

Edgar Filing: ATWOOD OCEANICS INC - Form S-3ASR

Brent oil prices averaged \$105 during our fiscal year ended September 30, 2011, ranging from \$82 to \$124 during this period. At these price levels, we anticipate that our customers will continue to execute drilling programs resulting in increased levels of offshore drilling activity.

Edgar Filing: ATWOOD OCEANICS INC - Form S-3ASR

Amounts include loans outstanding under our senior secured revolving credit facility and the known fixed interest payments under the credit facility.

- (2) Includes amounts owed in connection with financing of certain of our annual insurance premiums.
- (3) Does not include commitments related to the *Atwood Achiever*, as the construction contract for this rig was executed subsequent to September 30, 2011.

Table of Contents

Index to Financial Statements

- (2) 100% of the aggregate net cash proceeds and the Fair Market Value of (i) marketable securities (other than marketable securities of the Company or a Subsidiary of the Company), (ii) Equity Interests of a Person (other than the Company or any Subsidiary of the Company) engaged primarily in a Permitted Business and (iii) other assets used or useful in a Permitted Business, in each case, received by the Company since the Issue Date (A) as a contribution to its common equity capital or from the issue or sale of Qualifying Equity Interests or (B) from the issue or sale of convertible or exchangeable Disqualified Stock of the Company or convertible or exchangeable debt securities of the Company, in each case that have been converted into or exchanged for Qualifying Equity Interests of the Company (other than net cash proceeds received from an issuance or sale of Qualifying Equity Interests, convertible or exchangeable Disqualified Stock or debt securities to a Subsidiary of the Company) or (C) upon the exercise of any options, warrants or rights to purchase Qualifying Equity Interests; *plus*

- (3) with respect to any Restricted Investments made by the Company or any of its Restricted Subsidiaries in any Person after the Issue Date:
 - (i) in the case of the disposition or repayment of or return on any Restricted Investment, the amount equal to the lesser of (A) the initial amount of such Restricted Payment and (B) the cash amount (less any expenses incurred in connection with such transaction) and Fair Market Value of assets used or useful in a Permitted Business received by the Company or any Restricted Subsidiary; *plus*

 - (ii) if, as a result of or in connection with such Restricted Investment, such Person (other than an Unrestricted Subsidiary) becomes a Restricted Subsidiary or is merged or consolidated with the Company or a Restricted Subsidiary, an amount equal to the amount included as a Restricted Payment pursuant to clause (c) above on account of the Company's or any Restricted Subsidiary's Investment in such Person prior to the time it became a Restricted Subsidiary or the time of such merger or consolidation; *plus*

- (4) the amount by which Indebtedness of the Company or its Restricted Subsidiaries is reduced on the Company's balance sheet upon the conversion or exchange (other than by a Subsidiary of the Company) subsequent to the Issue Date of any such Indebtedness of the Company or its Restricted Subsidiaries convertible or exchangeable for Equity Interests (other than Disqualified Stock) of the Company (less the amount of any cash, or the Fair Market Value of any other property (other than such Equity Interests), distributed by the Company upon such conversion or exchange), together with the net proceeds, if any, received by the Company or any of its Restricted Subsidiaries upon such conversion or exchange (excluding the net cash proceeds from the conversion or exchange financed, directly or indirectly, using funds borrowed from the Company or any Subsidiary); *plus*

- (5) to the extent that any Unrestricted Subsidiary of the Company designated as such after the Issue Date is redesignated as a Restricted Subsidiary pursuant to the terms of the Indenture or is merged or consolidated with or into, or transfers or otherwise disposes of all or substantially all of its properties or assets to or is liquidated into, the Company or Restricted Subsidiary after the Issue Date, the lesser of (i) the Fair Market Value of the Restricted Investment made by the Company or any of its Restricted Subsidiaries in such Subsidiary (or the property or assets disposed of, as applicable) as of the date of such redesignation, merger, consolidation, transfer, disposition or liquidation and (ii) such Fair Market Value as of the date on which such Subsidiary was originally designated as an Unrestricted Subsidiary after the Issue Date.

