

SPACEHAB INC \WA\
Form 8-A12G/A
February 26, 2004

SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

FORM 8-A/A

Amendment No. 1

FOR REGISTRATION OF CERTAIN CLASSES OF SECURITIES

PURSUANT TO SECTION 12 (b) OR (g) OF THE

SECURITIES EXCHANGE ACT OF 1934

SPACEHAB, Incorporated

(Exact name of registrant as specified in its charter)

Washington
(State of incorporation or organization)

91-1273737
(IRS Employer Identification No.)

12130 Galveston Road (Hwy 3), Building 1, Webster, Texas
(Address of principal executive offices)

77598
(Zip Code)

(713) 558-5000

(Registrant's telephone number, including area code)

If this form relates to the registration of a class of securities pursuant to Section 12(b) of the Exchange Act and is effective pursuant to General Instruction A.(c), please check the following box. "

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If this form relates to the registration of a class of securities pursuant to Section 12(g) of the Exchange Act and is effective pursuant to General Instruction A.(d), please check the following box. x

Securities Act registration statement file number to which this form relates (if applicable): Not applicable.

Securities to be registered pursuant to Section 12 (b) of the Act:

| <u>Title of each class to be so registered</u> | <u>Name of each exchange on which each class is to be registered</u> |
|--|--|
| None | N/A |

Securities to be registered pursuant to Section 12 (g) of the Act:

Preferred Stock Purchase Rights, par value \$0.01 per share

(Title of Class)

This Form 8-A/A Amendment No. 1 amends and restates the information set forth in the Registration Statement on Form 8-A, filed on April 1, 1999 by SPACEHAB, Incorporated, a Washington corporation (the Company). The Board of Directors of the Company, at a meeting held on January 22, 2004, adopted resolutions authorizing an Amended and Restated Rights Agreement, dated as of February 23, 2004, between the Company and American Stock Transfer & Trust Company, as Rights Agent, which became effective on February 23, 2004.

Item 1. Description of Registrant's Securities to be Registered.

Item 1 of the Form 8-A is amended and restated in its entirety by substituting the following:

On March 26, 1999, the Board of Directors of Spacehab, Incorporated (the Company) declared a dividend of one preferred share purchase right (a Right) for each outstanding share of common stock, no par value per share (the Common Shares), of the Company. The dividend was paid on April 9, 1999 (the Record Date) to the stockholders of record on that date. Each Right entitles the registered holder to purchase from the Company one one-thousandth of a share of Series A Junior Participating Preferred Stock of the Company, par value \$.01 per share (the Preferred Shares), at a price of \$35 per one one-thousandth of a Preferred Share (the Purchase Price), subject to adjustment. On January 22, 2004, the Board of Directors of the Company authorized an Amended and Restated Rights Agreement, dated as of February 23, 2004 (the Rights Agreement), between the Company and American Stock Transfer & Trust Company, as Rights Agent (the Rights Agent), in order to increase the stock ownership threshold contained in the definition of Acquiring Person in the Rights Agreement from 15% to 20%. The description and terms of the Rights are set forth in the Rights Agreement.

Distribution Date: Exercisability

Initially, the Rights will be attached to all Common Share certificates and no separate Rights certificates will be issued. Separate certificates evidencing the Rights (Right Certificates) will be mailed to holders of record of the Common Shares as of the close of business on the earlier to occur of (i) a public announcement that a person or group of affiliated or associated persons (an Acquiring Person) has acquired beneficial ownership of 20% or more of the outstanding Common Shares or (ii) such date as may be determined by action of the Board of Directors of the Company, upon approval of a majority of the Continuing Directors (as defined below), following the commencement of, or announcement of an intention to make, a tender offer or exchange offer the consummation of which would result in the beneficial ownership by a person or group of 20% or more of the outstanding Common Shares (the earlier of such dates being the Distribution Date).

The Rights Agreement provides that, until the Distribution Date (or earlier redemption or expiration of the Rights), (i) the Rights will be transferred with and only with the Common Shares, (ii) new Common Share certificates issued after the Record Date upon transfer or new issuance of Common Shares will contain a notation incorporating the Rights Agreement by reference and (iii) the surrender for transfer of any certificates for Common Shares outstanding as of the Record Date will also constitute the transfer of the Rights associated with the Common Shares represented by such certificate.

The Rights are not exercisable until the Distribution Date. The Rights will expire on April 9, 2009 (the Expiration Date), unless the Expiration Date is extended or unless the Rights are earlier redeemed or exchanged by the Company, in each case, as described below.

Flip-In

If a person or group becomes an Acquiring Person, each holder of a Right will thereafter have the right to receive, upon exercise, Common Shares (or, in certain circumstances, Preferred Shares or other similar securities of the Company) having a value equal to two times the exercise price of the Right. Notwithstanding any of the foregoing, following the existence of an Acquiring Person, all Rights that are, or (under certain circumstances specified in the Rights Agreement) were, beneficially owned by any Acquiring Person will be null and void.

