provide any information other than that contained or incorporated by reference in this prospectus supplement or in the accompanying prospectus. We and the underwriters take no responsibility for, and provide no assurance as to the reliability of, any other information that others may give you. This prospectus supplement and the accompanying prospectus do not constitute an offer to sell, or a solicitation of an offer to purchase, the securities offered by this prospectus supplement and the accompanying prospectus in any jurisdiction to or from any person to whom or from whom it is unlawful to make such offer or solicitation of an offer in such jurisdiction. The information contained in this prospectus supplement or the accompanying prospectus or incorporated by reference herein or therein is accurate only as of the respective dates thereof, regardless of the time of delivery of this prospectus supplement and the accompanying prospectus or of any sale of our Class A Common Stock. It is important for you to read and consider all information contained in this prospectus supplement and the accompanying prospectus, including the documents incorporated by reference herein and therein, in making your investment decision. You should also read and consider the information in the documents to which we have referred you in the sections entitled “Where You Can Find More Information” and “Incorporation of Certain Information by Reference” in this prospectus supplement and in the accompanying prospectus.

We are offering to sell, and seeking offers to buy, shares of our Class A Common Stock only in jurisdictions where offers and sales are permitted. The distribution of this prospectus supplement and the accompanying prospectus and the offering of the Class A Common Stock in certain jurisdictions may be restricted by law. Persons outside the United States who come into possession of this prospectus supplement and the accompanying prospectus must inform themselves about, and observe any restrictions relating to, the offering of the Class A Common Stock and the distribution of this prospectus supplement and the accompanying prospectus outside the United States. This prospectus supplement and the accompanying prospectus do not constitute, and may not be used in connection with, an offer to sell, or a solicitation of an offer to buy, any securities offered by this prospectus supplement and the accompanying prospectus by any person in any jurisdiction in which it is unlawful for such person to make such an offer or solicitation.

Except as otherwise indicated herein or as the context otherwise requires, references in this prospectus to “Helius,” the “Company,” “we,” “us” and “our” refer to Helius Medical Technologies, Inc. and its wholly owned subsidiaries, Helius Medical, Inc. or HMI, Helius NeuroRehab, Inc., Helius Medical Technologies (Canada), Inc., Helius Canada Acquisition Ltd. and Heuro Canada, Inc.

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Our material registered and unregistered trademarks include: PoNS<sup>™</sup>. All other trademarks, trade names and service marks appearing in this prospectus supplement, the accompanying prospectus or the documents incorporated by reference herein and therein are the property of their respective owners. Use or display by us of other party's trademarks, trade dress or products is not intended to and does not imply a relationship with, or endorsements or sponsorship of, us by the trademark or trade dress owner. Solely for convenience, trademarks and tradenames referred to in this prospectus supplement and the accompanying prospectus appear without the ® and ™ symbols, but those references are not intended to indicate, in any way, that we will not assert, to the fullest extent under applicable law, our rights or that the applicable owner will not assert its rights, to these trademarks and trade names.

## CURRENCY PRESENTATION AND EXCHANGE RATE INFORMATION

Our consolidated financial statements incorporated by reference in this prospectus supplement have been prepared in accordance with accounting principles generally accepted in the United States and are reported in United States dollars.

Unless stated otherwise or if the context otherwise requires, all references to dollar amounts in this prospectus supplement are references to U.S. dollars. References to “\$,” “US\$” or “dollars” are to U.S. dollars and references to “CAD\$” are to Canadian dollars. In this prospectus supplement, where applicable, and unless otherwise indicated, amounts are converted from Canadian dollars to U.S. dollars and vice versa by applying the single daily exchange rate for conversion of one Canadian dollar to U.S. dollars as reported by the Bank of Canada on November 21, 2019.

The following table sets forth for each period indicated: (i) the exchange rates in effect at the end of the period; (ii) the high and low exchange rates during such period; and (iii) the average exchange rates for such period, each based on the Bank of Canada single daily exchange rate in effect on each trading day for the relevant period, for conversion of Canadian dollars into U.S. dollars.

|         | Fiscal Year Ended<br>December 31 |                |
|---------|----------------------------------|----------------|
|         | 2018<br>(US\$)                   | 2017<br>(US\$) |
| Closing | 0.7330                           | 0.7971         |
| High    | 0.8138                           | 0.8245         |
| Low     | 0.7330                           | 0.7276         |
| Average | 0.7721                           | 0.7708         |

  

|         | Nine Months Ended<br>September 30, |                |
|---------|------------------------------------|----------------|
|         | 2019<br>(US\$)                     | 2018<br>(US\$) |
| Closing | 0.7551                             | 0.7725         |
| High    | 0.7670                             | 0.8138         |
| Low     | 0.7353                             | 0.7513         |
| Average | 0.7524                             | 0.7769         |

On November 21, 2019, the single daily exchange rate as quoted by the Bank of Canada was CAD\$1.0000 = US\$0.7527.

## PROSPECTUS SUPPLEMENT SUMMARY

*This summary highlights selected information contained elsewhere in this prospectus supplement and the accompanying prospectus and in the documents we incorporate by reference. This summary does not contain all of the information you should consider before investing in our Class A Common Stock. You should read this entire prospectus supplement and the accompanying prospectus carefully, especially the risks of investing in our Class A Common Stock discussed under “Risk Factors” beginning on page S-7 of this prospectus supplement and under similar headings in our Annual Report on Form 10-K for the fiscal year ended December 31, 2018, which is incorporated by reference in this prospectus supplement, and our Quarterly Reports on Form 10-Q incorporated by reference in this prospectus supplement, along with our consolidated financial statements and notes to those consolidated financial statements and the other information incorporated by reference in this prospectus supplement and the accompanying prospectus, before making an investment decision.*

### **Company Overview**

We are a neurotechnology company focused on neurological wellness. Our purpose is to develop, license or acquire non-invasive technologies targeted at reducing symptoms of neurological disease or trauma.

Our first product, known as the Portable Neuromodulation Stimulator, or PoNST<sup>™</sup>, is an active, therapeutic, class II medical device authorized for sale in Canada intended as a short term treatment (14 weeks) of chronic balance deficit due to mild-to-moderate traumatic brain injury, or mmTBI, and is to be used in conjunction with therapeutic activities, or PoNS Treatment<sup>™</sup>. The PoNS<sup>™</sup> device is an investigational medical device in the United States, the European Union, or EU, and Australia, or AUS, and it is currently under review for clearance by the AUS Therapeutic Goods Administration, or TGA. PoNS Treatment<sup>™</sup> is not currently commercially available in the United States, the European Union or Australia. The PoNS device, when combined with targeted therapeutic activities and/or cognitive therapy, or PoNS Treatment<sup>™</sup>, is the first and only treatment that combines neurostimulation of cranial nerves via the tongue to treat chronic balance deficit. In April 2019, we announced that the U.S. Food and Drug Administration, or FDA, had completed its review and denied our request for de novo classification of the PoNS device in the United States. A new FDA submission with additional supporting clinical data will be required for clearance in the United States. We are working with the FDA to define the scope of this ongoing clinical work. We have withdrawn our application from the EU marketing process due to uncertainty in Europe due to the switch from the Medical Device Directive to the Medical Device Regulation and the withdrawal of Lloyd’s Register Quality Assurance, our notified body, from the notified body business. We will reconsider submitting to the EU when conditions stabilize.

### **Business Update**

#### **Regulatory**

In April 2019, we announced that the FDA had completed its review of, and denied our request for de novo classification of the PoNS device. In reaching its conclusion, the FDA noted that it did not have sufficient information to discern the relative independent contributions of the PoNS device and physical therapy to establish sufficient evidence of effectiveness of our PoNS device based on the data in our clinical trials. The FDA has indicated that we need additional clinical data to support a marketing clearance in the United States. Based on this feedback, we have revised our strategy for marketing authorization in the United States.

Given the change in our United States regulatory timeline, we have prioritized our resources to support our resubmission to the FDA and commercialization efforts in Canada. As a result, we reduced our workforce by over 30% to scale back the staff that was hired to prepare for our commercial launch in the United States while maintaining the necessary distribution, regulatory and quality system infrastructure to support our commercial

launch in Canada. In addition, we placed our clinical experience programs on hold, given that we are now able to gather anonymized outcomes and compliance data from patients treated in Canada to support our reimbursement strategy. Finally, we identified and added external resources with specialized clinical and regulatory expertise to inform our revised U.S. regulatory strategy and help us navigate the resubmission process.

In May 2019, we initiated our application process to the TGA for marketing authorization of our PoNS device in Australia. TGA's active review of our file commenced in September 2019 and we have provided responses to all questions received thus far. In addition, during the second quarter of 2019, we engaged with regulators in Europe to answer questions that we received from them as part of their review of our PoNS device for a CE mark.

In June 2019, we provided an update on our strategy to resubmit an application for de novo clearance of our PoNS device with the FDA. As part of the strategy, members of our management team participated in an informational discussion with FDA in June 2019 regarding the issues the FDA raised in its April response letter. Based on the FDA's clarifications, we submitted a request to the FDA for a pre-submission meeting focused on discussing our resubmission strategy. The pre-submission meeting with FDA was held in October 2019. The discussion during the course of the meeting focused on supporting FDA's request for a study that demonstrates the benefit of PoNS Treatment compared to physical therapy alone in a way that can be generalized to the intended population of patients with balance deficits following mmTBI. The FDA indicated that additional data is required to support the new de novo submission. Study design, endpoints, eligible patient population and the duration of the investigation were discussed. Two analysis methods were proposed and will be implemented to maximize the information gained in the study while allowing for efficient enrollment and study execution. Overall, the meeting provided the information needed to help finalize the design of the new study in accordance with FDA's current recommendations.

On November 12, 2019, we announced our proposed plan to conduct a single arm clinical study as opposed to a new randomized study in order to support our planned submission of a new request to the FDA for de novo classification of the PoNS device. This study is designed to provide patients with 5 weeks of physical therapy, or PT, alone and compare these results to the existing results from the active arm of our registrational trial TBI 001 protocol. In accordance with the recommendations of the FDA, we plan to extend the study of PT alone patients for an additional 5 weeks of treatment involving PT and treatment with the PoNS device. This will allow us to compare the effects of 5 weeks of PT alone to the effects of an additional treatment of 5 weeks of PT + PoNS with the same patients. We estimate that we will be able to submit a new request for de novo classification based on the results of this 42-patient study in the third quarter of 2020.

We are also engaged in continuing to drive our regulatory strategy in Canada. In-market experience reinforces our prior market assessment indicating Multiple Sclerosis, or MS, is an unmet clinical need in Canada. We are therefore preparing label expansion plans in Canada. A pre-submission communication is planned first for Health Canada.

#### ***Canada Commercialization Efforts***

During the third quarter of 2019, additional patients completed the 14-week treatment protocol at the two founding clinic locations in Montreal, Quebec and Surrey, British Columbia. These clinics were opened pursuant to our arrangement with Health Tech Connex Inc., or HTC, and Heuro Canada, Inc., or Heuro. The initial high-level results about the collective experience of our patients that have completed the 14-week PoNS Treatment have been encouraging. Consistent with what we saw in our two clinical trials, one for 5 weeks and the other for 14 weeks, commercial patients are demonstrating improvements in balance and gait within the first two weeks followed by continued improvement over the following twelve weeks. In addition, the majority of patients have shown improvement in comfortable gait speed, a measure of their ability to walk, with a meaningful clinical difference at the end of their treatment, while also demonstrating a mean patient adherence to treatment of over

90%, which is also consistent with what we experienced in our clinical trials. We believe the consistency of the patient results from our initial commercial experience supports our plans to build the infrastructure to expand access to our novel PoNS Treatment in Canada.

During the second quarter of 2019, we also announced the expansion of the clinic development plan with HTC and Heuro into three new markets, Toronto, Calgary and Ottawa, with the authorization of one clinic in each of these markets. As these three new clinics have no prior experience when it comes to implementing our PoNS Treatment and integrating it into their clinic operations, we are taking a measured approach during our site training and authorization process to ensure that they are equipped with the know-how to achieve positive outcomes similar to the Surrey and Montreal clinics. These new clinics in turn, are also focused on integrating the PoNS Treatment into their practices. We expect it will take additional time for them to become fully operational and able to attract a significant population of interested patients.

In June 2019, we launched a digital marketing campaign with the objective of increasing awareness of the PoNS Treatment and authorized clinics among targeted patients and their caregivers and providing contact information on authorized PoNS clinics. Our sales effort is focused on raising awareness of the PoNS Treatment among physiatrists and physical therapists, and in generating referrals to authorized PoNS clinics. Our Medical Affairs team continue their efforts in building awareness through development of key opinion leaders across Canada. We expanded our sales and marketing to Toronto, Calgary and Ottawa during the third quarter of 2019.

During the third quarter of 2019, as we recognized the need to streamline our decision process and react to evolving market factors which are a part of launching a novel technology like the PoNS, we began moving away from the franchise model to an authorized clinic model to work with the physical therapy centers. In addition, we decided to build a more traditional medical device infrastructure and hired a VP and General Manager, based in Canada with a history of leadership roles in medical device companies to lead the commercialization activities across Canada. We have further expanded the team to include commercial strategy, operations and reimbursement expertise.

While the vast majority of our initial sales of the PoNS device were to self-pay patients, we have initiated a process for the collection and review of real-world evidence to support current and future payer efforts to seek reimbursement. During the third quarter, we received full reimbursement for the PoNS Treatment for two patients and focused activities to use these two successful reimbursement applications into a structured templated program for the authorized clinics to submit for further reimbursement applications. These efforts will be primarily deployed in the auto accident insurance and workers compensation markets. Lastly, we continue to focus on identifying, engaging and training new neuroplasticity clinics in Canada to become PoNS Treatment centers in order to expand patient access to care and are focusing on expanding the capacity and through-put of the clinics we have engaged. This initial commercialization experience will help us learn how to accelerate Canadian deployment as well as give us valuable information to potentially deploy in other markets around the world if we gain additional regulatory clearances.

#### ***Share Purchase Agreement and Co-Promotion Agreement***

During the third quarter of 2019, we engaged with HTC through the joint steering committee in discussions regarding the future development of the commercialization of the PoNS device and PoNS Treatment in Canada. As we worked with Heuro to expand the commercial infrastructure, the complexity and feasibility of using a franchise model to build a market for PoNS including the physical therapy component became challenging. By acquiring Heuro, as noted below, we were able to streamline the decision-making process and increase our ability to react to evolving market factors as the market for the PoNS Treatment is being developed.

On October 30, 2019, we and HTC entered into a Share Purchase Agreement, or the SPA, whereby we, through our wholly owned subsidiary, acquired Heuro from HTC. Under the terms of the SPA, total consideration of



approximately \$1.6 million was paid to HTC, which included (1) the repayment to HTC for their investment in the set-up of Heuro's initial commercial infrastructure including, the establishment of five authorized PoNS clinics across Canada, (2) the current market value of 55 PoNS devices which we also provided to HTC under the SPA, (3) the CAD\$750,000 receivable from the September 2018 strategic alliance agreement and (4) the sale of exclusivity rights granted to HTC in the Co-Promotion Agreement, as defined below, to provide PoNS Treatment in the Fraser Valley and Vancouver metro regions of British Columbia.

In connection with the Share Purchase Agreement, on October 30, 2019, we entered into a Clinical Research and Co-Promotion Agreement with HTC, or the Co-Promotion Agreement, whereby each company will promote the sales of the PoNS Treatment and the NeuroCatch™ device throughout Canada. This co-promotion arrangement terminates upon the earlier of the collection of data from 200 patients in Canada and December 31, 2020. Also, subject to certain terms and conditions, we granted to HTC the exclusive right to provide the PoNS Treatment in the Fraser Valley and Vancouver metro regions of British Columbia, where HTC has operated a PoNS authorized clinic since February 2019. HTC will purchase the PoNS devices for use in these regions exclusively from us and on terms no less favorable than the then-current standard terms and conditions. This exclusivity right has an initial term of ten (10) years, renewable by HTC for one additional ten (10) year term upon sixty (60) days' written notice to us.

### **Corporate History**

On June 13, 2014, we acquired a 100% interest in NeuroHabilitation Corporation, or NHC, pursuant to a plan of merger whereby our wholly-owned subsidiary was merged with and into NHC and all of the common shares in the capital of NHC were cancelled in consideration for the issuance of an aggregate of 7,060,016 shares of our Class A Common Stock to the shareholders of NHC. NHC, which changed its name to Helius Medical, Inc in December 2018, is now our wholly-owned subsidiary. Prior to the transaction we had no active business.

HMI, a Delaware corporation, incorporated on January 22, 2013, is involved in the medical device industry. In January 2013, HMI entered into an exclusive rights agreement whereby Advanced Neuro-Rehabilitation LLC, or ANR, granted HMI exclusive worldwide rights to ANR's trade secrets, knowhow and patent pending technology for a non-invasive means for delivering neurostimulation through the oral cavity, in exchange for a 50% equity investment in HMI and a 4% royalty of HMI's revenue collected from (a) the U.S. sales of products covered by any claim of the patent pending rights to end users and (b) services related to the therapy or use of such products in therapy services.

On January 31, 2019, we formed another wholly owned subsidiary, Helius NeuroRehab, Inc., a Delaware corporation, which will operate a clinical research site to collect data on the delivery of PoNS Treatment to patients with balance and gait disorders. On October 10, 2019, we formed Helius Canada Acquisition Ltd., a company incorporated under the federal laws of Canada and a wholly owned subsidiary of Helius Medical Technologies (Canada), Inc., a company incorporated under the federal laws of Canada, which acquired Heuro Canada, Inc. from Health Tech Connex Inc. on October 30, 2019

### **Corporate Information**

We are incorporated in the state of Delaware under the name Helius Medical Technologies, Inc. Our principal executive offices are located at 642 Newtown Yardley Road, Suite 100, Newtown, Pennsylvania 18940, and our telephone number is (215) 944-6100. Our website address is [www.heliusmedical.com](http://www.heliusmedical.com). We have included our website address in this prospectus solely as an inactive textual reference. The information on, or that can be accessed through, our website is not part of this prospectus supplement or the accompanying prospectus, and you should not rely on any such information in making the decision whether to purchase securities.

### **Implications of Being an Emerging Growth Company**

As a company with less than \$1.07 billion in total annual gross revenue during our last fiscal year, we qualify as an “emerging growth company” as defined in the Jumpstart Our Business Startups Act of 2012, or the JOBS Act. For so long as we remain an emerging growth company, we are permitted and intend to rely on exemptions from certain disclosure requirements that are applicable to other public companies that are not emerging growth companies. These exemptions include:

- not being required to comply with the auditor attestation requirements in the assessment of our internal control over financial reporting;
- not being required to comply with any requirement that may be adopted by the Public Company Accounting Oversight Board regarding mandatory audit firm rotation or a supplement to the auditor’s report providing additional information about the audit and the financial statements;
- reduced disclosure obligations regarding executive compensation; and
- exemptions from the requirements of holding a nonbinding advisory vote on executive compensation and stockholder approval of any golden parachute payments not previously approved.

We may take advantage of these provisions until December 31, 2020 or such earlier time that we no longer qualify as an emerging growth company. We would cease to be an emerging growth company if we have more than \$1.07 billion in total annual gross revenue, have more than \$700 million in market value of our capital stock held by non-affiliates or issue more than \$1.0 billion of non-convertible debt over a three-year period. We may choose to take advantage of some, but not all, of the available exemptions. We have taken advantage of some reduced reporting burdens in this prospectus supplement, the accompanying prospectus and the documents incorporated by reference herein and therein. Accordingly, the information contained herein and therein may be different than the information you receive from other public companies in which you hold stock.

In addition, the JOBS Act provides that an emerging growth company can take advantage of an extended transition period for complying with new or revised accounting standards. This allows an emerging growth company to delay the adoption of certain accounting standards until those standards would otherwise apply to private companies. We have irrevocably elected not to avail ourselves of this exemption from new or revised accounting standards and, therefore, are subject to the same new or revised accounting standards as other public companies that are not emerging growth companies.