The preceding provisions will not prohibit:

- (1) the payment of any dividend or the consummation of any irrevocable redemption within 60 days after the date of declaration of the dividend or giving of the redemption notice, as the case may be, if at the date of declaration or notice, the dividend or redemption payment would have complied with the provisions of the Indenture;

Table of Contents

Index to Financial Statements

- (2) the making of any Restricted Payment in exchange for, or out of or with the net cash proceeds of the substantially concurrent sale (other than to a Subsidiary of the Company) of, Equity Interests of the Company (other than Disqualified Stock) or from the substantially concurrent contribution of common equity capital to the Company, with a sale or contribution being deemed substantially concurrent if such Restricted Payment occurs not more than 90 days after such sale or contribution; *provided* that the amount of any such net cash proceeds that are utilized for any such Restricted Payment will not be considered to be net proceeds of Qualifying Equity Interests for purposes of clause (c)(2) of the preceding paragraph and will not be considered to be net cash proceeds from an Equity Offering for purposes of the Optional Redemption provisions of the Indenture;
- (3) the payment of any dividend (or, in the case of any partnership or limited liability company, any similar distribution) by a Restricted Subsidiary of the Company to the holders of its Equity Interests on a *pro rata* basis;
- (4) the repurchase, redemption, defeasance or other acquisition or retirement for value of Indebtedness of the Company or any Guarantor that is contractually subordinated to the notes or to any Note Guarantee with the net cash proceeds from a substantially concurrent incurrence of, or exchange for, Permitted Refinancing Indebtedness, with an incurrence of Permitted Refinancing Indebtedness being deemed substantially concurrent if such repurchase, redemption, defeasance, acquisition or retirement occurs not more than 90 days after such incurrence;
- (5) so long as no Default (other than a Reporting Default) or Event of Default has occurred and is continuing, the repurchase, redemption or other acquisition or retirement for value of any Equity Interests of the Company or any Restricted Subsidiary of the Company held by any current or former officer, director or employee of the Company or any of its Restricted Subsidiaries pursuant to any equity subscription agreement, stock option agreement, shareholders agreement or similar agreement; *provided* that the aggregate price paid for all such repurchased, redeemed, acquired or retired Equity Interests may not exceed \$5.0 million in any calendar year (with any portion of such \$5.0 million amount that is unused in any calendar year to be carried forward to successive calendar years and added to such amount) *plus*, to the extent not previously applied or included, (i) the net cash proceeds received by the Company or any of its Restricted Subsidiaries from sales of Equity Interests (other than Disqualified Stock) to employees or directors of the Company or its Restricted Subsidiaries that occur after the Issue Date (to the extent the cash proceeds from the sale of such Equity Interests have not otherwise been applied to the payment of Restricted Payments by virtue of clause (c)(2) of the first paragraph of this covenant) and (ii) the net cash proceeds of key man life insurance policies received by the Company or any of its Restricted Subsidiaries after the Issue Date;
- (6) the purchase, redemption or other acquisition or retirement for value of Equity Interests deemed to occur upon the exercise or conversion of stock options, warrants, rights to acquire Equity Interests or other convertible securities, to the extent such Equity Interests represent a portion of the exercise or conversion price thereof;
- (7) the purchase, redemption or other acquisition or retirement for value of Equity Interests of the Company or any Restricted Subsidiary of the Company held by any current or former officers, directors or employees of the Company or any of its Restricted Subsidiaries in connection with the exercise or vesting of any equity compensation (including, without limitation, stock options, restricted stock and phantom stock) in order to satisfy any tax withholding obligation with respect to such exercise or vesting;
- (8) the purchase, redemption, defeasance or other acquisition or retirement of any Indebtedness that is contractually subordinated in right of payment to the notes or to any Note Guarantee (i) at a purchase price not greater than 101.0% of the principal amount of such Indebtedness in the event of a Change of Control in accordance with provisions similar to the covenant described under Repurchase at the Option of Holders Change of Control or (ii) at a purchase price not greater than 100.0% of the principal amount of such Indebtedness in the event of an Asset Sale in accordance with provisions similar to the covenant described under Repurchase at the Option of Holders Asset Sales ; *provided* that, prior to or simultaneously with such purchase, redemption, defeasance or other acquisition or retirement, the Company

Table of Contents

Index to Financial Statements

(or a third party to the extent permitted by the Indenture) has made the Change of Control Offer or Asset Sale Offer, as applicable, with respect to the Notes as a result of such Change of Control or Asset Sale, as applicable, and has completed the repurchase or redemption of all Notes validly tendered for payment and not withdrawn in connection with such Change of Control Offer or Asset Sale Offer, as applicable;