For example, at an exercise price of \$35 per Right, each Right not owned by an Acquiring Person following an event set forth in the preceding paragraph would entitle its holder to purchase \$70 worth of Common Shares (or other consideration, as noted above) for \$35. Assuming a value of \$17.50 per Common Share at such time, the holder of each valid Right would be entitled to purchase four Common Shares for \$35.

Flip-Over

In the event that the Company is acquired in a merger or other business combination transaction or 50% or more of its consolidated assets or earning power are sold after a person or group has become an Acquiring Person, proper provision will be made so that each holder of a Right will thereafter have the right to receive, upon the exercise thereof at the then current exercise price of the Right, that number of shares of common stock of the acquiring company which at the time of such transaction will have a market value of two times the exercise price of the Right. In the event that any person or group becomes an Acquiring Person, proper provision shall be made so that each holder of a Right, other than Rights beneficially owned by the Acquiring Person (which will thereafter be void), will thereafter have the right to receive upon exercise that number of Common Shares having a market value of two times the exercise price of the Right.

Exchange

At any time after any person or group becomes an Acquiring Person and prior to the acquisition by such person or group of 50% or more of the outstanding Common Shares, the Board of Directors of the Company may exchange the Rights (other than Rights owned by such person or group which will have become void), in whole or in part, at an exchange ratio of one Common Share, or one one-thousandth of a Preferred Share (or of a share of a class or series of the Company's preferred stock having equivalent rights, preferences and privileges), per Right (subject to adjustment).

Redemption

At any time prior to the existence of an Acquiring Person, the Board of Directors of the Company may redeem the Rights, in whole but not in part, at a price of \$.01 per Right (the Redemption Price). The redemption of the Rights may be made effective at such time on such basis with such conditions as the Board of Directors, in its sole discretion, may establish. Immediately upon any redemption of the Rights, the right to exercise the Rights will terminate and the only right of the holders of Rights will be to receive the Redemption Price.

Amendment

The terms of the Rights may be amended by the Board of Directors of the Company without the consent of the holders of the Rights, except that from and after the existence of an Acquiring Person no such amendment may adversely affect the interests of the holders of the Rights (other than the Acquiring Person).

Continuing Directors

A determination, approval, consent or other action of the Board of Directors shall require approval or consent by a majority of the Continuing Directors (as defined below), provided that no such approval or consent would be required after six months from the date the Continuing Directors cease to constitute a majority of the members of the Board of Directors.

Continuing Director means a member of the Board of Directors, who is not an Acquiring Person or a representative or nominee of an Acquiring Person, and who either (i) was a member of the Board of Directors on the date of the Rights Agreement or (ii) subsequently became a member of the Board of Directors, and whose nomination for election or election to the Board of Directors was recommended or approved by a majority of the Continuing Directors then on the Board of Directors. For purposes of the Rights Agreement, a determination, calculation, interpretation or other action shall not be deemed approved by a majority of the Continuing Directors unless there is at least one Continuing Director in office who approved such action.

Adjustment

The number of outstanding Rights and the number of one one-thousandths of a Preferred Share issuable upon exercise of each Right are subject to adjustment under certain circumstances.

Preferred Stock

Because of the nature of the Preferred Shares dividend, liquidation and voting rights, the value of the one one-thousandth interest in a Preferred Share purchasable upon exercise of each Right should approximate the value of one Common Share.

Rights of Holders

Until a Right is exercised, the holder thereof, as such, will have no rights as a stockholder of the Company, including, without limitation, the right to vote or to receive dividends.

Further Information

A copy of the Rights Agreement has been filed with the Securities and Exchange Commission as an Exhibit to a Registration Statement on Form 8-A/A dated February 26, 2004. A copy of the Rights Agreement is available free of charge from the Company. This summary description of the Rights does not purport to be complete and is qualified in its entirety by reference to the Rights Agreement, which is hereby incorporated herein by reference.

Item 2. Exhibits.

| <u>Exhibit No.</u> | <u>Description</u> |
|--------------------|---|
| 4.2 | Amended and Restated Rights Agreement, dated as of February 23, 2004, between SPACEHAB, Incorporated and American Stock Transfer & Trust Company, as Rights Agent. The Rights Agreement includes the Designation of Rights, Terms and Preferences of Series A Junior Preferred Stock as Exhibit A, the form of Rights Certificate as Exhibit B, and the Summary of Rights as Exhibit C (incorporated herein by reference to Exhibit 4.2 to the Company's Current Report on Form 8-K dated February 26, 2004). |

SIGNATURE

Pursuant to the requirements of Section 12 of the Securities Exchange Act of 1934, the registrant has duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized.

SPACEHAB, Incorporated

By: /s/ Brian K. Harrington

Name: Brian K. Harrington
Title: Senior Vice President

Date: February 26, 2004

EXHIBIT INDEX

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