## THE OFFERING

**Class A Common Stock Offered by Us** 4,815,010 shares.

**Class A Common Stock Outstanding Immediately After the Offering** 30,718,554 shares.

**Use of Proceeds** We estimate that the net proceeds to us from this offering, after deducting underwriting commissions and estimated offering expenses payable by us, will be approximately US\$1.0 million. We plan to use the net proceeds from this offering primarily to fund our planned single arm clinical study to collect additional data to support our anticipated submission of a new request to the FDA for de novo classification of the PoNS device for patients with balance deficits following mmTBI, to fund our Canadian commercialization activities and the remainder for working capital and general corporate purposes. See “Use of Proceeds” on page S-13 of this prospectus supplement.

**Risk Factors** You should read the “Risk Factors” sections beginning on page S-7 of this prospectus supplement and in our Annual Report on Form 10-K and our Quarterly Reports on Form 10-Q, which are incorporated by reference, for a discussion of factors to consider carefully before deciding to invest in our securities.

**Nasdaq Symbol** “HSDT”

**TSX Symbol** “HSM”

Entities affiliated with Dane C. Andreeff, our director, have agreed to purchase approximately \$0.2 million of the shares Class A Common Stock offered hereby.

The number of shares of Class A Common Stock that will be outstanding after this offering as shown above is based on 25,903,544 shares of Class A Common Stock outstanding as of September 30, 2019 and excludes the following:

- 3,629,288 shares of Class A Common Stock issuable upon the exercise of stock options outstanding as of September 30, 2019, at a weighted-average exercise price of US\$6.93 per share;
- 3,043,605 shares of Class A Common Stock issuable upon the exercise of warrants outstanding as of September 30, 2019, at a weighted-average exercise price of CAD\$13.10; and
- an aggregate of 3,934,473 shares of Class A Common Stock reserved for future issuance under our 2018 Omnibus Incentive Plan, or the 2018 Plan, as of September 30, 2019.

Unless otherwise indicated, all information in this prospectus supplement assumes no exercise of the outstanding options or warrants described above.

## RISK FACTORS

*Investing in our Class A Common Stock involves a high degree of risk. Before you decide to invest in our Class A Common Stock, you should carefully consider the risks and uncertainties described below together with all other information contained in this prospectus supplement, the accompanying prospectus and in our filings with the SEC that we have incorporated by reference in this prospectus supplement and the accompanying prospectus. If any of the following risks actually occurs, our business, prospects, operating results and financial condition could suffer materially. In such event, the trading price of our Class A Common Stock could decline and you might lose all or part of your investment.*

### **Risks Related to this Offering**

***We will require additional financing to carry out our plan of operations and if we are unable to obtain such financing, our business may fail.***

We currently have limited working capital and liquid assets. We had cash of \$9.0 million at September 30, 2019. As of September 30, 2019, we have only generated \$1.3 million in revenue through product sales of our PoNS device in Canada pursuant to our executed supply agreements with neuroplasticity clinics in Canada. There are a number of conditions that we must satisfy before we will be able to generate significant revenue, including, but not limited to, marketing authorization from the U.S. Food and Drug Administration, or the FDA, of the PoNS device for mmTBI, manufacturing of a commercially-viable version of the PoNS device, obtaining favorable reimbursement from third party payers and demonstrating effectiveness sufficient to generate commercial orders by customers for our product. Even if we complete this offering, we do not anticipate having sufficient resources to accomplish all of these conditions necessary for us to generate significant revenue, and we believe our existing capital resources, together with the net proceeds from this offering will be insufficient to fund our operations beyond the first quarter of 2020. We will therefore require substantial additional funds in order to continue to conduct the research and development and regulatory authorization activities necessary to bring our product to market, to establish effective marketing and sales capabilities and to develop other product candidates. We may never succeed in achieving regulatory authorization for our current product candidate in the United States, Europe or Australia. We may be unable to raise the additional funding to finance our business on commercially reasonable terms, or at all. If we are unable to obtain additional financing as needed, we may be forced to reduce the scope of our operations and planned capital expenditures or sell certain assets, including intellectual property, and we may be forced to cease or wind down operations, seek protection under the provisions of the U.S. Bankruptcy Code, or liquidate and dissolve our company, which would have a material adverse effect on the value of our Class A Common Stock.

***Raising additional capital by issuing securities, including as a result of this offering, or through debt financings or licensing arrangements may cause dilution to our existing stockholders, restrict our operations or require us to relinquish rights to our technologies or product candidate on terms unfavorable to us.***

Until such time, if ever, as we can generate substantial revenue from the sale of our PoNS Treatment, we expect to finance our cash needs through a combination of equity offerings, debt financings and license and development agreements. We do not currently have any committed external source of funds. To the extent that we raise additional capital through the sale of equity securities, including from this offering, or convertible debt securities, your ownership interest will be diluted, and the terms of such securities may include liquidation or other preferences that adversely affect your rights as a stockholder. Debt financing, if available, may involve agreements that include covenants limiting or restricting our ability to take certain actions, such as incurring additional debt, making capital expenditures or declaring dividends. If we raise additional funds through strategic partnerships with third parties, we may have to relinquish valuable rights to our technologies or product candidate, future revenue streams or research programs, or otherwise grant licenses on terms that are not favorable to us. If we are unable to raise additional capital when needed, we may be required to delay, limit, reduce or terminate our product development or commercialization efforts for our product candidate or our

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preclinical product candidates, or grant rights to develop and market potential future product candidates that we would otherwise prefer to develop and market ourselves. Any of these events could adversely affect our ability to achieve our product development and commercialization goals and have a material adverse effect on our business, financial condition and results of operations.

***After this offering, our executive officers and directors and their affiliates, if they choose to act together, will continue to have the ability to significantly influence all matters submitted to stockholders for approval.***

Upon the completion of this offering and based on the number of shares of Class A Common Stock outstanding as of September 30, 2019, our executive officers and directors and their affiliates will beneficially own, in the aggregate, shares representing approximately 19.46% of our Class A Common Stock, assuming no exercise of options or warrants outstanding as of September 30, 2019. Entities affiliated with Dane C. Andreeff, our director, have agreed to purchase approximately \$0.2 million of the shares Class A Common Stock offered hereby. As a result, following this offering, if these stockholders were to choose to act together, they would be able to significantly influence all matters submitted to our stockholders for approval, as well as our management and affairs. For example, these persons, if they choose to act together, would significantly influence the election of directors and approval of any merger, consolidation or sale of all or substantially all of our assets. This concentration of ownership control may delay, defer or prevent a change in control of our company, entrench our management and board of directors, or impede a merger, consolidation, takeover or other business combination involving us that other stockholders may desire.

***If you purchase securities sold in this offering, you will suffer immediate dilution of your investment.***

The public offering price per share of Class A Common Stock in this offering is substantially higher than the net tangible book value per share of our Class A Common Stock outstanding prior to this offering. Therefore, if you purchase securities in this offering, you will pay a price per share that substantially exceeds our net tangible book value per share after this offering. Based on a public offering price of US\$0.35 per share, you will experience immediate dilution of US\$0.03 per share, representing the difference between the public offering price and our as adjusted net tangible book value per share as of September 30, 2019 after giving effect to this offering. The exercise of outstanding stock options and warrants would result in further dilution of your investment. See the section entitled “Dilution” below for a more detailed illustration of the dilution you would incur if you participate in this offering.

***We have broad discretion over the use of our cash, including the net proceeds we receive in this offering, and may not use them effectively.***

Our management has broad discretion to use our cash, including the net proceeds we receive in this offering, to fund our operations and could spend these funds in ways that do not improve our results of operations or enhance the value of our Class A Common Stock. The failure by our management to apply these funds effectively could result in financial losses that could have an adverse effect on our business, cause the price of our Class A Common Stock to decline and delay the development of our medical device candidates. Pending their use to fund operations, we may invest our cash in a manner that does not produce income or that loses value.

***Because we do not intend to pay dividends for the foreseeable future, stockholders must rely on appreciation of the value of our Class A Common Stock for any return on their investment.***

We have never declared or paid any dividends on our Class A Common Stock and do not intend to pay any dividends in the foreseeable future. We anticipate that we will retain all of our future earnings for use in the operation of our business and for general corporate purposes. Any determination to pay dividends in the future will be at the discretion of our board of directors. As a result, we expect that only appreciation of the price of our Class A Common Stock, if any, will provide a return to investors in this offering for the foreseeable future.

***Future sales of our Class A Common Stock could cause our stock price to decline.***

Sales of a substantial number of shares of our Class A Common Stock in the public market, or the perception that these sales might occur, may reduce the prevailing market price of our Class A Common Stock and make more difficult for you to sell your Class A Common Stock at a time and price that you deem appropriate. In addition, any sales of securities by us or existing stockholders could have a material adverse effect on the market price of our Class A Common Stock.

***If we fail to satisfy all applicable Nasdaq continued listing requirements, including the \$1.00 minimum closing bid price requirement, our Class A Common Stock may be delisted from Nasdaq, which could have an adverse impact on the liquidity and market price of our Class A Common Stock.***

Our Class A Common Stock is currently listed on Nasdaq, which has qualitative and quantitative continued listing requirements, including corporate governance requirements, public float requirements and the \$1.00 minimum closing bid price requirement. Recently, our Class A Common Stock has traded at closing bid prices below \$1.00. If our Class A Common Stock trades at closing bid prices below \$1.00 for a period in excess of 30 consecutive business days, or if we are unable to satisfy any other continued listing requirement, Nasdaq may take steps to delist our Class A Common Stock. We would then evaluate our options to restore compliance with the applicable continued listing requirement, which options may include pursuing a reverse stock split to restore compliance with the \$1.00 minimum closing bid price requirement. A delisting of our Class A Common Stock could adversely affect the market liquidity of our Class A Common Stock, decrease the market price of our Class A Common Stock and adversely affect our ability to obtain financing for the continuation of our operations.

**Risks Related to Intellectual Property**

***We may be subject to various litigation claims and legal proceedings, including intellectual property litigation, such as patent infringement claims, which could adversely affect our business.***

We, as well as certain of our directors and officers, may be subject to claims or lawsuits. These lawsuits may result in significant legal fees and expenses and could divert management's time and other resources. If the claims contained in these lawsuits are successfully asserted against us, we could be liable for damages and be required to alter or cease certain of our business practices or product lines. Any of these outcomes could cause our business, financial performance and cash position to be negatively impacted.

Additionally, our commercial success will also depend, in part, on not infringing on the patents or proprietary rights of others. There can be no assurance that the technologies and products used or developed by us will not infringe such rights. If such infringement occurs and we are not able to obtain a license from the relevant third party, we will not be able to continue the development, manufacture, use, or sale of any such infringing technology or product. There can be no assurance that necessary licenses to third-party technology will be available at all or on commercially reasonable terms. In some cases, litigation or other proceedings may be necessary to defend against or assert claims of infringement or to determine the scope and validity of the proprietary rights of third parties. Any potential litigation could result in substantial costs to, and diversion of, our resources and could have a material and adverse impact on us.

An adverse outcome in any such litigation or proceeding could subject us to significant liabilities, require us to cease using the subject technology or require us to license the subject technology from the third party, all of which could have a material adverse effect on our business.

On January 5, 2015, Wicab sued the Company, NHC, Mitch Tyler, a director of the Company and NHC and Yuri Danilov, a former director of the Company and a director of NHC, and ANR, in the U.S. District Court for the Western District of Wisconsin. ANR is the licensor to the Company of three issued patents (U.S. Patent Nos. 8,849,407 and 8,909,345 and 9,020,612) and other patents pending related to neurostimulation methods and devices.

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The complaint contained various state and common law claims arising from Messrs. Danilov's and Tyler's prior employment with Wicab and relating to ownership of two of the issued patents (U.S. Patent Nos. 8,849,407 and 8,909,345). U.S. Patent No. 9,020,612 was not included in the Wicab complaint. The complaint alleged, among other things, that following their departure from Wicab, Danilov and Tyler knowingly filed patent applications for and used ideas and inventions developed at Wicab in violation of various non-competition and confidentiality agreements, and that the two issued patents are therefore rightfully the property of Wicab. The complaint sought an unspecified amount of monetary damages, an injunction preventing NHC from using the ideas and inventions in the two patents, an order transferring ownership of the patents from ANR to Wicab, and recovery of costs and attorneys' fees. The Company conducted an internal investigation and determined that Wicab expressly waived all rights in the two issued patents and, additionally, that Wicab's claims were barred by the six year statute of limitations in Wisconsin. On January 14, 2015, the Company informed Wicab of its belief that the claims were barred due to the express waiver and the statute of limitations. On the same day, Wicab dismissed the complaint without prejudice.

On October 12, 2015, the Company received a letter from Wicab alleging that the two issued patents were invalid in view of prior art cited in the letter, including scientific publications and patent applications, and that Paul Bach-y-Rita, Wicab's founder, should have been named as an inventor on these two issued patents. Wicab indicated in the letter that it may file reexamination or inter partes review proceedings with the U.S. Patent Office to attempt to invalidate the claims in the two issued patents. Wicab also stated that it would consider an unspecified "business solution" to resolve this matter. On December 10, 2015, representatives of each of the Company and Wicab met to discuss the parameters of a potential settlement. The parties did not reach a settlement and discussions ceased. Wicab has patent applications pending in the U.S. Patent Office. If the U.S. Patent Office grants to Wicab one or more patents based on these applications, Wicab may pursue legal action against the Company alleging infringement of such patents. Wicab may also take other actions against the Company, its assets, intellectual property rights, officers, directors, employees, agents or other persons or entities which may also have a material adverse effect on business, operating results and financial condition.

## SPECIAL NOTE REGARDING FORWARD-LOOKING STATEMENTS

This prospectus supplement, the accompanying prospectus and the information incorporated by reference herein and therein contain forward-looking statements that contain forward-looking statements that reflect our management's beliefs and views with respect to future events and are subject to substantial risks and uncertainties within the meaning of Section 27A of the Securities Act of 1933, as amended, or the Securities Act, and Section 21E of the Securities Exchange Act of 1934, as amended, or the Exchange Act. All statements, other than statements of historical fact, contained in this prospectus supplement, the accompanying prospectus and the documents incorporated by reference herein and therein, including statements regarding our strategy, future operations, future financial position, future revenue, projected costs, prospects, plans and objectives of management, are forward-looking statements. Forward-looking statements can be identified by the use of forward-looking words such as "believes," "expects," "may," "will," "plans," "intends," "estimates," "could," "should," "would," "continue," "seeks," "aims," "projects," "predicts," "pro forma," "anticipates," "potential" or other similar words (including their use in the negative), or by discussions of future matters such as the development of product candidates or products, technology enhancements, possible changes in legislation, and other statements that are not historical.

The forward-looking statements in this prospectus supplement, the accompanying prospectus and the information incorporated by reference herein and therein include, among other things, statements about:

- our estimates regarding our expenses, future revenues, anticipated capital requirements and our needs for additional financing;
- our ability to obtain funding for operations, including research funding;
- our expectations regarding regulatory requirements in the United States, European Union, Canada and Australia;
- our ability to build commercial infrastructure and distribution networks;
- whether we will receive, and the timing and costs of obtaining, regulatory clearances in the United States, European Union, Australia and other countries where we intend to sell or license;
- the therapeutic benefits, effectiveness and safety of our PoNS Treatment;
- the benefits and risks of our PoNS Treatment as compared to other therapies;
- our ability to advance our PoNS device into, and successfully complete, clinical trials in additional indications and the anticipated timing of such clinical trials;
- the timing of the initiation, progress and completion of our planned clinical trials;
- our future clinical and regulatory development plans for our PoNS device, and the success of any such plans;
- the results of clinical trials, preclinical studies and research and development programs;
- our ability to attract and retain customers;
- the success and pricing of other competing therapies that are currently or may become available;
- our ability to attract and retain qualified personnel;
- the manufacturing capacity of third-party manufacturers for our PoNS device and our future manufacturing strategy;
- our ability to procure electronic components to build inventory to meet demand forecasts within forecasted timelines and costs;
- our ability to complete the technology transfer to a scale manufacturer for FDA submission and to scale production for commercial launch, if ever;



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- our sources of revenues and anticipated revenues, including contributions from distributors and collaborators, product sales, license agreements and other collaborative efforts for the development and commercialization of products;
- the competition we face from other companies, research organizations, academic institutions and government agencies, and the risks such competition pose to our PoNS Treatment;
- the rate and degree of market acceptance of our PoNS Treatment in Canada, and in other markets if approved for commercialization in such markets;
- the ability of our strategic partners to develop clinic system to facilitate the commercialization of the PoNS Treatment in Canada, and to develop a clinic system in other markets to coincide with the launch of the PoNS Treatment in other markets, if approved for commercialization;
- our ability to defend ourselves against third-party claims of infringement or violation of, or other conflicts with, our intellectual property rights;
- regulatory developments and the regulatory environments in which we operate;
- our future growth plans;
- our estimate of the size of the potential addressable market for our PoNS Treatment, if approved for commercialization;
- the timing and amount of reimbursement for our PoNS Treatment;
- our commercialization, marketing and manufacturing capabilities and strategy;
- market and industry trends;
- our expectations with respect to future growth and investments in our infrastructure, and our ability to effectively manage any such growth; and
- our anticipated use of the net proceeds from the sale of the shares of our Class A Common Stock in this offering.

You should read this prospectus supplement, the accompanying prospectus and the information incorporated by reference herein and therein and the documents that we have filed as exhibits to the registration statement of which this prospectus supplement and the accompanying prospectus are a part completely and with the understanding that our actual results or events could differ materially from the plans, intentions and expectations disclosed in the forward-looking statements we make. We may not actually achieve the plans, intentions or expectations disclosed in our forward-looking statements, and you should not place undue reliance on our forward-looking statements. We have included important factors in the cautionary statements included in this prospectus supplement, the accompanying prospectus and the documents incorporated by reference herein and therein, particularly in the “Risk Factors” sections of such documents, that we believe could cause actual results or events to differ materially from the forward-looking statements that we make. We qualify all of the forward-looking statements in this prospectus supplement, the accompanying prospectus and the documents incorporated by reference herein and therein by reference to these cautionary statements. Our forward-looking statements do not reflect the potential impact of any future acquisitions, mergers, dispositions, joint ventures or investments we may make. We do not assume any obligation to update any forward-looking statements except as required by law.

## USE OF PROCEEDS

We estimate that the net proceeds to us from our issuance and sale of shares of our Class A Common Stock in this offering will be approximately US\$1.0 million, after deducting underwriting discounts and commissions and estimated offering expenses payable by us.

We currently intend to use the net proceeds from this offering, together with our existing cash, primarily to fund our planned single arm clinical study to collect additional data to support our anticipated submission of a new request to the FDA for de novo classification of the PoNS device for patients with balance deficits following mmTBI, to fund our Canadian commercialization activities and the remainder for working capital and general corporate purposes.

We may also use a portion of the net proceeds to invest in or acquire businesses or technologies that we believe are complementary to our own, although we have no current plans, commitments or agreements with respect to any acquisitions as of the date of this prospectus supplement.

Based on our current operational plans and assumptions, we expect that the net proceeds from this offering, along with our current cash, will be sufficient to enable us to fund our operations into the first quarter of 2020.

The expected use of our net proceeds from this offering described above represents our intentions based upon our current plans and business conditions, which could change in the future as our plans and business conditions evolve. The amounts and timing of our actual expenditures may vary significantly depending on numerous factors, including the review by the FDA other foreign regulatory authorities of our marketing authorization applications. As a result, our management will retain broad discretion over the allocation of the net proceeds from this offering, and investors will be relying on the judgment of our management regarding the application of the net proceeds from this offering. The timing and amount of our actual expenditures will be based on many factors, including cash flows from operations and the anticipated growth of our business. Pending these uses, we expect to invest the net proceeds in short-term, interest bearing obligations, certificates of deposit or direct or guaranteed obligations of the United States. The goal with respect to the investment of these net proceeds is capital preservation and liquidity so that such funds are readily available to fund our operations.

**DIVIDEND POLICY**

We have never declared or paid any dividends on our Class A Common Stock. We anticipate that we will retain all of our future earnings, if any, for use in the operation and expansion of our business and do not anticipate paying cash dividends in the foreseeable future.

## DILUTION

If you invest in our Class A Common Stock, your interest will be diluted immediately to the extent of the difference between the public offering price per share of Class A Common Stock you will pay in this offering and our as adjusted net tangible book value per share of our Class A Common Stock after this offering. Our historical net tangible book value as of September 30, 2019 was US\$8.8 million, or US\$0.34 per share of Class A Common Stock. Historical net tangible book value per share represents the amount of our total tangible assets less total liabilities, divided by the number of shares of our Class A Common Stock outstanding on September 30, 2019.