- (9) so long as no Event of Default has occurred and is continuing, the declaration and payment of regularly scheduled or accrued dividends to holders of any class or series of Disqualified Stock of the Company or any preferred stock of any Restricted Subsidiary of the Company issued on or after the Issue Date in accordance with the Fixed Charge Coverage Ratio test described below under the caption *Incurrence of Indebtedness and Issuance of Preferred Stock* ;
- (10) payments of cash, dividends, distributions, advances or other Restricted Payments by the Company or any of its Restricted Subsidiaries to allow the payment of cash in lieu of the issuance of fractional shares upon (i) the exercise of options or warrants or (ii) the conversion or exchange of Capital Stock of any such Person; and
- (11) so long as no Event of Default has occurred and is continuing, other Restricted Payments in an aggregate amount not to exceed \$50.0 million since the Issue Date.

For purposes of determining compliance with this *Restricted Payments* covenant, in the event that a Restricted Payment meets the criteria of more than one of the categories of Restricted Payments described in the preceding clauses (1)-(11) or as a Permitted Investment, the Company will be permitted to divide or classify (or later divide, classify or reclassify in whole or in part in its sole discretion) such Restricted Payment in any manner that complies with this covenant.

The amount of all Restricted Payments (other than cash) will be the Fair Market Value on the date of the Restricted Payment of the asset(s) or securities proposed to be transferred or issued by the Company or any Restricted Subsidiary, as the case may be, pursuant to the Restricted Payment. The Fair Market Value of any assets or securities that are required to be valued by this covenant will be determined by, in the case of amounts under \$75.0 million, by an officer of the Company and, in the case of amounts greater than or equal to \$75.0 million, the Board of Directors of the Company whose resolution with respect thereto will be delivered to the trustee.

Incurrence of Indebtedness and Issuance of Preferred Stock

The Company will not, and will not permit any of its Restricted Subsidiaries to, directly or indirectly, create, incur, issue, assume, guarantee or otherwise become directly or indirectly liable, contingently or otherwise, with respect to (collectively, *incur*) any Indebtedness (including Acquired Debt), and the Company will not issue any Disqualified Stock and will not permit any of its Restricted Subsidiaries to issue any shares of preferred stock; *provided, however*, that the Company may incur Indebtedness (including Acquired Debt) or issue Disqualified Stock if the Fixed Charge Coverage Ratio for the Company's most recently ended four full fiscal quarters for which internal financial statements are available immediately preceding the date on which such additional Indebtedness is incurred or such Disqualified Stock is issued, as the case may be, would have been at least 2.0 to 1.0, determined on a pro forma basis (including a pro forma application of the net proceeds therefrom), as if the additional Indebtedness had been incurred or the Disqualified Stock had been issued, as the case may be, at the beginning of such four-quarter period.

The first paragraph of this covenant will not prohibit the incurrence of any of the following items of Indebtedness or the issuance of any Disqualified Stock or any preferred securities described below (collectively, *Permitted Debt*):

- (1) the incurrence by the Company and any of its Restricted Subsidiaries of Indebtedness and letters of credit under Credit Facilities in an aggregate principal amount at any one time outstanding under this clause (1) (with letters of credit being deemed to have a principal amount equal to the maximum potential liability of the Company and its Restricted Subsidiaries thereunder) not to exceed the greater of (i) \$1,100.0 million and (ii) the sum of \$550.0 million and 25% of the Company's Consolidated Tangible Assets;