After giving effect to our issuance and sale of 4,815,010 shares of our Class A Common Stock in this offering at a public offering price of US\$0.35 per share, after deducting the underwriting discounts and commissions and estimated offering expenses payable by us, our as adjusted net tangible book value as of September 30, 2019 would have been US\$9.8 million, or US\$0.32 per share. This represents an immediate decrease in net tangible book value of US\$0.02 per share to existing stockholders and immediate dilution of US\$0.03 per share to investors purchasing our Class A Common Stock in this offering. Dilution per share to new investors is determined by subtracting as adjusted net tangible book value per share after this offering from the public offering price paid by new investors for the purposes of this calculation. The following table illustrates this dilution on a per share basis to the new investors in this offering:

|  |          |
|--|----------|
| Public offering price per share of Class A Common Stock                                      | \$0.35   |
| Net tangible book value per share as of September 30, 2019                                   | \$ 0.34  |
| (Decrease) per share attributable to sale of shares of Class A Common Stock in this offering | \$(0.02) |
| As adjusted net tangible book value per share after this offering                            | \$0.32   |
| Dilution per share to investors purchasing shares of Class A Common Stock in this offering   | \$0.03   |

The above discussion and table are based on 25,903,544 shares of our Class A Common Stock outstanding as of September 30, 2019 and excludes the following:

- 3,629,288 shares of Class A Common Stock issuable upon the exercise of stock options outstanding as of September 30, 2019, at a weighted-average exercise price of US\$6.93 per share;
- 3,043,605 shares of Class A Common Stock issuable upon the exercise of warrants outstanding as of September 30, 2019, at a weighted-average exercise price of CAD\$13.10; and
- an aggregate of 3,934,473 shares of Class A Common Stock reserved for future issuance under the 2018 Plan, as of September 30, 2019.

To the extent that any options or warrants are exercised, restricted stock units vest, new equity awards are issued under the 2018 Plan or we otherwise issue additional shares of Class A Common Stock in the future at a price less than the public offering price, there may be further dilution to new investors in this offering.

## DESCRIPTION OF CAPITAL STOCK

*The following description of our capital stock and provisions of our Certificate of Incorporation and Amended and Restated Bylaws are summaries. You should also refer to the Certificate of Incorporation and the Amended and Restated Bylaws, which are filed as exhibits to our Quarterly Report on Form 10-Q for the fiscal quarter ended September 30, 2019, which are incorporated by reference herein.*

### **General**

Our Certificate of Incorporation authorizes us to issue up to 150,000,000 shares of Class A Common Stock and 10,000,000 shares of preferred stock, par value \$0.001 per share, all of which shares of preferred stock are currently undesignated. Our board of directors may establish the rights and preferences of the preferred stock from time to time.

As of September 30, 2019, there were outstanding 25,903,544 shares of Class A Common Stock held by 62 stockholders of record. As of September 30, 2019, there were no outstanding shares of preferred stock.

### **Class A Common Stock**

#### ***Voting***

Each holder of our Class A Common Stock is entitled to one vote for each share on all matters submitted to a vote of the stockholders, including the election of directors. Our stockholders do not have cumulative voting rights. Because of this, the holders of a majority of the shares of Class A Common Stock entitled to vote in any election of directors can elect all of the directors standing for election, if they should so choose.

#### ***Dividends***

Subject to preferences that may be applicable to any then-outstanding preferred stock, holders of our Class A Common Stock are entitled to receive ratably those dividends, if any, as may be declared from time to time by the board of directors out of legally available funds.

#### ***Liquidation***

In the event of our liquidation, dissolution or winding up, holders of our Class A Common Stock will be entitled to share ratably in the net assets legally available for distribution to stockholders after the payment of all of our debts and other liabilities and the satisfaction of any liquidation preference granted to the holders of any then-outstanding shares of preferred stock.

#### ***Rights and Preferences***

Holders of our Class A Common Stock have no preemptive, conversion or subscription rights and there are no redemption or sinking fund provisions applicable to the Class A Common Stock. The rights, preferences and privileges of the holders of our Class A Common Stock are subject to, and may be adversely affected by, the rights of the holders of shares of any series of preferred stock that we may designate in the future.

### **Warrants**

As of September 30, 2019, we had warrants outstanding to purchase an aggregate of 3,043,605 shares of our Class A Common Stock with a weighted average exercise price of CAD\$13.10. These warrants expire in April 2021.

## **Stock Options**

As of September 30, 2019, we had options outstanding to purchase an aggregate of 3,629,288 shares of our Class A Common Stock with a weighted average exercise price of US\$6.93 per share. Many of these options are subject to vesting that generally occurs over a period of up to five years following the date of grant.

## **Anti-Takeover Provisions**

### ***Section 203 of the Delaware General Corporation Law***

We are subject to Section 203 of the Delaware General Corporation Law, which prohibits a Delaware corporation from engaging in any business combination with any interested stockholder for a period of three years after the date that such stockholder became an interested stockholder, with the following exceptions:

- before such date, the board of directors of the corporation approved either the business combination or the transaction that resulted in the stockholder becoming an interested stockholder;
- upon completion of the transaction that resulted in the stockholder becoming an interested stockholder, the interested stockholder owned at least 85% of the voting stock of the corporation outstanding at the time the transaction began, excluding for purposes of determining the voting stock outstanding, but not the outstanding voting stock owned by the interested stockholder, those shares owned (1) by persons who are directors and also officers and (2) employee stock plans in which employee participants do not have the right to determine confidentially whether shares held subject to the plan will be tendered in a tender or exchange offer; or
- on or after such date, the business combination is approved by the board of directors and authorized at an annual or special meeting of the stockholders, and not by written consent, by the affirmative vote of at least 66 2/3% of the outstanding voting stock that is not owned by the interested stockholder.

In general, Section 203 defines a “business combination” to include the following:

- any merger or consolidation involving the corporation or any direct or indirect majority-owned subsidiary of the corporation and the interested stockholder;
- any sale, transfer, pledge or other disposition of 10% or more of the assets of the corporation involving the interested stockholder (in one transaction or a series of transactions);
- subject to certain exceptions, any transaction that results in the issuance or transfer by the corporation or by any direct or indirect majority-owned subsidiary of the corporation of any stock of the corporation or of such subsidiary to the interested stockholder;
- any transaction involving the corporation or any direct or indirect majority-owned subsidiary of the corporation that has the effect of increasing the proportionate share of the stock or any class or series of the corporation beneficially owned by the interested stockholder; or
- the receipt by the interested stockholder of the benefit of any loans, advances, guarantees, pledges or other financial benefits by or through the corporation.

In general, Section 203 defines an “interested stockholder” as an entity or person who, together with the person’s affiliates and associates, beneficially owns, or within three years prior to the time of determination of interested stockholder status did own, 15% or more of the outstanding voting stock of the corporation.

### ***Certificate of Incorporation and Amended and Restated Bylaws***

Our Certificate of Incorporation provides that the authorized number of directors may be changed only by resolution of the board of directors, and vacancies and newly created directorships on the board of directors may, except as otherwise required by law or determined by the board of directors, only be filled by a majority vote of the directors then serving on the board of directors, even though less than a quorum.

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Our Amended and Restated Bylaws provide that all stockholder actions must be effected at a duly called meeting of stockholders and eliminate the right of stockholders to act by written consent without a meeting. Our Amended and Restated Bylaws also provide that only our Chairman of the board of directors, Chief Executive Officer or the board of directors pursuant to a resolution adopted by a majority of the total number of authorized directors may call a special meeting of stockholders.

Our Amended and Restated Bylaws also provide that stockholders seeking to present proposals before a meeting of stockholders to nominate candidates for election as directors at a meeting of stockholders must provide timely advance notice in writing, and specify requirements as to the form and content of a stockholder's notice. At any meeting of stockholders for the election of directors at which a quorum is present, the election will be determined by a plurality of the votes cast by the stockholders entitled to vote at the election.

Our Certificate of Incorporation and Amended and Restated Bylaws provide that the stockholders cannot amend many of the provisions described above except by a vote of 66 2/3% or more of our outstanding common stock. As described above, our Certificate of Incorporation gives our board of directors the authority, without further action by our stockholders, to issue up to 10,000,000 shares of preferred stock in one or more series.

The combination of these provisions will make it more difficult for our existing stockholders to replace our board of directors as well as for another party to obtain control of us by replacing our board of directors. Since our board of directors has the power to retain and discharge our officers, these provisions could also make it more difficult for existing stockholders or another party to effect a change in management. In addition, the authorization of undesignated preferred stock makes it possible for our board of directors to issue preferred stock with voting or other rights or preferences that could impede the success of any attempt to change our control.

These provisions are intended to enhance the likelihood of continued stability in the composition of our board of directors and its policies and to discourage coercive takeover practices and inadequate takeover bids. These provisions are also designed to reduce our vulnerability to hostile takeovers and to discourage certain tactics that may be used in proxy fights. However, such provisions could have the effect of discouraging others from making tender offers for our shares and may have the effect of delaying changes in our control or management. As a consequence, these provisions may also inhibit fluctuations in the market price of our stock that could result from actual or rumored takeover attempts. We believe that the benefits of these provisions, including increased protection of our potential ability to negotiate with the proponent of an unfriendly or unsolicited proposal to acquire or restructure our company, outweigh the disadvantages of discouraging takeover proposals, because negotiation of takeover proposals could result in an improvement of their terms.

### **Choice of Forum**

Our Certificate of Incorporation provides that the Court of Chancery of the State of Delaware will be the exclusive forum for:

- any derivative action or proceeding brought on our behalf;
- any action asserting a breach of fiduciary duty;
- any action asserting a claim against us arising pursuant to the Delaware General Corporation Law, our Certificate of Incorporation or our Amended and Restated Bylaws; or
- any action asserting a claim against us that is governed by the internal affairs doctrine.

The provision does not apply to suits brought to enforce a duty or liability created by the Exchange Act.

The enforceability of similar choice of forum provisions in other companies' certificates of incorporation has been challenged in legal proceedings, and it is possible that, in connection with any action, a court could find the choice of forum provisions contained in our Certificate of Incorporation to be inapplicable or unenforceable in such action.

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Our Certificate of Incorporation further provides that the federal district courts of the United States of America will be the exclusive forum for resolving any complaint asserting a cause of action arising under the Securities Act.

### **Registration Rights of A&B**

Pursuant to the terms of our \$7,000,000 Credit Facility with A&B Company Limited, dated as of October 9, 2015, or the Credit Facility, we have agreed to register the shares of Class A Common Stock issued or issuable under the terms of the Credit Facility upon the request of A&B Company Limited. As of September 30, 2019, A&B Company Limited beneficially owns 2,495,747 shares of our Class A Common Stock.

### **2018 Omnibus Incentive Plan**

We have filed a Form S-8 registration statement under the Securities Act to register shares of our Class A Common Stock issued or reserved for issuance under the 2018 Plan. The Form S-8 registration statement became effective immediately upon filing, and shares covered by such registration statement are eligible for sale in the public markets, subject to vesting restrictions and Rule 144 limitations applicable to affiliates. An aggregate of 5,356,114 shares of our Class A Common Stock may be issued under the 2018 Plan. This share reserve is the sum of 3,000,000 new shares, plus the remaining 2,356,114 shares that remained available for issuance under the Company's 2016 Omnibus Incentive Plan, the predecessor incentive plan at the time of the adoption of the 2018 Plan. As of September 30, 2019, there was an aggregate of 3,934,473 shares of Class A Common Stock remaining available for issuance under the 2018 Plan.

### **Transfer Agent and Registrar**

The transfer agent and the registrar for the Company is Computershare Investor Services Inc., located at 100 University Avenue, 8th Floor, Toronto, Ontario, M5J 2Y1 and 510 Burrard Street, 2nd Floor, Vancouver, British Columbia, V6C 3B4.



## MATERIAL U.S. FEDERAL INCOME TAX CONSEQUENCES

The following is a general discussion of the material U.S. federal income tax considerations applicable to non-U.S. holders (as defined herein) with respect to their ownership and disposition of shares of our Class A Common Stock issued pursuant to this offering, or the Shares. All prospective non-U.S. holders of our Shares should consult their tax advisors with respect to the U.S. federal, state, local and non-U.S. tax consequences of the purchase, ownership and disposition of our Shares. In general, a non-U.S. holder means a beneficial owner of our Shares (other than a partnership or an entity or arrangement treated as a partnership for U.S. federal income tax purposes) that is not, for U.S. federal income tax purposes:

- an individual who is a citizen or resident of the United States;
- a corporation, or an entity treated as a corporation for U.S. federal income tax purposes, created or organized in the United States or under the laws of the United States or of any state thereof or the District of Columbia;
- an estate, the income of which is subject to U.S. federal income tax regardless of its source; or
- a trust if (a) a U.S. court can exercise primary supervision over the trust's administration and one or more U.S. persons have the authority to control all of the trust's substantial decisions or (b) the trust has a valid election in effect under applicable U.S. Treasury Regulations to be treated as a U.S. person.

This discussion is based on current provisions of the U.S. Internal Revenue Code of 1986, as amended, which we refer to as the Code, existing U.S. Treasury Regulations promulgated thereunder, published administrative pronouncements and rulings of the U.S. Internal Revenue Service, which we refer to as the IRS, and judicial decisions, all as in effect as of the date of this prospectus. These authorities are subject to change and to differing interpretation, possibly with retroactive effect. Any change or differing interpretation could alter the tax consequences to non-U.S. holders described in this prospectus.

We assume in this discussion that a non-U.S. holder holds our Shares as a capital asset within the meaning of Section 1221 of the Code (generally, for investment). This discussion does not address all aspects of U.S. federal income taxation that may be relevant to a particular non-U.S. holder in light of that non-U.S. holder's individual circumstances, nor does it address any alternative minimum, Medicare contribution, estate or gift tax consequences, or any aspects of U.S. state, local or non-U.S. taxes. This discussion also does not consider any specific facts or circumstances that may apply to a non-U.S. holder and does not address the special tax rules applicable to particular non-U.S. holders, such as holders that own, or are deemed to own, more than 5% of our capital stock (except to the extent specifically set forth below), corporations that accumulate earnings to avoid U.S. federal income tax, tax-exempt organizations, banks, financial institutions, insurance companies, brokers, dealers or traders in securities, commodities or currencies, tax-qualified retirement plans, holders who hold or receive our Shares pursuant to the exercise of employee stock options or otherwise as compensation, holders holding our Shares as part of a hedge, straddle or other risk reduction strategy, conversion transaction or other integrated investment, holders deemed to sell our Shares under the constructive sale provisions of the Code, controlled foreign corporations, passive foreign investment companies and certain former U.S. citizens or long-term residents.

In addition, this discussion does not address the tax treatment of partnerships (or entities or arrangements that are treated as partnerships for U.S. federal income tax purposes) or persons that hold our Shares through such partnerships. If a partnership, including any entity or arrangement treated as a partnership for U.S. federal income tax purposes, holds our Shares, the U.S. federal income tax treatment of a partner in such partnership will generally depend upon the status of the partner and the activities of the partnership. Such partners and partnerships should consult their tax advisors regarding the tax consequences of the purchase, ownership and disposition of our securities.

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There can be no assurance that a court or the IRS will not challenge one or more of the tax consequences described herein, and we have not obtained, nor do we intend to obtain, a ruling with respect to the U.S. federal income tax consequences to a non-U.S. holder of the purchase, ownership or disposition of our securities.

### **Distributions on the Shares**

Distributions, if any, on the Shares generally will constitute dividends for U.S. federal income tax purposes to the extent paid from our current or accumulated earnings and profits, as determined under U.S. federal income tax principles. If a distribution exceeds our current and accumulated earnings and profits, the excess will be treated as a tax-free return of the non-U.S. holder's investment, up to such non-U.S. holder's adjusted tax basis in the Shares. Any remaining excess will be treated as capital gain from the sale or exchange of such Shares, subject to the tax treatment described below in "—Gain on Sale, Exchange or Other Taxable Disposition of Our Shares."

Dividends paid to a non-U.S. holder will generally be subject to withholding of U.S. federal income tax at a 30% rate or such lower rate as may be specified by an applicable income tax treaty between the United States and such non-U.S. holder's country of residence.

Dividends that are treated as effectively connected with a trade or business conducted by a non-U.S. holder within the United States and, if an applicable income tax treaty so provides, that are attributable to a permanent establishment or a fixed base maintained by the non-U.S. holder within the United States, are generally exempt from the 30% withholding tax if the non-U.S. holder satisfies applicable certification and disclosure requirements. However, such U.S. effectively connected income, net of specified deductions and credits, is taxed at the same U.S. federal income tax rates applicable to U.S. persons (as defined in the Code). Any U.S. effectively connected income received by a non-U.S. holder that is a corporation may also, under certain circumstances, be subject to an additional "branch profits tax" at a 30% rate or such lower rate as may be specified by an applicable income tax treaty between the United States and such non-U.S. holder's country of residence.

To claim a reduction or exemption from withholding, a non-U.S. holder generally will be required to provide (a) a properly executed IRS Form W-8BEN or IRS Form W-8BEN-E (or successor form) and satisfy applicable certification and other requirements to claim the benefit of an applicable income tax treaty between the United States and such non-U.S. holder's country of residence, or (b) a properly executed IRS Form W-8ECI stating that dividends are not subject to withholding because they are effectively connected with such non-U.S. holder's conduct of a trade or business within the United States. Non-U.S. holders are urged to consult their tax advisors regarding their entitlement to benefits under a relevant income tax treaty.

A non-U.S. holder that is eligible for a reduced rate of U.S. withholding tax under an income tax treaty may obtain a refund or credit of any excess amounts withheld by timely filing an appropriate claim for refund with the IRS.

Distributions will also be subject to the discussion below under the headings "—Backup Withholding and Information Reporting" and "—Foreign Accounts."

### **Gain on Sale, Exchange or Other Taxable Disposition of Our Shares**

Subject to the discussion below under the headings "—Backup Withholding and Information Reporting" and "—Foreign Accounts," in general, a non-U.S. holder will not be subject to any U.S. federal income tax on any gain realized upon such non-U.S. holder's sale, exchange or other taxable disposition of our Shares unless:

- the gain is effectively connected with a U.S. trade or business of the non-U.S. holder and, if an applicable income tax treaty so provides, is attributable to a permanent establishment or a fixed base maintained in the United States by such non-U.S. holder, in which case the non-U.S. holder generally

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will be taxed at the U.S. federal income tax rates applicable to U.S. persons (as defined in the Code) and, if the non-U.S. holder is a foreign corporation, the branch profits tax described above in “—Distributions on the Shares” also may apply;

- the non-U.S. holder is a nonresident alien individual who is present in the United States for 183 days or more in the taxable year of the disposition and certain other conditions are met, in which case the non-U.S. holder will be subject to a 30% tax (or such lower rate as may be specified by an applicable income tax treaty) on the net gain derived from the disposition, which may be offset by U.S. source capital losses of the non-U.S. holder, if any (even though the individual is not considered a resident of the United States); or
- we are, or have been, at any time during the five-year period preceding such disposition (or the non-U.S. holder’s holding period, if shorter) a “U.S. real property holding corporation” in which case such non-U.S. holder generally will be taxed on its net gain derived from the disposition at the graduated U.S. federal income tax rates applicable to U.S. persons (as defined in the Code) and may be subject to withholding at a rate of 15%. Generally, a corporation is a U.S. real property holding corporation only if the fair market value of its U.S. real property interests equals or exceeds 50% of the sum of the fair market value of its worldwide real property interests plus its other assets used or held for use in a trade or business. Although there can be no assurance, we do not believe that we are, or have been, a U.S. real property holding corporation, or that we are likely to become one in the future. Even if we are or become a U.S. real property holding corporation, provided that our Class A Common Stock is regularly traded, as defined by applicable U.S. Treasury Regulations, on an established securities market, the Shares will be treated as a U.S. real property interest only with respect to a non-U.S. holder that holds more than 5% of our outstanding Class A Common Stock, directly or indirectly, actually or constructively, during the shorter of the 5-year period ending on the date of the disposition or the period that the non-U.S. holder held the Shares. There can be no assurance that our Class A Common Stock will continue to qualify as regularly traded on an established securities market.

### **Backup Withholding and Information Reporting**

We must report annually to the IRS and to each non-U.S. holder the gross amount of the dividends on our Shares paid to such non-U.S. holder and the tax withheld, if any, with respect to such dividends. Non-U.S. holders will have to comply with specific certification procedures to establish that the holder is not a U.S. person (as defined in the Code) in order to avoid backup withholding at the applicable rate with respect to any dividends on our Shares. A non-U.S. holder generally will not be subject to U.S. backup withholding with respect to payments of dividends on our Shares if it certifies its non-U.S. status by providing a valid IRS Form W-8BEN or IRS Form W-8BEN-E (or successor form) or IRS Form W-8ECI, or otherwise establishes an exemption provided we do not have actual knowledge or reason to know such non-U.S. holder is a U.S. person, as defined in the Code. Dividends paid to non-U.S. holders subject to the U.S. withholding tax, as described above in “—Distributions on the Shares,” generally will be exempt from U.S. backup withholding.

Information reporting and backup withholding will generally apply to the proceeds of a disposition of our Shares by a non-U.S. holder effected by or through the U.S. office of any broker, U.S. or foreign, unless the holder certifies its status as a non-U.S. holder and satisfies certain other requirements, or otherwise establishes an exemption. Generally, information reporting and backup withholding will not apply to a payment of disposition proceeds to a non-U.S. holder where the transaction is effected outside the United States through a non-U.S. office of a broker. However, for information reporting purposes, dispositions effected through a non-U.S. office of a broker with substantial U.S. ownership or operations generally will be treated in a manner similar to dispositions effected through a U.S. office of a broker. Non-U.S. holders should consult their tax advisors regarding the application of the information reporting and backup withholding rules to them.

Copies of information returns may be made available to the tax authorities of the country in which the non-U.S. holder resides or is incorporated under the provisions of a specific treaty or agreement. Backup withholding is

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not an additional tax. Any amounts withheld under the backup withholding rules from a payment to a non-U.S. holder may be allowed as a credit against the non-U.S. holder's U.S. federal income tax liability, if any, and may entitle such holder to a refund, provided that the required information is timely furnished to the IRS.

### **Foreign Accounts**

The Code generally imposes a U.S. federal withholding tax of 30% on dividends and the gross proceeds of a disposition of our Shares (subject to the discussion below) paid to a "foreign financial institution" (as specifically defined for this purpose), unless such institution enters into an agreement with the U.S. government to, among other things, withhold on certain payments and to collect and provide to the U.S. tax authorities substantial information regarding U.S. account holders of such institution (which includes certain equity and debt holders of such institution, as well as certain account holders that are foreign entities with U.S. owners) or otherwise qualifies for an exemption from these rules. A U.S. federal withholding tax of 30% also applies to dividends and will apply to the gross proceeds of a disposition of our Shares (subject to the discussion below) paid to a non-financial foreign entity (as defined in the Code), unless such entity provides the withholding agent with either a certification that it does not have any substantial direct or indirect U.S. owners or provides information regarding substantial direct and indirect U.S. owners of the entity, or otherwise qualifies for an exemption from these rules. The U.S. Treasury Department recently released proposed regulations, which, if finalized in their present form, would eliminate the U.S. federal withholding tax of 30% applicable to the gross proceeds of a sale or other disposition of our securities. In its preamble to such proposed regulations, the U.S. Treasury Department stated that taxpayers may generally rely on the proposed regulations until final regulations are issued. Under certain circumstances, a non-U.S. holder might be eligible for refunds or credits of such taxes. An intergovernmental agreement between the United States and an applicable foreign country may modify the requirements described in this paragraph.

EACH PROSPECTIVE INVESTOR SHOULD CONSULT ITS TAX ADVISOR REGARDING THE PARTICULAR U.S. FEDERAL, STATE AND LOCAL AND NON-U.S. TAX CONSEQUENCES OF PURCHASING, HOLDING AND DISPOSING OF OUR SHARES, INCLUDING THE CONSEQUENCES OF ANY PROPOSED CHANGE IN APPLICABLE LAWS. IN ADDITION, SIGNIFICANT CHANGES IN U.S. FEDERAL TAX LAWS WERE RECENTLY ENACTED. PROSPECTIVE INVESTORS SHOULD ALSO CONSULT WITH THEIR TAX ADVISORS WITH RESPECT TO SUCH CHANGES IN U.S. TAX LAW AS WELL AS POTENTIAL CONFORMING CHANGES IN STATE TAX LAWS.

## MATERIAL CANADIAN FEDERAL INCOME TAX CONSEQUENCES

The following is a summary of the material Canadian federal income tax considerations under the *Income Tax Act* (Canada), or the Tax Act, generally applicable to a holder who acquires the Class A Common Stock pursuant to this offering, and who, for the purposes of the Tax Act and at all relevant times, holds such Class A Common Stock as capital property, deals at arm's length with us and the underwriters, and is not affiliated with us or the underwriters, which we refer to as a "Holder." The Class A Common Stock will generally be considered to be capital property to a Holder unless the Holder holds such Class A Common Stock in the course of carrying on a business of buying and selling securities or has acquired them in one or more transactions considered to be an adventure or concern in the nature of trade.

This summary is not applicable to a Holder: (i) with respect to which our company is or will be, at any time, a "foreign affiliate" within the meaning of the Tax Act, (ii) that is a "financial institution" for the purposes of the mark-to-market rules under the Tax Act, (iii) an interest in which is a "tax shelter" or a "tax shelter investment," each as defined in the Tax Act, (iv) that is a "specified financial institution" as defined in the Tax Act, (v) which has made a "functional currency" reporting election under section 261 of the Tax Act to report the holder's "Canadian tax results" (as defined in the Tax Act) in a currency other than the Canadian currency, or (vi) that has entered, or will enter, into a "derivative forward agreement," as defined in the Tax Act, with respect to the Class A Common Stock. Any such Holder should consult its own tax advisor with respect to the income tax considerations applicable to it in respect of acquiring, holding and disposing of the Class A Common Stock acquired pursuant to this offering.

This summary is based on the current provisions of the Tax Act and the regulations promulgated thereunder and an understanding of the current published administrative policies and assessing practices of the Canada Revenue Agency, or the CRA, made publicly available prior to the date hereof. This summary also takes into account all proposed amendments to the Tax Act and the regulations promulgated thereunder that have been publicly announced by or on behalf of the Minister of Finance (Canada) prior to the date hereof, which we refer to as the "Proposed Amendments," and assumes that such Proposed Amendments will be enacted in the form proposed, although no assurance can be given that the Proposed Amendments will be enacted in their current form or at all. Except for the Proposed Amendments, this summary does not take into account or anticipate any other changes in law or any changes in the CRA's administrative policies or assessing practices, whether by judicial, governmental or legislative action or decision, nor does it take into account other federal or any provincial, territorial or foreign tax legislation or considerations, which may differ from the Canadian federal income tax considerations described herein. The provisions of provincial income tax legislation vary from province to province in Canada and in some cases differ from those in the Tax Act.

**This summary is of a general nature only and is not intended to be, nor should it be construed to be, legal or tax advice to any particular Holder, and no representations with respect to the income tax considerations applicable to any particular Holder are made. This summary is not exhaustive of all Canadian federal income tax considerations. The relevant tax considerations applicable to the acquiring, holding and disposing of the Class A Common Stock may vary according to the status of the purchaser, the jurisdiction in which the purchaser resides or carries on business and the purchaser's own particular circumstances. Accordingly, prospective Holders are urged to consult their own tax advisors about the specific tax consequences to them of acquiring, holding and disposing of the Class A Common Stock.**

### Currency Conversion

For purposes of the Tax Act, all amounts relating to the acquisition, holding or disposition of the Class A Common Stock (including dividends, adjusted cost base and proceeds of disposition) must generally be expressed in Canadian dollars. Amounts denominated in any other currency must be converted into Canadian dollars generally based on the exchange rate quoted by the Bank of Canada on the date such amounts arise or such other rate of exchange as is acceptable to the Minister of National Revenue (Canada).

## **Holders Resident in Canada**

The following discussion applies to a Holder who, for the purposes of the Tax Act and any applicable income tax treaty or convention, and at all relevant times, is resident in Canada, which we refer to as a “Resident Holder.”

### **Dividends on Shares of Our Class A Common Stock**

A Resident Holder will be required to include in computing such Resident Holder’s income for a taxation year the amount of any dividends, if any, received (or deemed to be received) on the Class A Common Stock, including amounts deducted for U.S. withholding tax. Dividends received on the Class A Common Stock by a Resident Holder who is an individual will not be subject to the gross-up and dividend tax credit rules in the Tax Act normally applicable to taxable dividends received from “taxable Canadian corporations” (as defined in the Tax Act). A Resident Holder that is a corporation will not be entitled to deduct the amount of such dividends in computing its taxable income.

To the extent that U.S. withholding tax is payable by a Resident Holder in respect of any dividends received on the Class A Common Stock, the Resident Holder may be eligible for a foreign tax credit or deduction under the Tax Act to the extent and under the circumstances described in the Tax Act. Resident Holders should consult their own tax advisors regarding the availability of a foreign tax credit or deduction, having regard to their particular circumstances.

### **Disposition of Shares of Our Class A Common Stock**

A disposition or deemed disposition of the Class A Common Stock by a Resident Holder (including on a purchase of a Class A Common Stock for cancellation by our company) will generally result in a capital gain (or capital loss) to the extent that the proceeds of disposition, net of any reasonable costs of the disposition, exceed (or are exceeded by) the adjusted cost base to the Resident Holder of such Class A Common Stock immediately before the disposition. See “—*Taxation of Capital Gains and Capital Losses.*”

### **Taxation of Capital Gains and Capital Losses**

Generally, one-half of any capital gain (a “taxable capital gain”) realized by a Resident Holder will be included in the Resident Holder’s income for the year of disposition. One-half of any capital loss (an “allowable capital loss”) realized by a Resident Holder in a taxation year generally must be deducted by the Resident Holder against taxable capital gains in that year (subject to, and in accordance with, the provisions of the Tax Act). Allowable capital losses in excess of taxable capital gains realized by a Resident Holder in a taxation year may be carried back up to three taxation years or forward indefinitely and deducted against net taxable capital gains realized in such years, to the extent and under the circumstances described in the Tax Act.

Capital gains realized by a Resident Holder that is an individual or trust, other than certain specified trusts, may give rise to a liability for minimum tax under the Tax Act.

U.S. tax, if any, levied on any gain realized on a disposition of the Class A Common Stock may be eligible for a foreign tax credit under the Tax Act to the extent and under the circumstances described in the Tax Act. Resident Holders should consult their own tax advisors with respect to the availability of a foreign tax credit, having regard to their particular circumstances.

### **Offshore Investment Fund Property Rules**

The Tax Act contains provisions, or the OIF Rules, which, in certain circumstances, may require a Resident Holder to include an amount in income in each taxation year in respect of the acquisition and holding of the Class A Common Stock if (1) the value of such Class A Common Stock may reasonably be considered to be

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derived, directly or indirectly, primarily from portfolio investments in: (i) shares of the capital stock of one or more corporations, (ii) indebtedness or annuities, (iii) interests in one or more corporations, trusts, partnerships, organizations, funds or entities, (iv) commodities, (v) real estate, (vi) Canadian or foreign resource properties, (vii) currency of a country other than Canada, (viii) rights or options to acquire or dispose of any of the foregoing, or (ix) any combination of the foregoing, which we collectively refer to as “Investment Assets;” and (2) it may reasonably be concluded that one of the main reasons for the Resident Holder acquiring, holding or having the Class A Common Stock was to derive a benefit from portfolio investments in Investment Assets in such a manner that the taxes, if any, on the income, profits and gains from such Investment Assets for any particular year are significantly less than the tax that would have been applicable under Part I of the Tax Act if the income, profits and gains had been earned directly by the Resident Holder.

In making the determination under point (2) in the preceding paragraph, the OIF Rules provide that regard must be had to all of the circumstances, including (i) the nature, organization and operation of any non-resident entity, including our company, and the form of, and the terms and conditions governing, the Resident Holder’s interest in, or connection with, any such non-resident entity, (ii) the extent to which any income, profit and gains that may reasonably be considered to be earned or accrued, whether directly or indirectly, for the benefit of any non-resident entity, including our company, are subject to an income or profits tax that is significantly less than the income tax that would be applicable to such income, profits and gains if they were earned directly by the Resident Holder, and (iii) the extent to which any income, profits and gains of any non-resident entity, including our company, for any fiscal period are distributed in that or the immediately following fiscal period.

If applicable, the OIF Rules generally require a Resident Holder to include in the Resident Holder’s income for each taxation year in which such Resident Holder owns the Class A Common Stock, the amount, if any, by which (i) the total of all amounts each of which is the product obtained when the Resident Holder’s “designated cost” (as defined in the Tax Act) of the Class A Common Stock at the end of a month in the year is multiplied by 1/12 of the aggregate of the prescribed rate of interest for the period including that month plus two percentage points exceeds (ii) any dividends or other amounts included in computing such Resident Holder’s income for the year (other than a capital gain) from the Class A Common Stock determined without reference to the OIF Rules. Any amount required to be included in computing a Resident Holder’s income in respect of the Class A Common Stock under these provisions will be added to the adjusted cost base and the designated cost of the Class A Common Stock to the Resident Holder.

The CRA has taken the position that the term “portfolio investment” should be given a broad interpretation. Notwithstanding this interpretation, we do not believe that the value of the Class A Common Stock should be regarded as being derived, directly or indirectly, primarily from portfolio investments in Investment Assets, though the CRA may take a different view. However, if the term “portfolio investment” should be given a broad interpretation, and even if the value of the Class A Common Stock may reasonably be considered to be derived, directly or indirectly, primarily from portfolio investments in Investment Assets, the OIF Rules will apply to a Resident Holder only if it is reasonable to conclude that one of the main reasons for the Resident Holder acquiring, holding or having the Class A Common Stock was to derive a benefit from Investment Assets in such a manner that the taxes, if any, on the income, profits and gains from such Investment Assets for any particular year are significantly less than the tax that would have been applicable under Part I of the Tax Act if the income, profits and gains had been earned directly by the Resident Holder.

**The OIF Rules are complex and their application will potentially depend, in part, on the reasons for a Resident Holder acquiring, holding or having the Class A Common Stock. Resident Holders are urged to consult their own tax advisors regarding the application and consequences of the OIF Rules in their particular circumstances.**

### **Additional Refundable Tax**

A Resident Holder that is, throughout its taxation year, a “Canadian-controlled private corporation” (as defined in the Tax Act) may be subject to pay a refundable tax on its “aggregate investment income” (as defined in the Tax Act), including taxable capital gains and certain dividends.

### **Foreign Property Information Reporting**

In general, a Resident Holder that is a “specified Canadian entity” (as defined in the Tax Act) for a taxation year or a fiscal period and whose total “cost amount” (as defined in the Tax Act) of “specified foreign property” (as defined in the Tax Act), including the Class A Common Stock, at any time in the year or fiscal period exceeds CAD\$100,000 will be required to file an information return with the CRA for the taxation year or fiscal period disclosing certain prescribed information in respect of such property. Subject to certain exceptions, a taxpayer resident in Canada, other than a corporation or trust exempt from tax under Part I of the Tax Act, will be a “specified Canadian entity,” as will certain partnerships. The Class A Common Stock will each be “specified foreign property” to a Resident Holder. Penalties may apply where a Resident Holder fails to file the required information return in respect of such Resident Holder’s “specified foreign property” on a timely basis in accordance with the Tax Act.

The reporting rules in the Tax Act relating to “specified foreign property” are complex and this summary does not purport to address all circumstances in which reporting may be required by a Resident Holder. Resident Holders should consult their own tax advisors regarding the reporting rules contained in the Tax Act.

### **Holdings Not Resident in Canada**

The following portion of this summary is applicable to a Holder who at all relevant times: (i) has not been, is not, and will not be resident or deemed to be resident in Canada for purposes of the Tax Act or any applicable tax treaty or convention; and (ii) does not and will not use or hold, and is not and will not be deemed to use or hold, the Class A Common Stock in connection with, or in the course of, carrying on a business in Canada (a “Non-Resident Holder”). Special rules, which are not discussed in this summary, may apply to a non-resident insurer carrying on business in Canada and elsewhere. Such a non-resident insurer should consult its own tax advisors.

### **Dividends on Shares of Our Class A Common Stock**

Dividends paid in respect of the Class A Common Stock to a Non-Resident Holder will not be subject to Canadian withholding tax or other income tax under the Tax Act.

### **Disposition of Shares of Our Class A Common Stock**

A Non-Resident Holder who disposes or is deemed to dispose of the Class A Common Stock that were acquired under the offering will not be subject to Canadian income tax in respect of any capital gain realized on the disposition unless such Class A Common Stock constitute “taxable Canadian property” of the Non-Resident Holder for the purposes of the Tax Act and no exemption is available under an applicable income tax treaty or convention between Canada and the jurisdiction in which the Non-Resident Holder is resident.

Generally, the Class A Common Stock will not be taxable Canadian property at a particular time of a Non-Resident Holder provided that shares of our Class A Common Stock are listed on a “designated stock exchange” as defined in the Tax Act (which currently includes Nasdaq and the TSX) at that time, unless, at any time during the sixty-month period that ends at that time both (a)(i) the Non-Resident Holder, (ii) persons not dealing at arm’s length with such Non-Resident Holder, (iii) partnerships in which the Non-Resident Holder or a person mentioned in (a)(ii) holds a membership interest directly or indirectly through one or more partnerships or (iv) any combination of (a)(i) to (iii), owned 25% or more of the issued shares of any class or series of the capital



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stock of our company and (b) more than 50% of the fair market value of such Class A Common Stock was derived directly or indirectly from one or any combination of (i) real or immovable property situated in Canada; (ii) “Canadian resource properties” as defined in the Tax Act; (iii) “timber resource properties” as defined in the Tax Act; and (iv) options in respect of, interests in or rights in any property listed in (b)(i) to (iii), whether or not the property exists. Notwithstanding the foregoing, in certain circumstances set out in the Tax Act, the Class A Common Stock may be deemed to be taxable Canadian property of a Non-Resident Holder. Non-Resident Holders whose Class A Common Stock are taxable Canadian property should consult their own tax advisors for advice having regard to their particular circumstances.

## UNDERWRITING

We have entered into an underwriting agreement dated November 22, 2019, with H.C. Wainwright & Co., LLC as the representative of the underwriters, or the representative, named below and the sole book-running manager of this offering. Subject to the terms and conditions of the underwriting agreement, the underwriters have agreed to purchase the number of our securities set forth opposite its name below.

| <u>Underwriter</u>         | <u>SHARES</u>    |
|----------------------------|------------------|
| H.C. Wainwright & Co., LLC | 2,702,991        |
| Haywood Securities Inc.    | 219,161          |
| <b>Total</b>               | <b>2,922,152</b> |

Entities affiliated with Dane C. Andreeff, our director, have agreed to purchase approximately \$0.2 million of the shares Class A Common Stock offered hereby.

Any securities sold by the underwriters to securities dealers will be sold at the public offering price less a selling concession not in excess of \$0.014 per share.

In addition, certain investors purchased an aggregate of 1,892,858 shares of our Class A Common Stock directly from us pursuant to this prospectus. The underwriters are acting as placement agents in connection with such sales and will receive a cash fee equal to \$0.02 per share of Class A Common Stock sold to such investors.

The underwriting agreement provides that the underwriters' obligation to purchase the securities we are offering is subject to conditions contained in the underwriting agreement.

The underwriters have advised us that they do not intend to confirm sales to any account over which they exercise discretionary authority.

No action has been taken by us or the underwriters that would permit a public offering of the shares in any jurisdiction where action for that purpose is required. None of our securities included in this offering may be offered or sold, directly or indirectly, nor may this prospectus supplement or any other offering material or advertisements in connection with the offer and sales of any of the securities offering hereby be distributed or published in any jurisdiction, except under circumstances that will result in compliance with the applicable rules and regulations of that jurisdiction. Persons who receive this prospectus are advised to inform themselves about and to observe any restrictions relating to this offering of securities and the distribution of this prospectus. This prospectus is neither an offer to sell nor a solicitation of any offer to buy the shares in any jurisdiction where that would not be permitted or legal.

The underwriters have advised us that they do not intend to confirm sales to any accounts over which they exercise discretionary authority.