Table of Contents

Index to Financial Statements

- (2) the incurrence by the Company and its Restricted Subsidiaries of the Existing Indebtedness;
- (3) the incurrence by the Company and the Guarantors of Indebtedness represented by the notes and the related Note Guarantees to be issued on the Issue Date;
- (4) the incurrence by the Company or any of its Restricted Subsidiaries of Indebtedness represented by Capital Lease Obligations, mortgage financings or purchase money obligations, in each case, incurred for the purpose of financing all or any part of the purchase price or cost of design, construction, installation or improvement of property, plant or equipment used in the business of the Company or any of its Restricted Subsidiaries, in an aggregate principal amount, including all Permitted Refinancing Indebtedness incurred to renew, refund, refinance, replace, defease or discharge any Indebtedness incurred pursuant to this clause (4), not to exceed the greater of (i) \$75.0 million and (ii) 3% of the Company's Consolidated Tangible Assets at any time outstanding;
- (5) the incurrence by the Company or any of its Restricted Subsidiaries of Permitted Refinancing Indebtedness in exchange for, or the net proceeds of which are used to renew, refund, refinance, replace, defease or discharge, in whole or in part, any Indebtedness (other than intercompany Indebtedness) or Disqualified Stock of the Company that was permitted by the Indenture to be incurred under the first paragraph of this covenant or clauses (2), (3), (4), (5), (10) or (13) of this paragraph;
- (6) the incurrence by the Company or any of its Restricted Subsidiaries of intercompany Indebtedness between or among the Company and any of its Restricted Subsidiaries; *provided, however*, that:
- (a) if the Company or any Guarantor is the obligor on such Indebtedness and the payee is not the Company or a Guarantor, such Indebtedness must be unsecured and expressly subordinated to the prior payment in full in cash of all Obligations then due with respect to the notes, in the case of the Company or the applicable Note Guarantee, in the case of a Guarantor; and
 - (b) (i) any subsequent issuance or transfer of Equity Interests that results in any such Indebtedness being held by a Person other than the Company or a Restricted Subsidiary of the Company or (ii) any sale or other transfer of any such Indebtedness to a Person that is not either the Company or a Restricted Subsidiary of the Company will be deemed, in each case, to constitute an incurrence (as of the date of such issuance, sale or transfer) of such Indebtedness by the Company or such Restricted Subsidiary, as the case may be, that was not permitted by this clause (6);
- (7) the issuance by any of the Company's Restricted Subsidiaries to the Company or to any of its Restricted Subsidiaries of shares of preferred stock; *provided, however*, that:
- (a) any subsequent issuance or transfer of Equity Interests that results in any such preferred stock being held by a Person other than the Company or a Restricted Subsidiary of the Company; and
 - (b) any sale or other transfer of any such preferred stock to a Person that is not either the Company or a Restricted Subsidiary of the Company, will be deemed, in each case, to constitute an issuance of such preferred stock by such Restricted Subsidiary that was not permitted by this clause (7);

Edgar Filing: ATWOOD OCEANICS INC - Form S-3ASR

- (8) the incurrence by the Company or any of its Restricted Subsidiaries of Hedging Obligations in the ordinary course of business and not for speculative purposes;

- (9) the guarantee by the Company or any Restricted Subsidiary of the Company of Indebtedness of the Company or a Restricted Subsidiary of the Company, to the extent that the guaranteed Indebtedness was permitted to be incurred by another provision of this covenant; *provided* that if the Indebtedness being guaranteed is subordinated to or *pari passu* with the notes, then the Guarantee must be subordinated or *pari passu*, as applicable, to the same extent as the Indebtedness guaranteed;

- (10) Permitted Acquisition Indebtedness;

Table of Contents

Index to Financial Statements

- (11) Indebtedness in respect of workers' compensation claims, public liability insurance, unemployment insurance, property, casualty or liability insurance, self-insurance obligations or completion, performance, bid performance, appeal or surety bonds in the ordinary course of business, including guarantees or obligations with respect to letters of credit supporting such workers' compensation claims, public liability insurance, unemployment insurance, property, casualty or liability insurance, self-insurance obligations or completion, performance, bid performance, appeal or surety bonds;
- (12) the incurrence by the Company or any of its Restricted Subsidiaries of Indebtedness arising from the honoring by a bank or other financial institution of a check, draft or similar instrument inadvertently drawn against insufficient funds in the ordinary course;
- (13) reimbursement obligations with respect to letters of credit issued in the ordinary course of business in support of trade obligations; *provided* that, upon the drawing of such letters of credit, such obligations are reimbursed within one year following such drawing or incurrence;
- (14) accounts payable or other obligations of the Company or any of its Restricted Subsidiaries to trade creditors created or assumed by the Company or such Restricted Subsidiary in the ordinary course of business in connection with the obtaining of goods and services; and
- (15) the incurrence by the Company or any of its Restricted Subsidiaries of additional Indebtedness or the issuance by the Company of Disqualified Stock or the issuance by any Restricted Subsidiary of preferred stock in an aggregate principal amount (or accreted value, as applicable) at any time outstanding, including all Permitted Refinancing Indebtedness incurred to renew, refund, refinance, replace, defease or discharge any Indebtedness incurred pursuant to this clause (15) not to exceed the greater of (i) \$150.0 million and (ii) 7% of the Company's Consolidated Tangible Assets determined as of the date of such incurrence or issuance.