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### **Underwriting Discount and Expenses**

The following table summarizes the underwriting discount and commission to be paid to the underwriters by us.

|  | <b>Per<br/>Share</b> | <b>Total</b>             |
|--|----------------------|--------------------------|
| Public offering price                                      | \$0.35               | \$1,685,254              |
| Underwriting discount to be paid to the underwriters by us | \$0.02               | \$ 97,433 <sup>(1)</sup> |
| Proceeds to us (before expenses)                           | \$0.33               | \$1,587,821              |

(1) The underwriting discounts and commissions include the cash fee payable to the underwriters acting as placement agents in connection with the securities sold directly to certain investors solely pursuant to this prospectus.

We estimate the total expenses payable by us for this offering to be approximately \$722,433, which amount includes (i) the underwriting discount of \$97,433, (ii) reimbursement of the accountable expenses of the representative of up to \$75,000, including the legal fees of the representative being paid by us, (iii) \$10,000 for the clearing expenses of the representative, and (iv) other estimated company expenses of approximately \$540,000 which includes legal, accounting, printing costs and various fees associated with the registration and listing of our shares.

The securities we are offering are being offered by the underwriters subject to certain conditions specified in the underwriting agreement.

### **Determination of Offering Price**

The public offering price of the securities offered by this prospectus was determined by negotiation between us and the underwriters. Among the factors considered in determining the public offering price of the shares were:

- our history and our prospects;
- the industry in which we operate;
- our past and present operating results;
- the previous experience of our executive officers; and
- the general condition of the securities markets at the time of this offering.

The offering price stated on the cover page of this prospectus should not be considered an indication of the actual value of the shares of Class A Common Stock. That price is subject to change as a result of market conditions and other factors, and we cannot assure you that the shares of Class A Common Stock can be resold at or above the public offering price.

### **Lock-up Agreements**

Our officers and directors have agreed with the representative to be subject to a lock-up period of 90 days following the date of this prospectus. This means that, during the applicable lock-up period, such persons may not offer for sale, contract to sell, sell, distribute, grant any option, right or warrant to purchase, pledge, hypothecate or otherwise dispose of, directly or indirectly, any shares of our common stock or any securities convertible into, or exercisable or exchangeable for, shares of our common stock. Certain limited transfers are permitted during the lock-up period if the transferee agrees to these lock-up restrictions. We have also agreed, in the underwriting agreement, to similar lock-up restrictions on the issuance and sale of our securities for 90 days following the closing of this offering, although we will be permitted to issue stock options or stock awards to directors, officers and employees under our existing plans. The representative may, in its sole discretion and without notice, waive the terms of any of these lock-up agreements.

### **Other Relationships**

Upon completion of this offering, we have granted the underwriter a right of first refusal to act as the exclusive underwriter or placement agent in connection with any subsequent public or private offering of equity securities or other capital markets financing by us. This right of first refusal extends for eight months from November 14, 2019. The terms of any such engagement of the underwriter will be determined by separate agreement.

The underwriters may, from time to time, engage in transactions with or perform services for us in the ordinary course of their business and may continue to receive compensation from us for such services.

### **Common Stock Listing**

Our Class A Common Stock is listed on Nasdaq under the symbol “HSDT” and on the TSX under the symbol “HSM.”

### **Transfer Agent and Registrar**

The transfer agent and registrar for our common stock is Computershare Investor Services Inc., located at 100 University Avenue, 8th Floor, Toronto, Ontario, M5J 2Y1 and 510 Burrard Street, 2nd Floor, Vancouver, British Columbia, V6C 3B4.

### **Stabilization, Short Positions and Penalty Bids**

The underwriters may engage in syndicate covering transactions, stabilizing transactions and penalty bids or purchases for the purpose of pegging, fixing or maintaining the price of our common stock:

- Syndicate covering transactions involve purchases of securities in the open market after the distribution has been completed in order to cover syndicate short positions. Such a naked short position would be closed out by buying securities in the open market. A naked short position is more likely to be created if the underwriters are concerned that there could be downward pressure on the price of the securities in the open market after pricing that could adversely affect investors who purchase in the offering.
- Stabilizing transactions permit bids to purchase the underlying security so long as the stabilizing bids do not exceed a specific maximum.
- Penalty bids permit the underwriters to reclaim a selling concession from a syndicate member when the securities originally sold by the syndicate member are purchased in a stabilizing or syndicate covering transaction to cover syndicate short positions.

These syndicate covering transactions, stabilizing transactions and penalty bids may have the effect of raising or maintaining the market prices of our securities or preventing or retarding a decline in the market prices of our securities. As a result, the price of our common stock may be higher than the price that might otherwise exist in the open market. Neither we nor the underwriters make any representation or prediction as to the effect that the transactions described above may have on the price of our common stock. These transactions may be effected on Nasdaq, in the over-the-counter market or on any other trading market and, if commenced, may be discontinued at any time.

In connection with this offering, the underwriters also may engage in passive market making transactions in our common stock in accordance with Regulation M during a period before the commencement of offers or sales of shares of our common stock in this offering and extending through the completion of the distribution. In general, a passive market maker must display its bid at a price not in excess of the highest independent bid for that security. However, if all independent bids are lowered below the passive market maker’s bid, that bid must then be lowered when specific purchase limits are exceeded. Passive market making may stabilize the market price of the securities at a level above that which might otherwise prevail in the open market and, if commenced, may be discontinued at any time.

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Neither we nor the underwriters make any representation or prediction as to the direction or magnitude of any effect that the transactions described above may have on the prices of our securities. In addition, neither we nor the underwriters make any representation that the underwriters will engage in these transactions or that any transactions, once commenced, will not be discontinued without notice.

**Indemnification**

We have agreed to indemnify the underwriters and selected dealers against certain liabilities, including certain liabilities arising under the Securities Act, or to contribute to payments that the underwriters or selected dealers may be required to make for these liabilities.

## **LEGAL MATTERS**

The validity of the shares of Class A Common Stock offered hereby, and certain other legal matters in connection with this offering, will be passed upon for us by Cooley LLP, Reston, Virginia. Certain Canadian legal matters relating to the offering will be passed on for us by Blake, Cassels & Graydon LLP, Vancouver, British Columbia. Certain U.S. legal matters in connection with this offering will be passed upon for the underwriters by Ellenoff Grossman & Schole LLP, New York, New York.

## **EXPERTS**

The financial statements of Helius Medical Technologies, Inc. as of December 31, 2018 and December 31, 2017 and for the years then ended, incorporated by reference in this prospectus supplement have been so incorporated in reliance on the report of BDO USA, LLP, an independent registered public accounting firm (the report on the financial statements contains an explanatory paragraph regarding the Company's ability to continue as a going concern), incorporated herein by reference, given on the authority of said firm as experts in auditing and accounting.

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

This prospectus is part of a registration statement on Form S-3 we filed with the SEC. This prospectus does not contain all of the information set forth in the registration statement and its exhibits. For further information with respect to us and the securities we are offering under this prospectus, we refer you to the registration statement and its exhibits. Statements contained in this prospectus as to the contents of any contract or any other document referred to are not necessarily complete, and in each instance, we refer you to the copy of the contract or other document filed as an exhibit to the registration statement. Each of these statements is qualified in all respects by this reference.

We are subject to the information and periodic reporting requirements of the Exchange Act, and we file periodic reports, proxy statements and other information with the SEC. You can read our SEC filings, including the registration statement, over the Internet at the SEC's website at [www.sec.gov](http://www.sec.gov).

We also maintain a website at [www.heliusmedical.com](http://www.heliusmedical.com), at which you may access these materials free of charge after they are electronically filed with, or furnished to, the SEC. The information contained in, or that can be accessed through, our website is not incorporated by reference in, and is not part of, this prospectus supplement or the accompanying prospectus.

## INCORPORATION OF CERTAIN INFORMATION BY REFERENCE

The SEC allows us to incorporate by reference in this prospectus supplement and the accompanying prospectus much of the information we file with the SEC, which means that we can disclose important information to you by referring you to those publicly available documents. The information that we incorporate by reference in this prospectus supplement and the accompanying prospectus is considered to be part of this prospectus supplement and the accompanying prospectus. Because we are incorporating by reference future filings with the SEC, this prospectus supplement and the accompanying prospectus is continually updated and those future filings may modify or supersede some of the information included or incorporated in this prospectus supplement and the accompanying prospectus. This means that you must look at all of the SEC filings that we incorporate by reference to determine if any of the statements in this prospectus supplement, the accompanying prospectus or any document previously incorporated by reference have been modified or superseded.

We incorporate by reference into this prospectus and the registration statement of which this prospectus forms a part the information or documents listed below that we have filed with the SEC, and any future filings we will make with the SEC under Sections 13(a), 13(c), 14, or 15(d) of the Exchange Act (other than information furnished under Item 2.02 or Item 7.01 of Form 8-K or Schedule 14A) and until the termination or completion of the offering of the securities covered by this prospectus:

- our Annual Report on [Form 10-K](#) for the fiscal year ended December 31, 2018 filed on March 14, 2019;
- the information specifically incorporated by reference into our Annual Report on [Form 10-K](#) for the fiscal year ended December 31, 2018 from our [definitive proxy statement](#) on Schedule 14A (other than information furnished rather than filed) filed on April 26, 2019;
- our Quarterly Reports on Form 10-Q for the fiscal quarters ended March 31, 2019, June 30, 2019 and September 30, 2019 filed on [May 9, 2019](#), [August 8, 2019](#) and [November 12, 2019](#), respectively;
- our Current Reports on Form 8-K filed on [January 25, 2019](#), [April 10, 2019](#), [June 13, 2019](#), [September 4, 2019](#), [October 24, 2019](#), [November 12, 2019](#) and [November 22, 2019](#); and
- the description of our Class A Common Stock included in our registration statement on [Form 8-A](#) filed on April 4, 2018, including any amendments or reports filed for the purposes of updating this description.

We will furnish without charge to you, on written or oral request, a copy of any or all of the documents incorporated by reference in this prospectus, including exhibits to these documents. You should direct any requests for documents to Helius Medical Technologies, Inc., 642 Newtown Yardley Road, Suite 100, Newtown, Pennsylvania 18940; telephone: (215) 944-6100.

You also may access these filings on our website at [www.heliusmedical.com](http://www.heliusmedical.com). We do not incorporate the information on our website into this prospectus or any supplement to this prospectus, and you should not consider any information on, or that can be accessed through, our website as part of this prospectus or any supplement to this prospectus (other than those filings with the SEC that we specifically incorporate by reference into this prospectus).

PROSPECTUS

**\$100,000,000**

**Class A Common Stock  
Debt Securities  
Warrants**



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From time to time, we may offer up to \$100,000,000 of any combination of the securities described in this prospectus in one or more offerings. We may also offer securities as may be issuable upon conversion, redemption, repurchase, exchange or exercise of any securities registered hereunder, including any applicable anti-dilution provisions.

We are an “emerging growth company” as that term is used in the Jumpstart Our Business Startups Act of 2012 (the “JOBS Act”) and, as such, have elected to comply with certain reduced public company reporting requirements for this prospectus and future filings.

This prospectus provides a general description of the securities we may offer. Each time we offer securities, we will provide specific terms of the securities offered in a supplement to this prospectus. We may also authorize one or more free writing prospectuses to be provided to you in connection with these offerings. The prospectus supplement and any related free writing prospectus may also add, update or change information contained in this prospectus. You should carefully read this prospectus, the applicable prospectus supplement and any related free writing prospectus, as well as any documents incorporated by reference, before you invest in any of the securities being offered.

**This prospectus may not be used to consummate a sale of any securities unless accompanied by a prospectus supplement.**

Our Class A common stock is listed on the Toronto Stock Exchange (the “TSX”) under the symbols “HSM” and “HSM.S” and is quoted on the OTCQB marketplace, operated by OTC Markets Group, under the symbol “HSDT.” On January 6, 2017 the last reported sale price of our Class A Common Stock as reported on (a) the TSX was CAD\$1.96 per share (“HSM”) and CAD\$2.00 per share (“HSM.S”) and (b) the OTCQB was US\$1.49 per share.

We will sell these securities directly to investors, through agents designated from time to time or to or through underwriters or dealers, on a continuous or delayed basis. For additional information on the methods of sale, you should refer to the section entitled “Plan of Distribution” in this prospectus. If any agents or underwriters are involved in the sale of any securities with respect to which this prospectus is being delivered, the names of such agents or underwriters and any applicable fees, commissions, discounts or over-allotment options will be set forth in a prospectus supplement. The price to the public of such securities and the net proceeds we expect to receive from such sale will also be set forth in a prospectus supplement.

You should read this prospectus and any prospectus supplement, together with additional information described under the headings “Incorporation of Certain Information by Reference” and “Where You Can Find More Information,” carefully before you invest in any of our securities.

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**Investing in our securities involves a high degree of risk. You should review carefully the risks and uncertainties described under the heading “[Risk Factors](#)” contained in the applicable prospectus supplement and any related free writing prospectus, and under similar headings in the other documents that are incorporated by reference into this prospectus as described on page 8 of this prospectus.**

**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.**

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**The date of this prospectus is January 6, 2017.**



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## ABOUT THIS PROSPECTUS

This prospectus is a part of a registration statement on Form S-3 that we filed with the Securities and Exchange Commission, or SEC, utilizing a “shelf” registration process. Under this shelf registration process, we may sell any combination of the securities described in this prospectus in one or more offerings up to a total aggregate offering price of \$100,000,000. This prospectus provides you with a general description of the securities we may offer.

Each time we sell securities under this prospectus, we will provide a prospectus supplement that will contain specific information about the terms of that offering. We may also authorize one or more free writing prospectuses to be provided to you that may contain material information relating to these offerings. The prospectus supplement and any related free writing prospectus that we may authorize to be provided to you may also add, update or change information contained in this prospectus or in any documents that we have incorporated by reference into this prospectus. You should read this prospectus, any applicable prospectus supplement and any related free writing prospectus, together with the information incorporated herein by reference as described under the heading “Incorporation of Certain Information by Reference,” before investing in any of the securities offered.

### **THIS PROSPECTUS MAY NOT BE USED TO CONSUMMATE A SALE OF SECURITIES UNLESS IT IS ACCOMPANIED BY A PROSPECTUS SUPPLEMENT.**

Neither we, nor any agent, underwriter or dealer has authorized any person to give any information or to make any representation other than those contained or incorporated by reference in this prospectus, any applicable prospectus supplement or any related free writing prospectus prepared by or on behalf of us or to which we have referred you. This prospectus, any applicable supplement to this prospectus or any related free writing prospectus do not constitute an offer to sell or the solicitation of an offer to buy any securities other than the registered securities to which they relate, nor do this prospectus, any applicable supplement to this prospectus or any related free writing prospectus constitute an offer to sell or the solicitation of an offer to buy securities in any jurisdiction to any person to whom it is unlawful to make such offer or solicitation in such jurisdiction.

You should not assume that the information contained in this prospectus, any applicable prospectus supplement or any related free writing prospectus is accurate on any date subsequent to the date set forth on the front of the document or that any information we have incorporated by reference is correct on any date subsequent to the date of the document incorporated by reference, even though this prospectus, any applicable prospectus supplement or any related free writing prospectus is delivered, or securities are sold, on a later date.

This prospectus and the information incorporated herein by reference contain summaries of certain provisions contained in some of the documents described herein, but reference is made to the actual documents for complete information. All of the summaries are qualified in their entirety by the actual documents. Copies of some of the documents referred to herein have been filed, will be filed or will be incorporated by reference as exhibits to the registration statement of which this prospectus is a part, and you may obtain copies of those documents as described below under the heading “Where You Can Find More Information.”

## SUMMARY

*The following summary highlights selected information contained or incorporated by reference elsewhere in this prospectus and does not contain all of the information that you should consider in making your investment decision. Before investing in our Class A Common Stock, you should carefully read this entire prospectus, the applicable prospectus supplement and any related free writing prospectus, including our financial statements and the related notes and other documents incorporated by reference in this prospectus, as well as the information under the caption “Risk Factors” contained in the applicable prospectus supplement and any related free writing prospectus and under similar headings in the other documents that are incorporated by reference into this prospectus and the exhibits to the registration statement of which this prospectus is a part.*

*Except as otherwise indicated herein or as the context otherwise requires, references in this prospectus to “Helius,” the “Company,” “we,” “us” and “our” refer to Helius Medical Technologies, Inc. and its wholly owned subsidiaries, NeuroHabilitation Corporation, or NHC, and Helius Medical Technologies (Canada), Inc. Unless otherwise specified, all references to “dollars,” “US\$” or “\$” in this prospectus are to United States dollars. Our financial statements are prepared in accordance with accounting principles generally accepted in the United States of America.*

### **Company Overview**

We are a medical technology company focused on neurological wellness. We seek to develop, license or acquire unique and non-invasive platform technologies that amplify the brain’s ability to heal itself.

On June 13, 2014, we acquired a 100% interest in NeuroHabilitation Corporation (“NHC”) pursuant to a plan of merger whereby our wholly owned subsidiary was merged with and into NeuroHabilitation Corporation and all of the common shares in the capital of NHC were cancelled in consideration for the issuance of an aggregate of 35,300,083 shares of our Class A common stock to the shareholders of NHC. NHC is now our wholly owned subsidiary. Prior to the transaction we had no active business.

NHC is a Delaware corporation, incorporated on January 22, 2013, which is involved in the medical device industry. In January 2013, NHC entered into an exclusive rights agreement whereby Advanced Neuro-Rehabilitation LLC (“ANR”) granted NHC exclusive worldwide rights to ANR’s trade secrets, knowhow and patent pending technology for a non-invasive means for delivering neurostimulation through the oral cavity, in exchange for a 50% equity investment in NHC and a 4% royalty of NHC’s revenue collected from (a) the sale of products covered by any claim of the patent pending rights to end users and (b) services related to the therapy or use of such products in therapy services.

### **Our Mission and Principal Product**

Our mission is to develop, license and acquire non-invasive treatments designed to help patients affected by neurological symptoms caused by disease or trauma. The brain’s ability to reorganize its operation in response to new information sources, new functional needs, or new communication pathways is referred to as neuroplasticity. Neuroplasticity is a process underlying all cerebral learning, training, and rehabilitation. Neuromodulation is the use of various external stimulation to intentionally change and regulate the internal electrochemical environment of the brain.

Applying the principles of neuroplasticity, our portable neuromodulation stimulator (“PoNS™”) device is designed to induce Cranial Nerve Non Invasive Neuromodulation (CNNIN) that utilizes the brain’s innate ability to achieve neuroplastic change to aid persons with neurological, cognitive, sensory, and motor disorders when combined with the rehabilitation process. The PoNS™ device has not yet been approved for commercialization.

### **Business Uncertainties and Going Concern Risk**

To date we have not generated any revenue from the sales of products or services. There are a number of conditions that we must satisfy before we will be able to generate revenue, including but not limited to successful completion of the Traumatic Brain Injury (TBI) or Multiple Sclerosis (MS) clinical studies, U.S. Food and Drug Administration (“FDA”) approval, CE Mark, Health Canada or TGA in Australia clearance of the PoNS™ device for balance disorder associated with TBI, and the manufacture of a commercially-viable version of the PoNS™ device and demonstration of safety and effectiveness sufficient to generate commercial orders by customers for our product, if approved for commercialization. In addition, given the importance of the U.S. Army to our early commercial plans, if the U.S. Army were to eventually decide not to purchase our product, we would need to replace those sales in the civilian market which will lower our early commercialization forecast. To date, we have not achieved any of these conditions, and the successful achievement of such conditions will require significant expenditures. Because we have not generated any revenues, we are significantly dependent on funding from outside investors. There is no guarantee that such funding will be available at all or in sufficient amounts to satisfy our required expenditures. Furthermore, even if we were able to raise sufficient capital to manufacture a commercially-viable version of the PoNS™ device and to receive FDA, CE Mark, Health Canada or TGA in Australia clearance, we do not currently have any contract or other arrangement to sell the PoNS™ device. Accordingly, we cannot assure you that we will ever be able to generate any revenue from the sales of products or services.

There is substantial doubt that we can continue as an on-going business for the next twelve months unless we obtain additional capital to pay our expenditures. As discussed in more detail below, we recently raised additional capital in an unregistered offering of Class A Common Stock and we intend to seek additional funding. However, we do not currently have sufficient resources to accomplish all of the conditions necessary for us to generate revenue.

### **Corporate Information**

We are incorporated in the state of Wyoming under the name “Helius Medical Technologies, Inc.” Our principal executive offices are located at Suite 400, 41 University Drive, Newtown, Pennsylvania 18940, and our telephone number is (215) 809-2018. Our website address is [www.heliusmedical.com](http://www.heliusmedical.com). We have included our website address in this prospectus solely as an inactive textual reference. The information on, or that can be accessed through, our website is not part of this prospectus, and you should not rely on any such information in making the decision whether to purchase securities.

### **Implications of Being an Emerging Growth Company**

We qualify as an “emerging growth company” as defined in the Jumpstart Our Business Startups Act of 2012, or the JOBS Act. For so long as we remain an emerging growth company, we are permitted and intend to rely on exemptions from specified disclosure requirements that are applicable to other public companies that are not emerging growth companies. These exemptions include:

- being permitted to provide only two years of audited financial statements, in addition to any required unaudited interim financial statements, with correspondingly reduced “Management’s Discussion and Analysis of Financial Condition and Results of Operations” disclosure;
- not being required to comply with the auditor attestation requirements in the assessment of our internal control over financial reporting;
- not being required to comply with any requirement that may be adopted by the Public Company Accounting Oversight Board regarding mandatory audit firm rotation or a supplement to the auditor’s report providing additional information about the audit and the financial statements;

- reduced disclosure obligations regarding executive compensation; and
- exemptions from the requirements of holding a nonbinding advisory vote on executive compensation and shareholder approval of any golden parachute payments not previously approved.

We may take advantage of these provisions until March 31, 2021 or such earlier time that we no longer qualify as an emerging growth company. We would cease to be an emerging growth company if we have more than \$1.0 billion in annual revenues, have more than \$700 million in market value of our capital stock held by non-affiliates or issue more than \$1.0 billion of non-convertible debt over a three-year period. We may choose to take advantage of some, but not all, of the available exemptions. We have taken advantage of some reduced reporting burdens in this prospectus and the documents incorporated by reference into this prospectus. Accordingly, the information contained herein may be different than the information you receive from other public companies in which you hold stock.

In addition, the JOBS Act provides that an emerging growth company can take advantage of an extended transition period for complying with new or revised accounting standards. This provision allows an emerging growth company to delay the adoption of some accounting standards until those standards would otherwise apply to private companies. We have irrevocably elected not to avail ourselves of this exemption from new or revised accounting standards and, therefore, we will be subject to the same new or revised accounting standards as other public companies that are not emerging growth companies.

### **The Securities We May Offer**

We may offer shares of our Class A Common Stock, various series of debt securities and warrants to purchase any such securities, up to a total aggregate offering price of \$100,000,000 from time to time in one or more offerings under this prospectus, together with any applicable prospectus supplement and any related free writing prospectus, at prices and on terms to be determined by market conditions at the time of the relevant offering. This prospectus provides you with a general description of the securities we may offer. Each time we offer a type or series of securities under this prospectus, we will provide a prospectus supplement that will describe the specific amounts, prices and other important terms of the securities, including, to the extent applicable:

- designation or classification;
- aggregate principal amount or aggregate offering price;
- maturity;
- original issue discount, if any;
- rates and times of payment of interest or dividends, if any;
- redemption, conversion, exchange or sinking fund terms, if any;
- conversion or exchange prices or rates, if any, and, if applicable, any provisions for changes to or adjustments in the conversion or exchange prices or rates and in the securities or other property receivable upon conversion or exchange;
- ranking;
- restrictive covenants, if any;
- voting or other rights, if any; and
- important U.S. federal income tax considerations.

The prospectus supplement and any related free writing prospectus that we may authorize to be provided to you may also add, update or change information contained in this prospectus or in documents we have incorporated by reference. However, no prospectus supplement or free writing prospectus will offer a security that is not registered and described in this prospectus at the time of the effectiveness of the registration statement of which this prospectus is a part.

**This prospectus may not be used to consummate a sale of securities unless it is accompanied by a prospectus supplement.**

We may sell the securities directly to investors or through underwriters, dealers or agents. We, and our underwriters or agents, reserve the right to accept or reject all or part of any proposed purchase of securities. If we do offer securities through underwriters or agents, we will include in the applicable prospectus supplement:

- the names of those underwriters or agents;
- applicable fees, discounts and commissions to be paid to them;
- details regarding over-allotment options, if any; and
- the estimated net proceeds to us.

**Common Stock.** We may issue shares of our Class A Common Stock from time to time. The holders of our Class A Common Stock are entitled to one vote for each share held of record on all matters submitted to a vote of shareholders and do not have cumulative voting rights. The holders of Class A Common Stock are entitled to receive 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 Class A Common Stock will be entitled to share ratably in the net assets legally available for distribution to shareholders after the payment of all of our debts and other liabilities. Holders of our Class A Common Stock have no preemptive, conversion or subscription rights, and there are no redemption or sinking fund provisions applicable to our Class A Common Stock.

**Debt Securities.** We may issue debt securities from time to time, in one or more series, as either senior or subordinated debt or as senior or subordinated convertible debt. The senior debt securities will rank equally with any other unsecured and unsubordinated debt. The subordinated debt securities will be subordinate and junior in right of payment, to the extent and in the manner described in the instrument governing the debt, to all of our senior indebtedness. Convertible debt securities will be convertible into or exchangeable for our Class A Common Stock. Conversion may be mandatory or at the holder's option and would be at prescribed conversion rates.

The debt securities will be issued under one or more documents called indentures, which are contracts between us and a national banking association or other eligible party, as trustee. In this prospectus, we have summarized certain general features of the debt securities. We urge you, however, to read the applicable prospectus supplement (and any free writing prospectus that we may authorize to be provided to you) related to the series of debt securities being offered, as well as the complete indentures that contain the terms of the debt securities. Forms of indentures have been filed as exhibits to the registration statement of which this prospectus is a part, and supplemental indentures and forms of debt securities containing the terms of the debt securities being offered will be filed as exhibits to the registration statement of which this prospectus is a part or will be incorporated by reference from reports that we file with the SEC.

**Warrants.** We may issue warrants for the purchase of Class A Common Stock and/or debt securities in one or more series. We may issue warrants independently or together with Class A Common Stock and/or debt securities, and the warrants may be attached to or separate from these securities. In this prospectus, we have

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summarized certain general features of the warrants. We urge you, however, to read the applicable prospectus supplement (and any free writing prospectus that we may authorize to be provided to you) related to the particular series of warrants being offered, as well as the complete warrant agreements and warrant certificates that contain the terms of the warrants. Forms of the warrant agreements and forms of warrant certificates containing the terms of the warrants being offered have been filed as exhibits to the registration statement of which this prospectus is a part, and supplemental warrant agreements and forms of warrant certificates will be filed as exhibits to the registration statement of which this prospectus is a part or will be incorporated by reference from reports that we file with the SEC.

We will evidence each series of warrants by warrant certificates that we will issue. Warrants may be issued under an applicable warrant agreement that we enter into with a warrant agent. We will indicate the name and address of the warrant agent, if applicable, in the prospectus supplement relating to the particular series of warrants being offered.

## RISK FACTORS

*Investing in our securities involves a high degree of risk. You should consider carefully the risks and uncertainties described in the section entitled “Risk Factors” contained in the applicable prospectus supplement and any related free writing prospectus, and under similar headings in our most recent and any of our subsequent Annual Reports on Form 10-K, Quarterly Reports on Form 10-Q and Current Reports on Form 8-K, which are incorporated in this prospectus by reference in their entirety, before deciding whether to purchase any of the securities being registered pursuant to the registration statement of which this prospectus is a part. These risks and uncertainties are not the only risks and uncertainties we face. Additional risks and uncertainties not currently known to us, or that we currently view as immaterial, may also impair our business. If any of the risks or uncertainties described in our SEC filings or any additional risks and uncertainties actually occur, our business, financial condition, results of operations and cash flow could be materially and adversely affected. In that case, the trading price of our Class A Common Stock could decline and you might lose all or part of your investment.*

## SPECIAL NOTE REGARDING FORWARD-LOOKING STATEMENTS

This prospectus and the documents incorporated by reference herein contain forward-looking statements that reflect our management’s beliefs and views with respect to future events and are subject to substantial risks and uncertainties within the meaning of Section 27A of the Securities Act of 1933, as amended, or the Securities Act, and Section 21E of the Securities Exchange Act of 1934, as amended, or the Exchange Act. All statements, other than statements of historical fact, contained in this prospectus and the documents incorporated by reference herein, including statements regarding our strategy, future operations, future financial position, future revenue, projected costs, prospects, plans and objectives of management, are forward-looking statements. Forward-looking statements can be identified by the use of forward-looking words such as “believes,” “expects,” “may,” “will,” “plans,” “intends,” “estimates,” “could,” “should,” “would,” “continue,” “seeks,” “aims,” “projects,” “predicts,” “pro forma,” “anticipates,” “potential” or other similar words (including their use in the negative), or by discussions of future matters such as the development of product candidates or products, technology enhancements, possible changes in legislation, and other statements that are not historical.

The forward-looking statements in this prospectus include, among other things, statements about:

- our estimates regarding our expenses, future revenues, anticipated capital requirements and our needs for additional financing;
- our ability to obtain funding for operations, including research funding;
- our ability to advance our product candidate into, and successfully complete, clinical trials and the anticipated timing of such clinical trials;
- the expected timing of the availability of data from our clinical trials;
- the timing of the initiation, progress and results of clinical trials, preclinical studies and research and development programs;
- the therapeutic benefits, effectiveness and safety of our product candidate;
- the benefits and risks of our product candidate as compared to others;
- our selection and licensing of product candidate;
- our ability to attract and retain customers;
- the success and pricing of other competing therapies that are currently or may become available;
- our ability to attract and retain qualified personnel;



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- the manufacturing capacity of third-party manufacturers for our product candidate;
- our need to effect a technology transfer to a scale manufacturer once the product candidate are launched;
- our sources of revenues and anticipated revenues, including contributions from distributors and collaborators, product sales, license agreements and other collaborative efforts for the development and commercialization of products;
- our expectations regarding regulatory requirements in the U.S., E.U., Canada and Australia;
- whether we will receive, and the timing and costs of obtaining, regulatory clearances in the U.S., E.U., Canada, Australia and other countries where we intend to sell or license;
- the competition we face from other companies, research organizations, academic institutions and government agencies, and the risks such competition pose to our product;
- the rate and degree of market acceptance of our product candidate if approved for commercialization;
- the building of the physical therapist infrastructure to coincide with the launch of the PoNS™ device if approved for commercialization;
- our ability to defend ourselves against third-party claims of infringement or violation of, or other conflicts with, our intellectual property rights;
- regulatory developments and the regulatory environments in which we operate;
- our future growth plans;
- our estimate of the size of the potential market for our product candidate;
- the timing and amount of reimbursement for our product;
- our commercialization, marketing and manufacturing capabilities and strategy;
- market and industry trends;
- our expectations with respect to future growth and investments in our infrastructure, and our ability to effectively manage any such growth; and
- our anticipated use of the net proceeds from the sale of the securities offered hereby.

We may not actually achieve the plans, intentions or expectations disclosed in our forward-looking statements. We operate in a very competitive and rapidly changing environment. It is not possible for our management to predict all risks, nor can we assess the impact of all factors on our business or the extent to which any factor, or combination of factors, may cause actual results to differ materially from those contained in any forward-looking statements we may make. Actual results or events could differ materially from the plans, intentions and expectations disclosed in the forward-looking statements we make, and accordingly you should not place undue reliance on our forward-looking statements. We have included important factors in the cautionary statements included in this prospectus, particularly in the “Risk Factors” section in the applicable prospectus supplement and any free writing prospectus, and under similar headings in the documents incorporated by reference herein, that we believe could cause actual results or events to differ materially from the forward-looking statements that we make. Our forward-looking statements do not reflect the potential impact of any future acquisitions, mergers, dispositions, joint ventures or investments we may make.

You should read this prospectus, the applicable prospectus supplement, any free writing prospectus, the documents incorporated by reference herein and the documents that we have filed as exhibits to the registration statement of which this prospectus is a part completely and with the understanding that our actual future results may be materially different from what we expect. We qualify all of the forward-looking statements in this prospectus and the documents incorporated by reference herein by these cautionary statements. Except as

required by law, we undertake no obligation to publicly update any forward-looking statements, whether as a result of new information, future events or otherwise.

## INDUSTRY AND OTHER DATA

This prospectus includes statistical and other industry and market data that we obtained from industry publications and research, surveys and studies conducted by third parties. All of the market data used in, or incorporated by reference in, this prospectus involves a number of assumptions and limitations.

## USE OF PROCEEDS

We will retain broad discretion over the use of the net proceeds from the sale of the securities offered hereby. Except as described in any applicable prospectus supplement or in any free writing prospectuses that we may authorize to be provided to you in connection with a specific offering, we currently intend to use the net proceeds from the sale of the securities offered hereby, if any, for the advancement of our research and development activities, pre-launch commercialization and manufacturing scale-up, working capital, and general corporate purposes. We may also use a portion of the net proceeds to invest in or acquire businesses or technologies that we believe are complementary to our own, although we have no current plans, commitments or agreements with respect to any acquisitions as of the date of this prospectus. We will set forth in the applicable prospectus supplement or free writing prospectus our intended use for the net proceeds received from the sale of any securities sold pursuant to the prospectus supplement or free writing prospectus.

## DESCRIPTION OF CAPITAL STOCK

*The following description of our capital stock and provisions of our Articles of Incorporation and amended and restated bylaws are summaries. You should also refer to the Articles of Incorporation and the amended and restated bylaws, which are filed as exhibits to the registration statement of which this prospectus is a part.*

### General

The following description of our capital stock is intended as a summary only. We refer you to our Articles of Incorporation and amended and restated bylaws which have been filed as exhibits to the registration statement of which this prospectus is a part, and to the applicable provisions of the Wyoming General Corporation Law. We refer in this section to our amended and restated bylaws as our Bylaws.

Our authorized capital stock consists of an unlimited number of shares of Class A Common Stock, no par value. As of December 20, 2016, there were 84,630,676 shares of our Class A Common Stock issued and outstanding.

### Class A Common Stock

#### *Voting*

Holders of our Class A Common Stock are entitled to receive notice of and attend any general meeting of the Company. In addition, holders of our Class A Common Stock shall have the right to vote at any such meeting on the basis of one vote for each such share held.

#### *Dividends*

Holders of our Class A Common Stock shall, in the absolute discretion of the Board, be entitled to receive dividends as and when declared by the directors out of monies of the Company properly applicable to the

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payment of dividends. We have never declared or paid any cash dividends on our Class A Common Stock. We currently intend to retain future earnings, if any, to finance the expansion of our business. As a result, we do not anticipate paying any cash dividends in the foreseeable future.

### **Liquidation**

In the event of our liquidation, dissolution or winding up, holders of our Class A Common Stock will be entitled to share ratably in the net assets legally available for distribution to shareholders after the payment of all of our debts and other liabilities, and the satisfaction of any liquidation preference granted to the holders of any then-outstanding shares of preferred stock.

### **Rights and Preferences**

In the event of the liquidation, dissolution or winding-up of the Company or other distribution of assets of the Company for the purpose of winding-up its affairs or upon a reduction of capital the holders of our Class A Common Stock shall share equally, share for share, in the assets and property of the Company.

### **Warrants**

As of December 20, 2016 we had warrants outstanding to purchase an aggregate of 9,585,555 shares of our Class A Common Stock with a weighted average exercise price of \$1.36. These warrants expire between April 2018 and April 2019.

### **Compensation Options**

As of December 20, 2016 we had compensation options outstanding which are exercisable to purchase a total of 500,707 units, each unit consisting of one share of our Class A Common Stock and one half of one common share purchase warrant. Each compensation option entitles the holder thereof to acquire one unit at a price of CAD\$1.00 per unit until April 18, 2018. Each whole warrant entitles the holder thereof to acquire one additional share of the Company's Class A Common Stock on or before April 18, 2019 at an exercise price of CAD\$1.50 per share.

### **Stock Options**

As of December 20, 2016, options to purchase 9,970,000 shares of our Class A Common Stock with a weighted average exercise price of CAD\$1.21 per share, were outstanding. Many of these options are subject to vesting that generally occurs over a period of up to five years following the date of grant.

### **Anti-Takeover Effects of Our Articles of Incorporation and Wyoming General Corporation Law**

Our Articles of Incorporation provide for unlimited authorized shares of our Class A Common Stock. Our authorized but unissued shares of Class A Common Stock will be available for future issuance without shareholder approval. These additional shares may be utilized for a variety of corporate purposes, including future public offerings to raise additional capital, corporate acquisitions and employee benefit plans. The existence of unlimited authorized but unissued shares of Class A Common Stock could render more difficult or discourage an attempt to obtain control of a majority of our Class A Common Stock by means of a proxy contest, tender offer, merger or otherwise.

Though not now, we may be or in the future we may become subject to Wyoming's control share law. The law focuses on the acquisition of a "controlling interest" which means the ownership of outstanding voting shares sufficient, but for the control share law, to enable the acquiring person to exercise the following proportions of the voting power of the corporation in the election of directors: (i) one-fifth or more but less than one-third,

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(ii) one-third or more but less than a majority, or (iii) a majority or more. The ability to exercise such voting power may be direct or indirect, as well as individual or in association with others. The effect of the control share law is that the acquiring person, and those acting in association with it, obtains only such voting rights in the control shares as are conferred by a resolution of the shareholders of the corporation, approved at a special or annual meeting of shareholders. The control share law contemplates that voting rights will be considered only once by the other shareholders. Thus, there is no authority to strip voting rights from the control shares of an acquiring person once those rights have been approved. If the shareholders do not grant voting rights to the control shares acquired by an acquiring person, those shares do not become permanent non-voting shares. The acquiring person is free to sell its shares to others. If the buyers of those shares themselves do not acquire a controlling interest, their shares do not become governed by the control share law. If control shares are accorded full voting rights and the acquiring person has acquired control shares with a majority or more of the voting power, any shareholder of record, other than an acquiring person, who has not voted in favor of approval of voting rights is entitled to demand fair value for such shareholder's shares.

Wyoming's control share law may have the effect of discouraging takeovers of the corporation. In addition to the control share law, Wyoming has a business combination law which prohibits certain business combinations between Wyoming corporations and "interested stockholders" for three years after the "interested stockholder" first becomes an "interested stockholder," unless the corporation's board of directors approves the combination in advance. For purposes of Wyoming law, an "interested stockholder" is any person who is (i) the beneficial owner, directly or indirectly, of fifteen percent or more of the voting power of the outstanding voting shares of the corporation, or (ii) an affiliate or associate of the corporation and at any time within the three previous years was the beneficial owner, directly or indirectly, of fifteen percent or more of the voting power of the then outstanding shares of the corporation. The definition of the term "business combination" is sufficiently broad to cover virtually any kind of transaction that would allow a potential acquirer to use the corporation's assets to finance the acquisition or otherwise to benefit its own interests rather than the interests of the corporation and its other shareholders. The effect of Wyoming's business combination law is to potentially discourage parties interested in taking control of the Company from doing so if it cannot obtain the approval of our Board.

### **Registration Rights of A&B**

Pursuant to the terms of the Company's \$7,000,000 Credit Facility with A&B Company Limited (the "Credit Facility"), we have agreed to register the shares of Class A Common Stock issued or issuable under the terms of the Credit Facility upon the request of A&B Company Limited. A&B Company Limited currently has beneficial ownership over 11,458,334 shares of our Class A Common Stock, consisting of 7,638,889 shares of Class A Common stock and warrants to purchase 3,819,445 additional shares of Class A Common Stock.

### **Incentive Plans**

We have filed a Form S-8 registration statement under the Securities Act to register shares of our Class A Common Stock issued or reserved for issuance under the June 2014 Stock Incentive Plan. The Form S-8 registration statement became effective immediately upon filing, and shares covered by that registration statement are eligible for sale in the public markets, subject to vesting restrictions and Rule 144 limitations applicable to affiliates. For a more complete discussion of our June 2014 Stock Incentive Plan, see the section titled "Executive and Director Compensation – June 2014 Stock Incentive Plan" in our Definitive Proxy Statement on Schedule 14A filed with the SEC on August 16, 2016.