The Company will not incur, and will not permit any Guarantor to incur, any Indebtedness (including Permitted Debt) that is contractually subordinated in right of payment to any other Indebtedness of the Company or such Guarantor unless such Indebtedness is also contractually subordinated in right of payment to the notes and the applicable Note Guarantee on substantially identical terms; *provided, however*, that no Indebtedness will be deemed to be contractually subordinated in right of payment to any other Indebtedness of the Company solely by virtue of being unsecured or by virtue of being secured on a junior priority basis.

For purposes of determining compliance with this Incurrence of Indebtedness and Issuance of Preferred Stock covenant, in the event that an item of Indebtedness or Disqualified Stock or preferred stock meets the criteria of more than one of the categories of Permitted Debt described in clauses (1) through (15) above, or is entitled to be incurred pursuant to the first paragraph of this covenant, the Company will be permitted to divide and classify such item of Indebtedness, Disqualified Stock or preferred stock, as applicable, on the date of its incurrence, or later re-divide and reclassify all or a portion of such item of Indebtedness, Disqualified Stock or preferred stock, as applicable, in any manner that complies with this covenant. Indebtedness under Credit Facilities outstanding on the date on which notes are first issued and authenticated under the Indenture will initially be deemed to have been incurred on such date in reliance on the exception provided by clause (1) of the definition of Permitted Debt. The accrual of interest or preferred stock dividends, the accretion or amortization of original issue discount, the payment of interest on any Indebtedness in the form of additional Indebtedness with the same terms, the reclassification of preferred stock as Indebtedness due to a change in accounting principles, and the payment of dividends on preferred stock or Disqualified Stock in the form of additional shares of the same class of preferred stock or Disqualified Stock will not be deemed to be an incurrence of Indebtedness or an issuance of preferred stock or Disqualified Stock for purposes of this covenant; *provided*, in each such case, that the amount thereof is included in Fixed Charges of the Company as accrued. Further, the reclassification of any lease or other liability of the Company or any of its Restricted Subsidiaries as Indebtedness due to a change of accounting principles after the Issue Date will not be deemed an incurrence of Indebtedness for purposes of this covenant.

Table of Contents

Index to Financial Statements

For purposes of determining compliance with any U.S. dollar-denominated restriction on the incurrence of Indebtedness, the U.S. dollar-equivalent principal amount of Indebtedness denominated in a foreign currency shall be utilized, calculated based on the relevant currency exchange rate in effect on the date such Indebtedness was incurred, in the case of term Indebtedness, or first committed, in the case of revolving credit Indebtedness; *provided* that if such Indebtedness is incurred to refinance other Indebtedness denominated in a foreign currency, and such refinancing would cause the applicable U.S. dollar-dominated restriction to be exceeded if calculated at the relevant currency exchange rate in effect on the date of such refinancing, such U.S. dollar-dominated restriction shall be deemed not to have been exceeded so long as the principal amount of such refinancing Indebtedness does not exceed the principal amount of such Indebtedness being refinanced. Notwithstanding any other provision of this covenant, the maximum amount of Indebtedness that the Company or any Restricted Subsidiary may incur pursuant to this covenant shall not be deemed to be exceeded solely as a result of fluctuations in exchange rates or currency values. The principal amount of any Permitted Refinancing Indebtedness, if incurred in a different currency from the Indebtedness being refinanced, shall be calculated based on the currency exchange rate applicable to the currencies in which such Permitted Refinancing Indebtedness is denominated that is in effect on the date of such refinancing.

Liens

The Company will not and will not permit any of its Restricted Subsidiaries to, create, incur, assume or otherwise cause or suffer to exist or become effective any Lien of any kind (other than Permitted Liens) securing Indebtedness upon any of its property or assets, now owned or hereafter acquired, unless all payments due under the Indenture and the notes are secured on an equal and ratable basis with the obligations so secured until such time as such obligations are no longer secured by a Lien.

Any Lien on any property or assets of the Company or any of its Restricted Subsidiaries created for the benefit of the holders of the notes pursuant to the preceding paragraph shall provide by its terms that such Lien shall be automatically and unconditionally released and discharged at such time as there are no other Liens of any kind (other than Permitted Liens) on such property or assets securing Indebtedness.