On August 8, 2016, our Board adopted the 2016 Incentive Plan and on September 15, 2016 our shareholders voted to approve the 2016 Incentive Plan. The maximum number of shares of Class A Common Stock under the 2016 Incentive Plan is 15,000,000 shares of Class A Common Stock. To date, no grants have been made under the 2016 Incentive Plan. For a more complete discussion of our 2016 Incentive Plan, see the section titled "Summary of the 2016 Incentive Plan" in our Definitive Proxy Statement on Schedule 14A filed with the SEC on August 16, 2016.

## **Transfer Agent and Registrar**

The transfer agent and the registrar for the Company is Computershare Investor Services Inc., located at 100 University Avenue, 8th Floor, Toronto, Ontario, M5J 2Y1 and 510 Burrard Street, 2nd Floor, Vancouver, British Columbia, V6C 3B4.

## **DESCRIPTION OF DEBT SECURITIES**

We may issue debt securities from time to time, in one or more series, as either senior or subordinated debt or as senior or subordinated convertible debt. While the terms we have summarized below will apply generally to any debt securities that we may offer under this prospectus, we will describe the particular terms of any debt securities that we may offer in more detail in the applicable prospectus supplement. The terms of any debt securities offered under a prospectus supplement may differ from the terms described below. Unless the context requires otherwise, whenever we refer to the indenture, we also are referring to any supplemental indentures that specify the terms of a particular series of debt securities.

We will issue the debt securities under the indenture that we will enter into with the trustee named in the indenture. The indenture will be qualified under the Trust Indenture Act of 1939, as amended, or the Trust Indenture Act. We have filed the form of indenture as an exhibit to the registration statement of which this prospectus is a part, and supplemental indentures and forms of debt securities containing the terms of the debt securities being offered will be filed as exhibits to the registration statement of which this prospectus is a part or will be incorporated by reference from reports that we file with the SEC.

The following summary of material provisions of the debt securities and the indenture is subject to, and qualified in its entirety by reference to, all of the provisions of the indenture applicable to a particular series of debt securities. We urge you to read the applicable prospectus supplements and any related free writing prospectuses related to the debt securities that we may offer under this prospectus, as well as the complete indenture that contains the terms of the debt securities.

### **General**

The indenture does not limit the amount of debt securities that we may issue. It provides that we may issue debt securities up to the principal amount that we may authorize and may be in any currency or currency unit that we may designate. Except for the limitations on consolidation, merger and sale of all or substantially all of our assets contained in the indenture, the terms of the indenture do not contain any covenants or other provisions designed to give holders of any debt securities protection against changes in our operations, financial condition or transactions involving us.

We may issue the debt securities issued under the indenture as “discount securities,” which means they may be sold at a discount below their stated principal amount. These debt securities, as well as other debt securities that are not issued at a discount, may be issued with “original issue discount,” or OID, for U.S. federal income tax purposes because of interest payment and other characteristics or terms of the debt securities. Material U.S. federal income tax considerations applicable to debt securities issued with OID will be described in more detail in any applicable prospectus supplement.

We will describe in the applicable prospectus supplement the terms of the series of debt securities being offered, including:

- the title of the series of debt securities;
- any limit upon the aggregate principal amount that may be issued;
- the maturity date or dates;

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- the form of the debt securities of the series;
- the applicability of any guarantees;
- whether or not the debt securities will be secured or unsecured, and the terms of any secured debt;
- whether the debt securities rank as senior debt, senior subordinated debt, subordinated debt or any combination thereof, and the terms of any subordination;
- if the price (expressed as a percentage of the aggregate principal amount thereof) at which such debt securities will be issued is a price other than the principal amount thereof, the portion of the principal amount thereof payable upon declaration of acceleration of the maturity thereof, or if applicable, the portion of the principal amount of such debt securities that is convertible into another security or the method by which any such portion shall be determined;
- the interest rate or rates, which may be fixed or variable, or the method for determining the rate and the date interest will begin to accrue, the dates interest will be payable and the regular record dates for interest payment dates or the method for determining such dates;
- our right, if any, to defer payment of interest and the maximum length of any such deferral period;
- if applicable, the date or dates after which, or the period or periods during which, and the price or prices at which, we may, at our option, redeem the series of debt securities pursuant to any optional or provisional redemption provisions and the terms of those redemption provisions;
- the date or dates, if any, on which, and the price or prices at which we are obligated, pursuant to any mandatory sinking fund or analogous fund provisions or otherwise, to redeem, or at the holder's option to purchase, the series of debt securities and the currency or currency unit in which the debt securities are payable;
- the denominations in which we will issue the series of debt securities, if other than denominations of \$1,000 and any integral multiple thereof;
- any and all terms, if applicable, relating to any auction or remarketing of the debt securities of that series and any security for our obligations with respect to such debt securities and any other terms which may be advisable in connection with the marketing of debt securities of that series;
- whether the debt securities of the series shall be issued in whole or in part in the form of a global security or securities; the terms and conditions, if any, upon which such global security or securities may be exchanged in whole or in part for other individual securities; and the depository for such global security or securities;
- if applicable, the provisions relating to conversion or exchange of any debt securities of the series and the terms and conditions upon which such debt securities will be so convertible or exchangeable, including the conversion or exchange price, as applicable, or how it will be calculated and may be adjusted, any mandatory or optional (at our option or the holders' option) conversion or exchange features, the applicable conversion or exchange period and the manner of settlement for any conversion or exchange;
- if other than the full principal amount thereof, the portion of the principal amount of debt securities of the series which shall be payable upon declaration of acceleration of the maturity thereof;
- additions to or changes in the covenants applicable to the particular debt securities being issued, including, among others, the consolidation, merger or sale covenant;
- additions to or changes in the events of default with respect to the securities and any change in the right of the trustee or the holders to declare the principal, premium, if any, and interest, if any, with respect to such securities to be due and payable;

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- additions to or changes in or deletions of the provisions relating to covenant defeasance and legal defeasance;
- additions to or changes in the provisions relating to satisfaction and discharge of the indenture;
- additions to or changes in the provisions relating to the modification of the indenture both with and without the consent of holders of debt securities issued under the indenture;
- the currency of payment of debt securities if other than U.S. dollars and the manner of determining the equivalent amount in U.S. dollars;
- whether interest will be payable in cash or additional debt securities at our or the holders' option and the terms and conditions upon which the election may be made;
- the terms and conditions, if any, upon which we will pay amounts in addition to the stated interest, premium, if any, and principal amounts of the debt securities of the series to any holder that is not a "United States person" for federal tax purposes;
- any restrictions on transfer, sale or assignment of the debt securities of the series; and
- any other specific terms, preferences, rights or limitations of, or restrictions on, the debt securities, any other additions or changes in the provisions of the indenture, and any terms that may be required by us or advisable under applicable laws or regulations.

### **Conversion or Exchange Rights**

We will set forth in the applicable prospectus supplement the terms on which a series of debt securities may be convertible into or exchangeable for our Class A Common Stock or our other securities. We will include provisions as to settlement upon conversion or exchange and whether conversion or exchange is mandatory, at the option of the holder or at our option. We may include provisions pursuant to which the number of shares of our Class A Common Stock or our other securities that the holders of the series of debt securities receive would be subject to adjustment.

### **Consolidation, Merger or Sale**

Unless we provide otherwise in the prospectus supplement applicable to a particular series of debt securities, the indenture will not contain any covenant that restricts our ability to merge or consolidate, or sell, convey, transfer or otherwise dispose of our assets as an entirety or substantially as an entirety. However, any successor to or acquirer of such assets (other than a subsidiary of ours) must assume all of our obligations under the indenture or the debt securities, as appropriate.

### **Events of Default under the Indenture**

Unless we provide otherwise in the prospectus supplement applicable to a particular series of debt securities, the following are events of default under the indenture with respect to any series of debt securities that we may issue:

- if we fail to pay any installment of interest on any series of debt securities, as and when the same shall become due and payable, and such default continues for a period of 90 days; provided, however, that a valid extension of an interest payment period by us in accordance with the terms of any indenture supplemental thereto shall not constitute a default in the payment of interest for this purpose;
- if we fail to pay the principal of, or premium, if any, on any series of debt securities as and when the same shall become due and payable whether at maturity, upon redemption, by declaration or otherwise, or in any payment required by any sinking or analogous fund established with respect to such series; provided, however, that a valid extension of the maturity of such debt securities in accordance with the

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terms of any indenture supplemental thereto shall not constitute a default in the payment of principal or premium, if any;

- if we fail to observe or perform any other covenant or agreement contained in the debt securities or the indenture, other than a covenant specifically relating to another series of debt securities, and our failure continues for 90 days after we receive written notice of such failure, requiring the same to be remedied and stating that such is a notice of default thereunder, from the trustee or holders of at least 25% in aggregate principal amount of the outstanding debt securities of the applicable series; and
- if specified events of bankruptcy, insolvency or reorganization occur.

If an event of default with respect to debt securities of any series occurs and is continuing, other than an event of default specified in the last bullet point above, the trustee or the holders of at least 25% in aggregate principal amount of the outstanding debt securities of that series, by notice to us in writing, and to the trustee if notice is given by such holders, may declare the unpaid principal of, premium, if any, and accrued interest, if any, of such series of debt securities due and payable immediately. If an event of default specified in the last bullet point above occurs with respect to us, the principal amount of and accrued interest, if any, of each issue of debt securities then outstanding shall be due and payable without any notice or other action on the part of the trustee or any holder.

The holders of a majority in principal amount of the outstanding debt securities of an affected series may waive any default or event of default with respect to the series and its consequences, except defaults or events of default regarding payment of principal, premium, if any, or interest, unless we have cured the default or event of default in accordance with the indenture. Any waiver shall cure the default or event of default.

Subject to the terms of the indenture, if an event of default under an indenture shall occur and be continuing, the trustee will be under no obligation to exercise any of its rights or powers under such indenture at the request or direction of any of the holders of the applicable series of debt securities, unless such holders have offered the trustee reasonable indemnity. The holders of a majority in principal amount of the outstanding debt securities of any series will have the right to direct the time, method and place of conducting any proceeding for any remedy available to the trustee, or exercising any trust or power conferred on the trustee, with respect to the debt securities of that series, provided that:

- the direction so given by the holder is not in conflict with any law or the applicable indenture; and
- subject to its duties under the Trust Indenture Act, the trustee need not take any action that might involve it in personal liability or might be unduly prejudicial to the holders not involved in the proceeding.

A holder of the debt securities of any series will have the right to institute a proceeding under the indenture or to appoint a receiver or trustee, or to seek other remedies only if:

- the holder has given written notice to the trustee of a continuing event of default with respect to that series;
- the holders of at least 25% in aggregate principal amount of the outstanding debt securities of that series have made written request,
- such holders have offered to the trustee indemnity satisfactory to it against the costs, expenses and liabilities to be incurred by the trustee in compliance with the request; and
- the trustee does not institute the proceeding, and does not receive from the holders of a majority in aggregate principal amount of the outstanding debt securities of that series other conflicting directions within 90 days after the notice, request and offer.

These limitations do not apply to a suit instituted by a holder of debt securities if we default in the payment of the principal, premium, if any, or interest on, the debt securities.



We will periodically file statements with the trustee regarding our compliance with specified covenants in the indenture.

### **Modification of Indenture; Waiver**

Unless we provide otherwise in the prospectus supplement applicable to a particular series of debt securities, we and the trustee may change an indenture without the consent of any holders with respect to specific matters:

- to cure any ambiguity, defect or inconsistency in the indenture or in the debt securities of any series;
- to comply with the provisions described above under “Description of Debt Securities—Consolidation, Merger or Sale;”
- to provide for uncertificated debt securities in addition to or in place of certificated debt securities;
- to add to our covenants, restrictions, conditions or provisions such new covenants, restrictions, conditions or provisions for the benefit of the holders of all or any series of debt securities, to make the occurrence, or the occurrence and the continuance, of a default in any such additional covenants, restrictions, conditions or provisions an event of default or to surrender any right or power conferred upon us in the indenture;
- to add to, delete from or revise the conditions, limitations, and restrictions on the authorized amount, terms, or purposes of issue, authentication and delivery of debt securities, as set forth in the indenture;
- to make any change that does not adversely affect the interests of any holder of debt securities of any series in any material respect;
- to provide for the issuance of and establish the form and terms and conditions of the debt securities of any series as provided above under “Description of Debt Securities—General” to establish the form of any certifications required to be furnished pursuant to the terms of the indenture or any series of debt securities, or to add to the rights of the holders of any series of debt securities;
- to evidence and provide for the acceptance of appointment under any indenture by a successor trustee; or
- to comply with any requirements of the SEC in connection with the qualification of any indenture under the Trust Indenture Act.

In addition, under the indenture, the rights of holders of a series of debt securities may be changed by us and the trustee with the written consent of the holders of at least a majority in aggregate principal amount of the outstanding debt securities of each series that is affected. However, unless we provide otherwise in the prospectus supplement applicable to a particular series of debt securities, we and the trustee may make the following changes only with the consent of each holder of any outstanding debt securities affected:

- extending the fixed maturity of any debt securities of any series;
- reducing the principal amount, reducing the rate of or extending the time of payment of interest, or reducing any premium payable upon the redemption of any series of any debt securities; or
- reducing the percentage of debt securities, the holders of which are required to consent to any amendment, supplement, modification or waiver.

### **Discharge**

The indenture provides that we can elect to be discharged from our obligations with respect to one or more series of debt securities, except for specified obligations, including obligations to:

- provide for payment;
- register the transfer or exchange of debt securities of the series;

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- replace stolen, lost or mutilated debt securities of the series;
- pay principal of and premium and interest on any debt securities of the series;
- maintain paying agencies;
- hold monies for payment in trust;
- recover excess money held by the trustee;
- compensate and indemnify the trustee; and
- appoint any successor trustee.

In order to exercise our rights to be discharged, we must deposit with the trustee money or government obligations sufficient to pay all the principal of, any premium, if any, and interest on, the debt securities of the series on the dates payments are due.

### **Form, Exchange and Transfer**

We will issue the debt securities of each series only in fully registered form without coupons and, unless we provide otherwise in the applicable prospectus supplement, in denominations of \$1,000 and any integral multiple thereof. The indenture provides that we may issue debt securities of a series in temporary or permanent global form and as book-entry securities that will be deposited with, or on behalf of, The Depository Trust Company, or DTC, or another depository named by us and identified in the applicable prospectus supplement with respect to that series. To the extent the debt securities of a series are issued in global form and as book-entry, a description of terms relating to any book-entry securities will be set forth in the applicable prospectus supplement.

At the option of the holder, subject to the terms of the indenture and the limitations applicable to global securities described in the applicable prospectus supplement, the holder of the debt securities of any series can exchange the debt securities for other debt securities of the same series, in any authorized denomination and of like tenor and aggregate principal amount.

Subject to the terms of the indenture and the limitations applicable to global securities set forth in the applicable prospectus supplement, holders of the debt securities may present the debt securities for exchange or for registration of transfer, duly endorsed or with the form of transfer endorsed thereon duly executed if so required by us or the security registrar, at the office of the security registrar or at the office of any transfer agent designated by us for this purpose. Unless otherwise provided in the debt securities that the holder presents for transfer or exchange, we will impose no service charge for any registration of transfer or exchange, but we may require payment of any taxes or other governmental charges.

We will name in the applicable prospectus supplement the security registrar, and any transfer agent in addition to the security registrar, that we initially designate for any debt securities. We may at any time designate additional transfer agents or rescind the designation of any transfer agent or approve a change in the office through which any transfer agent acts, except that we will be required to maintain a transfer agent in each place of payment for the debt securities of each series.

If we elect to redeem the debt securities of any series, we will not be required to:

- issue, register the transfer of, or exchange any debt securities of that series during a period beginning at the opening of business 15 days before the day of mailing of a notice of redemption of any debt securities that may be selected for redemption and ending at the close of business on the day of the mailing; or
- register the transfer of or exchange of any debt securities so selected for redemption, in whole or in part, except the unredeemed portion of any debt securities we are redeeming in part.

### **Information Concerning the Trustee**

The trustee, other than during the occurrence and continuance of an event of default under an indenture, undertakes to perform only those duties as are specifically set forth in the applicable indenture. Upon an event of default under an indenture, the trustee must use the same degree of care as a prudent person would exercise or use in the conduct of his or her own affairs. Subject to this provision, the trustee is under no obligation to exercise any of the powers given it by the indenture at the request of any holder of debt securities unless it is offered reasonable security and indemnity against the costs, expenses and liabilities that it might incur.

### **Payment and Paying Agents**

Unless we otherwise indicate in the applicable prospectus supplement, we will make payment of the interest on any debt securities on any interest payment date to the person in whose name the debt securities, or one or more predecessor securities, are registered at the close of business on the regular record date for the interest.

We will pay principal of and any premium and interest on the debt securities of a particular series at the office of the paying agents designated by us, except that unless we otherwise indicate in the applicable prospectus supplement, we will make interest payments by check that we will mail to the holder or by wire transfer to certain holders. Unless we otherwise indicate in the applicable prospectus supplement, we will designate the corporate trust office of the trustee as our sole paying agent for payments with respect to debt securities of each series. We will name in the applicable prospectus supplement any other paying agents that we initially designate for the debt securities of a particular series. We will maintain a paying agent in each place of payment for the debt securities of a particular series.

All money we pay to a paying agent or the trustee for the payment of the principal of or any premium or interest on any debt securities that remains unclaimed at the end of two years after such principal, premium or interest has become due and payable will be repaid to us, and the holder of the debt security thereafter may look only to us for payment thereof.

### **Governing Law**

The indenture and the debt securities, and any claim, controversy or dispute arising under or related to the indenture or the debt securities, will be governed by and construed in accordance with the laws of the State of New York, except to the extent that the Trust Indenture Act is applicable.

### **Outstanding Debt Securities**

As of December 20, 2016, there are no outstanding debt securities.

## **DESCRIPTION OF WARRANTS**

The following description, together with the additional information we may include in any applicable prospectus supplements and free writing prospectuses, summarizes the material terms and provisions of the warrants that we may offer under this prospectus, which may consist of warrants to purchase Class A Common Stock or debt securities and may be issued in one or more series. Warrants may be issued independently or together with Class A Common Stock or debt securities offered by any prospectus supplement, and may be attached to or separate from those securities. While the terms we have summarized below will apply generally to any warrants that we may offer under this prospectus, we will describe the particular terms of any series of warrants that we may offer in more detail in the applicable prospectus supplement and any applicable free writing prospectus. The terms of any warrants offered under a prospectus supplement may differ from the terms described below. However, no prospectus supplement will fundamentally change the terms that are set forth in this prospectus or offer a security that is not registered and described in this prospectus at the time of its effectiveness.

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We have filed forms of the warrant agreements as exhibits to the registration statement of which this prospectus is a part. We will file as exhibits to the registration statement of which this prospectus is a part, or will incorporate by reference from reports that we file with the SEC, the form of warrant agreement, if any, including a form of warrant certificate, that describes the terms of the particular series of warrants we are offering. The following summaries of material provisions of the warrants and the warrant agreements are subject to, and qualified in their entirety by reference to, all the provisions of the warrant agreement and warrant certificate applicable to the particular series of warrants that we may offer under this prospectus. We urge you to read the applicable prospectus supplements related to the particular series of warrants that we may offer under this prospectus, as well as any related free writing prospectuses, and the complete warrant agreements and warrant certificates that contain the terms of the warrants.

### **General**

We will describe in the applicable prospectus supplement the terms relating to a series of warrants being offered, including:

- the title of such securities;
- the offering price or prices and aggregate number of warrants offered;
- the currency or currencies for which the warrants may be purchased;
- if applicable, the designation and terms of the securities with which the warrants are issued and the number of warrants issued with each such security or each principal amount of such security;
- if applicable, the date on and after which the warrants and the related securities will be separately transferable;
- if applicable, the minimum or maximum amount of such warrants which may be exercised at any one time;
- in the case of warrants to purchase debt securities, the principal amount of debt securities purchasable upon exercise of one warrant and the price at which, and currency in which, this principal amount of debt securities may be purchased upon such exercise;
- in the case of warrants to purchase Class A Common Stock, the number of shares of Class A Common Stock, as the case may be, purchasable upon the exercise of one warrant and the price at which, and the currency in which, these shares may be purchased upon such exercise;
- the effect of any merger, consolidation, sale or other disposition of our business on the warrant agreements and the warrants;
- the terms of any rights to redeem or call the warrants;
- the terms of any rights to force the exercise of the warrants;
- any provisions for changes to or adjustments in the exercise price or number of securities issuable upon exercise of the warrants;
- the dates on which the right to exercise the warrants will commence and expire;
- the manner in which the warrant agreements and warrants may be modified;
- a discussion of any material or special U.S. federal income tax consequences of holding or exercising the warrants;
- the terms of the securities issuable upon exercise of the warrants; and
- any other specific terms, preferences, rights or limitations of or restrictions on the warrants.