Dividend and Other Payment Restrictions Affecting Restricted Subsidiaries

The Company will not, and will not permit any of its Restricted Subsidiaries to, directly or indirectly, create or permit to exist or become effective any consensual encumbrance or restriction on the ability of any Restricted Subsidiary of the Company to:

- (a) pay dividends or make any other distributions on its Capital Stock to the Company or any of its Restricted Subsidiaries or pay any indebtedness owed to the Company or any of its Restricted Subsidiaries;
 - (b) make loans or advances to the Company or any of its Restricted Subsidiaries; or
 - (c) sell, lease or transfer any of its properties or assets to the Company or any of its Restricted Subsidiaries.
- However, the preceding restrictions will not apply to encumbrances or restrictions existing under or by reason of:

- (1) agreements (including agreements governing Existing Indebtedness and Credit Facilities) as in effect on the Issue Date and any amendments, restatements, modifications, renewals, supplements, refundings, replacements or refinancings of those agreements; *provided* that the amendments, restatements, modifications, renewals, supplements, refundings, replacements or refinancings are not materially more restrictive, taken as a whole, with respect to such dividend and other payment restrictions than those contained in those agreements on the Issue Date, as determined by the Company in its reasonable and good faith judgment;
- (2) the Indenture, the notes and the Note Guarantees;

Table of Contents

Index to Financial Statements

- (3) agreements governing other Indebtedness permitted to be incurred under the provisions of the covenant described above under the caption **Incurrence of Indebtedness and Issuance of Preferred Stock** and any amendments, restatements, modifications, renewals, supplements, refundings, replacements or refinancings of those agreements; *provided* that the restrictions therein are not materially more restrictive, taken as a whole, than those contained in (i) the Indenture, the notes and the Note Guarantees or (ii) agreements governing Indebtedness in effect on the Issue Date, in each case, as determined by the Company in its reasonable and good faith judgment;
- (4) applicable law, rule, regulation or order;
- (5) any agreement or instrument governing Indebtedness or Capital Stock of a Person acquired by the Company or any of its Restricted Subsidiaries as in effect at the time of such acquisition (except to the extent such Indebtedness or Capital Stock was incurred in connection with or in contemplation of such acquisition), which encumbrance or restriction is not applicable to any Person, or the properties or assets of any Person, other than the Person, or the property or assets of the Person, so acquired; *provided* that, in the case of Indebtedness, such Indebtedness was permitted by the terms of the Indenture to be incurred;
- (6) customary non-assignment provisions in contracts and licenses entered into in the ordinary course of business;
- (7) purchase money obligations for property acquired in the ordinary course of business and Capital Lease Obligations that impose restrictions on the property purchased or leased of the nature described in clause (c) of the preceding paragraph;
- (8) any agreement for the sale or other disposition of a Restricted Subsidiary that restricts distributions by that Restricted Subsidiary pending its sale or other disposition;
- (9) Permitted Refinancing Indebtedness; *provided* that the restrictions contained in the agreements governing such Permitted Refinancing Indebtedness are not materially more restrictive, taken as a whole, than those contained in the agreements governing the Indebtedness being refinanced, as determined by the Company in its reasonable and good faith judgment;
- (10) Liens permitted to be incurred under the provisions of the covenant described above under the caption **Liens** that limit the right of the debtor to dispose of the assets subject to such Liens;
- (11) provisions limiting the disposition or distribution of assets or property in joint venture agreements, asset sale agreements, sale and leaseback agreements, stock sale agreements and other similar agreements (including agreements entered into in connection with a Restricted Investment) entered (i) in the ordinary course of business or (ii) into with the approval of the Company's Board of Directors, which limitation is applicable only to the assets that are the subject of such agreements;
- (12) restrictions on cash or other deposits or net worth imposed by customers or required by insurance, surety or bonding companies, in each case under contracts entered into in the ordinary course of business; and
- (13) encumbrances or restrictions with respect to property under a charter, lease or other agreement that has been entered into in the ordinary course for the employment, charter or other hire of such property.

Merger, Consolidation or Sale of Assets

Edgar Filing: ATWOOD OCEANICS INC - Form S-3ASR

The Company will not: (1) consolidate or merge with or into another Person (whether or not the Company is the surviving corporation), or (2) directly or indirectly sell, assign, transfer, convey or otherwise dispose of all or substantially all of the properties or assets of the Company and its Restricted Subsidiaries taken as a whole, in one or more related transactions, to another Person, unless:

- (1) the resulting or surviving Person or the Person to which such sale, assignment, transfer, conveyance or other disposition has been made (the *Successor Company*) is (a) an entity organized or existing under the laws of the United States, any state of the United States or the District of Columbia (and, if such entity is not a corporation, a co-obligor of the notes is a corporation organized or existing under any such laws) or (b) an entity organized or existing under the laws of a Permitted Foreign Jurisdiction;

Table of Contents

Index to Financial Statements

- (2) the Successor Company (if other than the Company) assumes all the obligations of the Company under the notes and the Indenture pursuant to agreements reasonably satisfactory to the trustee;
- (3) immediately after such transaction, no Default or Event of Default exists;
- (4) the Successor Company would, on the date of such transaction after giving pro forma effect thereto and any related financing transactions as if the same had occurred at the beginning of the applicable four-quarter period, (i) be permitted to incur at least \$1.00 of additional Indebtedness pursuant to the Fixed Charge Coverage Ratio test set forth in the first paragraph of the covenant described above under the caption Incurrence of Indebtedness and Issuance of Preferred Stock or (ii) have had a Fixed Charge Coverage Ratio greater than the actual Fixed Charge Coverage Ratio for the Company for such four-quarter period;
- (5) in the case of clause (1)(b) above, in the event that the Successor Company is organized in a jurisdiction that is different from the jurisdiction in which the obligor on the notes was organized immediately before giving effect to the transaction:
- (a) such Successor Company has delivered to the trustee an opinion of counsel satisfactory to the Trustee stating (i) that the obligations of such Successor Company under the Indenture are enforceable under the laws such Permitted Foreign Jurisdiction of its formation subject to customary exceptions and (ii) the holders of notes will not recognize any income, gain or loss for U.S. federal income tax purposes as a result of the transaction and except as may result from a change in the source of any interest income, will be subject to U.S. federal income tax on the same amount and at the same times as would have been the case if such transaction had not occurred;
- (b) such Successor Company has agreed in writing to submit to New York jurisdiction and appoints an agent for the service of process in New York, each under terms reasonably satisfactory to the trustee; and
- (c) the Company's board of directors or the comparable governing body of the Successor Company determines in good faith that such transaction will not adversely affect the interests of the holders of notes in any material respect and a board resolution to that effect is delivered to the trustee; and
- (6) the Successor Company has delivered to the trustee an officers' certificate and an opinion of counsel, each stating that such consolidation, merger or disposition and such supplemental indenture (if any) comply with the Indenture.
- In addition, the Company will not, directly or indirectly, lease all or substantially all of the properties and assets of the Company and its Restricted Subsidiaries taken as a whole, in one or more related transactions, to any other Person.

This Merger, Consolidation or Sale of Assets covenant will not apply to any sale, assignment, transfer, conveyance, lease or other disposition of assets between or among the Company and its Restricted Subsidiaries. Clause (3) of the first paragraph of this covenant will not apply to any merger or consolidation of the Company with or into one of its Restricted Subsidiaries for any purpose other than for the purpose of reorganizing or reincorporating the Company in another jurisdiction. Clause (4) of the first paragraph of this covenant will not apply to any merger or consolidation of the Company (i) with or into one of its Restricted Subsidiaries for any purpose or (ii) with or into an Affiliate solely for the purpose of reorganizing or reincorporating the Company in another jurisdiction.

For purposes of the foregoing, the transfer (by lease, assignment, sale or otherwise, in a single transaction or series of transactions) of all or substantially all of the properties or assets of one or more Restricted Subsidiaries of the Company, the Capital Stock of which constitutes all or substantially all of the properties and assets of the Company, shall be deemed to be the transfer of all or substantially all of the properties and assets of the Company.

Edgar Filing: ATWOOD OCEANICS INC - Form S-3ASR

Upon any consolidation or merger or any sale, assignment, transfer, conveyance or other disposition of all or substantially all of the properties or assets of the Company in accordance with the first paragraph of this covenant in which the Company is not the surviving entity, the Successor Company shall succeed to, and be substituted for, and may exercise every right and power of, the Company under the Indenture with the same effect as if such Successor Company had been named as the Company in the Indenture, and thereafter, the Company will be relieved of all obligations and covenants under the Indenture and the notes.

Table of Contents

Index to Financial Statements

Although there is a limited body of case law interpreting the phrase substantially all, there is no precise established definition of the phrase under applicable law. Accordingly, in certain circumstances there may be a degree of uncertainty as to whether a particular transaction would involve all or substantially all of the properties or assets of a Person.