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Before exercising their warrants, holders of warrants will not have any of the rights of holders of the securities purchasable upon such exercise, including:

- in the case of warrants to purchase debt securities, the right to receive payments of principal of, or premium, if any, or interest on, the debt securities purchasable upon exercise or to enforce covenants in the applicable indenture; or
- in the case of warrants to purchase Class A Common Stock, the right to receive dividends, if any, or, payments upon our liquidation, dissolution or winding up or to exercise voting rights, if any.

### **Exercise of Warrants**

Each warrant will entitle the holder to purchase the securities that we specify in the applicable prospectus supplement at the exercise price that we describe in the applicable prospectus supplement. Unless we otherwise specify in the applicable prospectus supplement, holders of the warrants may exercise the warrants at any time up to the specified time on the expiration date that we set forth in the applicable prospectus supplement. After the close of business on the expiration date, unexercised warrants will become void.

Unless we otherwise specify in the applicable prospectus supplement, holders of the warrants may exercise the warrants by delivering the warrant certificate representing the warrants to be exercised together with specified information, and paying the required amount to the warrant agent in immediately available funds, as provided in the applicable prospectus supplement. We will set forth on the reverse side of the warrant certificate and in the applicable prospectus supplement the information that the holder of the warrant will be required to deliver to the warrant agent in connection with the exercise of the warrant.

Upon receipt of the required payment and the warrant certificate properly completed and duly executed at the corporate trust office of the warrant agent or any other office indicated in the applicable prospectus supplement, we will issue and deliver the securities purchasable upon such exercise. If fewer than all of the warrants represented by the warrant certificate are exercised, then we will issue a new warrant certificate for the remaining amount of warrants. If we so indicate in the applicable prospectus supplement, holders of the warrants may surrender securities as all or part of the exercise price for warrants.

### **Governing Law**

Unless we provide otherwise in the applicable prospectus supplement, the warrants and warrant agreements, and any claim, controversy or dispute arising under or related to the warrants or warrant agreements, will be governed by and construed in accordance with the laws of the State of New York.

### **Enforceability of Rights by Holders of Warrants**

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

### **Outstanding Warrants to Purchase Class A Common Stock**

As of December 20, 2016, we have outstanding immediately exercisable warrants to purchase an aggregate of 9,585,555 shares of our Class A Common Stock at a weighted average exercise price of \$1.36 per share and which expire between April 2018 and April 2019.

## LEGAL OWNERSHIP OF SECURITIES

We can issue securities in registered form or in the form of one or more global securities. We describe global securities in greater detail below. We refer to those persons who have securities registered in their own names on the books that we or any applicable trustee or depository maintain for this purpose as the “holders” of those securities. These persons are the legal holders of the securities. We refer to those persons who, indirectly through others, own beneficial interests in securities that are not registered in their own names, as “indirect holders” of those securities. As we discuss below, indirect holders are not legal holders, and investors in securities issued in global security form or in street name will be indirect holders.

### **Book-Entry Holders**

We may issue securities in book-entry form only, as we will specify in the applicable prospectus supplement. This means securities may be represented by one or more global securities registered in the name of a financial institution that holds them as depository on behalf of other financial institutions that participate in the depository’s book-entry system. These participating institutions, which are referred to as participants, in turn, hold beneficial interests in the securities on behalf of themselves or their customers.

Only the person in whose name a security is registered is recognized as the holder of that security. Global securities will be registered in the name of the depository or its participants. Consequently, for global securities, we will recognize only the depository as the holder of the securities, and we will make all payments on the securities to the depository. The depository passes along the payments it receives to its participants, which in turn pass the payments along to their customers who are the beneficial owners. The depository and its participants do so under agreements they have made with one another or with their customers; they are not obligated to do so under the terms of the securities.

As a result, investors in a global security will not own securities directly. Instead, they will own beneficial interests in a global security, through a bank, broker or other financial institution that participates in the depository’s book-entry system or holds an interest through a participant. As long as the securities are issued in global form, investors will be indirect holders, and not legal holders, of the securities.

### **Street Name Holders**

We may terminate a global security or issue securities that are not issued in global form. In these cases, investors may choose to hold their securities in their own names or in “street name.” Securities held by an investor in street name would be registered in the name of a bank, broker or other financial institution that the investor chooses, and the investor would hold only a beneficial interest in those securities through an account he or she maintains at that institution.

For securities held in street name, we or any applicable trustee or depository will recognize only the intermediary banks, brokers and other financial institutions in whose names the securities are registered as the holders of those securities, and we or any such trustee or depository will make all payments on those securities to them. These institutions pass along the payments they receive to their customers who are the beneficial owners, but only because they agree to do so in their customer agreements or because they are legally required to do so. Investors who hold securities in street name will be indirect holders, not holders, of those securities.

### **Legal Holders**

Our obligations, as well as the obligations of any applicable trustee or third party employed by us or a trustee, run only to the legal holders of the securities. We do not have obligations to investors who hold beneficial interests in global securities, in street name or by any other indirect means. This will be the case whether an investor chooses to be an indirect holder of a security or has no choice because we are issuing the securities only in global form.

For example, once we make a payment or give a notice to the holder, we have no further responsibility for the payment or notice even if that holder is required, under agreements with its participants or customers or by law, to pass it along to the indirect holders but does not do so. Similarly, we may want to obtain the approval of the holders to amend an indenture, to relieve us of the consequences of a default or of our obligation to comply with a particular provision of an indenture, or for other purposes. In such an event, we would seek approval only from the legal holders, and not the indirect holders, of the securities. Whether and how the legal holders contact the indirect holders is up to the legal holders.

### **Special Considerations for Indirect Holders**

If you hold securities through a bank, broker or other financial institution, either in book-entry form because the securities are represented by one or more global securities or in street name, you should check with your own institution to find out:

- how it handles securities payments and notices;
- whether it imposes fees or charges;
- how it would handle a request for the holders' consent, if ever required;
- whether and how you can instruct it to send you securities registered in your own name so you can be a holder, if that is permitted in the future;
- how it would exercise rights under the securities if there were a default or other event triggering the need for holders to act to protect their interests; and
- if the securities are in book-entry form, how the depository's rules and procedures will affect these matters.

### **Global Securities**

A global security is a security that represents one or any other number of individual securities held by a depository. Generally, all securities represented by the same global securities will have the same terms.

Each security issued in book-entry form will be represented by a global security that we issue to, deposit with and register in the name of a financial institution or its nominee that we select. The financial institution that we select for this purpose is called the depository. Unless we specify otherwise in the applicable prospectus supplement, The Depository Trust Company, New York, New York, known as DTC, or The Canadian Depository for Securities, known as CDS, will be the depository for all securities issued in book-entry form.

A global security may not be transferred to or registered in the name of anyone other than the depository, its nominee or a successor depository, unless special termination situations arise. We describe those situations below under "Special Situations When a Global Security Will Be Terminated." As a result of these arrangements, the depository, or its nominee, will be the sole registered owner and legal holder of all securities represented by a global security, and investors will be permitted to own only beneficial interests in a global security. Beneficial interests must be held by means of an account with a broker, bank or other financial institution that in turn has an account with the depository or with another institution that does. Thus, an investor whose security is represented by a global security will not be a legal holder of the security, but only an indirect holder of a beneficial interest in the global security.

If the prospectus supplement for a particular security indicates that the security will be issued as a global security, then the security will be represented by a global security at all times unless and until the global security is terminated. If termination occurs, we may issue the securities through another book-entry clearing system or decide that the securities may no longer be held through any book-entry clearing system.

### **Special Considerations for Global Securities**

As an indirect holder, an investor's rights relating to a global security will be governed by the account rules of the investor's financial institution and of the depository, as well as general laws relating to securities transfers. We do not recognize an indirect holder as a holder of securities and instead deal only with the depository that holds the global security.

If securities are issued only as global securities, an investor should be aware of the following:

- an investor cannot cause the securities to be registered in his or her name, and cannot obtain non-global certificates for his or her interest in the securities, except in the special situations we describe below;
- an investor will be an indirect holder and must look to his or her own bank or broker for payments on the securities and protection of his or her legal rights relating to the securities, as we describe above;
- an investor may not be able to sell interests in the securities to some insurance companies and to other institutions that are required by law to own their securities in non-book-entry form;
- an investor may not be able to pledge his or her interest in the global security in circumstances where certificates representing the securities must be delivered to the lender or other beneficiary of the pledge in order for the pledge to be effective;
- the depository's policies, which may change from time to time, will govern payments, transfers, exchanges and other matters relating to an investor's interest in the global security;
- we and any applicable trustee have no responsibility for any aspect of the depository's actions or for its records of ownership interests in the global security, nor will we or any applicable trustee supervise the depository in any way;
- the depository may, and we understand that DTC will, require that those who purchase and sell interests in the global security within its book-entry system use immediately available funds, and your broker or bank may require you to do so as well; and
- financial institutions that participate in the depository's book-entry system, and through which an investor holds its interest in the global security, may also have their own policies affecting payments, notices and other matters relating to the securities.

There may be more than one financial intermediary in the chain of ownership for an investor. We do not monitor and are not responsible for the actions of any of those intermediaries.

### **Special Situations When a Global Security Will Be Terminated**

In a few special situations described below, a global security will terminate and interests in it will be exchanged for physical certificates representing those interests. After that exchange, the choice of whether to hold securities directly or in street name will be up to the investor. Investors must consult their own banks or brokers to find out how to have their interests in securities transferred to their own names, so that they will be direct holders. We have described the rights of holders and street name investors above.

A global security will terminate when the following special situations occur:

- if the depository notifies us that it is unwilling, unable or no longer qualified to continue as depository for that global security and we do not appoint another institution to act as depository within 90 days;
- if we notify any applicable trustee that we wish to terminate that global security; or
- if an event of default has occurred with regard to securities represented by that global security and has not been cured or waived.



The applicable prospectus supplement may also list additional situations for terminating a global security that would apply only to the particular series of securities covered by the prospectus supplement. When a global security terminates, the depositary, and neither we nor any applicable trustee, is responsible for deciding the names of the institutions that will be the initial direct holders.

#### **PLAN OF DISTRIBUTION**

We may sell the securities from time to time pursuant to underwritten public offerings, negotiated transactions, block trades (which may involve crosses) or a combination of these methods. We may sell the securities to or through underwriters or dealers, through agents, or directly to one or more purchasers. We may distribute securities from time to time in one or more transactions:

- at a fixed price or prices, which may be changed;
- at market prices prevailing at the time of sale;
- at prices related to such prevailing market prices; or
- at negotiated prices.

We may also sell equity securities covered by this registration statement in an “at the market offering” as defined in Rule 415 under the Securities Act. Such offering may be made into an existing trading market for such securities in transactions at other than a fixed price, either:

- on or through the facilities of the TSX or any other security exchange or quotation or trading service on which such securities may be listed, quoted or traded at the time of sale; and/or
- other than on the TSX or such other securities exchanges or quotation or trading services.

Such at the market offerings, if any, may be conducted by underwriters acting as principal or agent.

A prospectus supplement or supplements (and any related free writing prospectus that we may authorize to be provided to you) will describe the terms of the offering of the securities, including, to the extent applicable:

- the name or names of any underwriters, dealers or agents, if any;
- the purchase price of the securities and the proceeds we will receive from the sale;
- any over-allotment options under which underwriters may purchase additional securities from us;
- any agency fees or underwriting discounts and other items constituting agents’ or underwriters’ compensation;
- any public offering price;
- any discounts or concessions allowed or reallocated or paid to dealers; and
- any securities exchange or market on which the securities may be listed.

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

If underwriters are used in the sale, they will acquire the securities for their own account and may resell the securities from time to time in one or more transactions at a fixed public offering price or at varying prices determined at the time of sale. The obligations of the underwriters to purchase the securities will be subject to the conditions set forth in the applicable underwriting agreement. We may offer the securities to the public through underwriting syndicates represented by managing underwriters or by underwriters without a syndicate. Subject to

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certain conditions, the underwriters will be obligated to purchase all of the securities offered by the prospectus supplement. Any public offering price and any discounts or concessions allowed or reallowed or paid to dealers may change from time to time. We may use underwriters with whom we have a material relationship. We will describe in the prospectus supplement, naming the underwriter, the nature of any such relationship.

We may sell securities directly or through agents we designate from time to time. We will name any agent involved in the offering and sale of securities, and we will describe any commissions we will pay the agent in the prospectus supplement. Unless the prospectus supplement states otherwise, our agent will act on a best-efforts basis for the period of its appointment.

We may authorize agents or underwriters to solicit offers by certain types of institutional investors to purchase 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 a specified date in the future. We will describe the conditions to these contracts and the commissions we must pay for solicitation of these contracts in the prospectus supplement.

We may provide agents and underwriters with indemnification against civil liabilities related to this offering, including liabilities under the Securities Act, or contribution with respect to payments that the agents or underwriters may make with respect to these liabilities. Agents and underwriters may engage in transactions with, or perform services for, us in the ordinary course of business.

All securities we offer, other than Class A Common Stock, will be new issues of securities with no established trading market. Any underwriters may make a market in these securities, but will not be obligated to do so and may discontinue any market making at any time without notice. We cannot guarantee the liquidity of the trading markets for any securities.

Any underwriter may engage in overallotment, stabilizing transactions, short covering transactions and penalty bids. Overallotment involves sales in excess of the offering size, which create a short position. Stabilizing transactions permit bids to purchase the underlying security so long as the stabilizing bids do not exceed a specified maximum. Short covering transactions involve purchases of the securities in the open market after the distribution is completed to cover short positions. Penalty bids permit the underwriters to reclaim a selling concession from a dealer when the securities originally sold by the dealer are purchased in a stabilizing or covering transaction to cover short positions. Those activities may cause the price of the securities to be higher than it would otherwise be. If commenced, the underwriters may discontinue any of the activities at any time. These transactions may be effected on any exchange or over-the-counter market or otherwise.

In compliance with guidelines of the Financial Industry Regulatory Authority, or FINRA, the maximum consideration or discount to be received by any FINRA member or independent broker dealer may not exceed 8% of the aggregate amount of the securities offered pursuant to this prospectus and any applicable prospectus supplement.

## **LEGAL MATTERS**

Unless otherwise indicated in the applicable prospectus supplement, certain legal matters in connection with the offering and the validity of the Class A Common Stock offered by this prospectus, and any supplement thereto, will be passed upon by Holland & Hart LLP. Unless otherwise indicated in the applicable prospectus supplement, certain legal matters in connection with the offering and the enforceability of debt securities or warrants offered by this prospectus, and any supplement thereto, will be passed upon by Cooley LLP.

## EXPERTS

The financial statements of Helius Medical Technologies, Inc. as of March 31, 2016 and 2015 and for each of the two years in the period ended March 31, 2016 incorporated by reference in this Prospectus have been so incorporated in reliance on the report of BDO Canada, LLP, an independent registered public accounting firm (the report on the financial statements contains an explanatory paragraph regarding the Company's ability to continue as a going concern), incorporated herein by reference, given on the authority of said firm as experts in auditing and accounting.

## WHERE YOU CAN FIND MORE INFORMATION

This prospectus is part of a registration statement on Form S-3 we filed with the SEC. This prospectus does not contain all of the information set forth in the registration statement and its exhibits. For further information with respect to us and the securities we are offering under this prospectus, we refer you to the registration statement and its exhibits. Statements contained in this prospectus as to the contents of any contract or any other document referred to are not necessarily complete, and in each instance, we refer you to the copy of the contract or other document filed as an exhibit to the registration statement. Each of these statements is qualified in all respects by this reference.

We are subject to the information and periodic reporting requirements of the Exchange Act, and we file periodic reports, proxy statements and other information with the SEC. You can read our SEC filings, including the registration statement, over the Internet at the SEC's website at [www.sec.gov](http://www.sec.gov). You may also read and copy any document we file with the SEC at its public reference facilities at 100 F Street NE, Washington, D.C. 20549. You may also obtain copies of these documents at prescribed rates by writing to the Public Reference Section of the SEC at 100 F Street NE, Washington, D.C. 20549. Please call the SEC at 1-800-SEC-0330 for further information on the operation of the public reference facilities. You may also request a copy of these filings, at no cost, by writing us at Suite 400, 41 University Drive, Newtown, Pennsylvania 18940 or telephoning us at (215) 809-2018.

We also maintain a website at [www.heliomedical.com](http://www.heliomedical.com), at which you may access these materials free of charge after they are electronically filed with, or furnished to, the SEC. The information contained in, or that can be accessed through, our website is not incorporated by reference in, and is not part of, this prospectus.

## INCORPORATION OF CERTAIN INFORMATION BY REFERENCE

The SEC allows us to "incorporate by reference" information from other documents that we file with it, which means that we can disclose important information to you by referring you to those documents. The information incorporated by reference is considered to be part of this prospectus.

We incorporate by reference into this prospectus and the registration statement of which this prospectus form a part the information or documents listed below that we have filed with the SEC, and any future filings we will make with the SEC under Sections 13(a), 13(c), 14, or 15(d) of the Exchange Act (other than information furnished under Item 2.02 or Item 7.01 of Form 8-K) after the date of the initial filing of the registration statement of which this prospectus is a part and prior to effectiveness of such registration statement, and until the termination of the offering of the securities covered by this prospectus:

- our Annual Report on Form 10-K for the fiscal year ended March 31, 2016, as amended (filed [June 28, 2016](#), as amended [November 1, 2016](#));
- our Quarterly Reports on Form 10-Q for the quarterly periods ended June 30, 2016 (filed [August 15, 2016](#)) and September 30, 2016 (filed [November 14, 2016](#));

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- our [Definitive Proxy Statement](#) on Schedule 14A filed on August 16, 2016;
- our Current Reports on Form 8-K dated April 15, 2016 (filed [April 18, 2016](#), as amended on [April 20, 2016](#)), April 20, 2016 (filed [April 26, 2016](#)), June 6, 2016 (filed [June 6, 2016](#)), July 15, 2016 (filed [July 18, 2016](#), as amended [July 20, 2016](#)), August 8, 2016 (filed [August 8, 2016](#)), September 15, 2016 (filed [September 20, 2016](#)) and November 15, 2016 (filed [November 21, 2016](#)); and
- the description of our Class A Common Stock included in our registration statement on Form 10 (filed [April 15, 2015](#), as amended on [May 4, 2015](#)) including any amendment or reports filed for the purposes of updating this description.

Any statement contained in this prospectus or in a document incorporated or deemed to be incorporated by reference into this prospectus will be deemed to be modified or superseded for purposes of this prospectus to the extent that a statement contained in this prospectus or any other subsequently filed document that is deemed to be incorporated by reference into this prospectus modifies or supersedes the statement. Any statements so modified or superseded shall not be deemed, except as so modified or superseded, to constitute a part of this prospectus.

We will furnish without charge to you, on written or oral request, a copy of any or all of the documents incorporated by reference in this prospectus, including exhibits to these documents. You should direct any requests for documents to Helius Medical Technologies, Inc., Suite 400, 41 University Drive, Newtown, Pennsylvania 18940; telephone: (215) 809-2018.

You also may access these filings on our website at [www.heliusmedical.com](http://www.heliusmedical.com). We do not incorporate the information on our website into this prospectus or any supplement to this prospectus and you should not consider any information on, or that can be accessed through, our website as part of this prospectus or any supplement to this prospectus (other than those filings with the SEC that we specifically incorporate by reference into this prospectus).

**4,815,010 Shares**



**Class A Common Stock**

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**PROSPECTUS SUPPLEMENT**

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*Sole Book-Running Manager*

**H.C. Wainwright & Co.**

*Co-Manager*

**Haywood Securities Inc.**

**November 22, 2019**

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