Transactions with Affiliates

The Company will not, and will not permit any of its Restricted Subsidiaries to, make any payment to or sell, lease, transfer or otherwise dispose of any of its properties or assets to, or purchase any properties or assets from, or enter into or make or amend any transaction, contract, agreement, understanding, loan, advance or guarantee with, or for the benefit of, any Affiliate of the Company (each, an *Affiliate Transaction*) involving aggregate payments or consideration in excess of \$10.0 million, unless:

- (1) the Affiliate Transaction is on terms that are no less favorable to the Company or the relevant Restricted Subsidiary in any material respect than those that would have been obtained in a comparable transaction by the Company or such Restricted Subsidiary with an unrelated Person or, if in the good faith judgment of the Company's Board of Directors, no comparable transaction is available with which to compare such Affiliate Transaction, such Affiliate Transaction is otherwise fair to the Company or the relevant Restricted Subsidiary from a financial point of view; and
- (2) the Company delivers to the trustee:
 - (a) with respect to any Affiliate Transaction or series of related Affiliate Transactions involving aggregate consideration in excess of \$25.0 million but no greater than \$50.0 million, an officers' certificate certifying that such Affiliate Transaction or series of related Affiliate Transactions complies with this covenant; and
 - (b) with respect to any Affiliate Transaction or series of related Affiliate Transactions involving aggregate consideration in excess of \$50.0 million, a resolution of the Board of Directors of the Company set forth in an officers' certificate certifying that such Affiliate Transaction or series of related Affiliate Transactions complies with this covenant and that such Affiliate Transaction or series of related Affiliate Transactions has been approved by a majority of the disinterested members of the Board of Directors of the Company.

The following items will not be deemed to be Affiliate Transactions and, therefore, will not be subject to the provisions of the prior paragraph:

- (1) any employment agreement, employee benefit plan, officer or director indemnification agreement or any similar arrangement entered into by the Company or any of its Restricted Subsidiaries in the ordinary course of business and payments pursuant thereto;
- (2) transactions between or among the Company and/or its Restricted Subsidiaries;
- (3) transactions with a Person (other than an Unrestricted Subsidiary of the Company) that is an Affiliate of the Company solely because the Company owns, directly or through a Restricted Subsidiary, an Equity Interest in, or controls, such Person;
- (4) payment of customary compensation to, and the provision of customary indemnity and other benefits on behalf of, officers, directors, employees or consultants of the Company or any of its Restricted Subsidiaries;

Edgar Filing: ATWOOD OCEANICS INC - Form S-3ASR

- (5) any issuance of Equity Interests (other than Disqualified Stock) of the Company to, or receipt of capital contributions from, Affiliates of the Company;
- (6) Permitted Investments and Restricted Payments that do not violate the provisions of the Indenture described above under the caption Restricted Payments ;
- (7) loans or advances to employees in the ordinary course of business not to exceed (i) \$1.0 million to any individual employee and (ii) \$2.5 million in the aggregate at any one time outstanding;

Table of Contents

Index to Financial Statements

- (8) transactions between the Company or any of its Restricted Subsidiaries and any Person that would not otherwise constitute an Affiliate Transaction except for the fact that one director of such other Person is also a director of the Company or such Restricted Subsidiary, as applicable; provided that such director abstains from voting as a director of the Company or such Restricted Subsidiary, as applicable, on any matter involving such other Person;
- (9) any transaction in which the Company or any of its Restricted Subsidiaries, as the case may be, delivers to the trustee a letter from an accounting, appraisal or investment banking firm of national standing stating that such transaction is fair to the Company or such Restricted Subsidiary from a financial point of view or that such transaction meets the requirements of clause (1) of the preceding paragraph; and
- (10) transactions pursuant to agreements or arrangements in effect on the Issue Date, or any amendment, modification, or supplement thereto or replacement thereof, as long as such agreement or arrangement, as so amended, modified, supplemented or replaced is not more disadvantageous to the Company and the Restricted Subsidiaries, in any material respect, than the agreement or arrangement in existence on the Issue Date.

Business Activities

The Company will not, and will not permit any of its Restricted Subsidiaries to, engage in any business other than Permitted Businesses, except to such extent as would not be material to the Company and its Restricted Subsidiaries taken as a whole.

Designation of Restricted and Unrestricted Subsidiaries

At the time the notes are originally issued, all of the Subsidiaries of the Company will be Restricted Subsidiaries. The Board of Directors of the Company may designate any Restricted Subsidiary of the Company to be an Unrestricted Subsidiary if that designation would not cause a Default. If a Restricted Subsidiary is designated as an Unrestricted Subsidiary, the aggregate Fair Market Value of all outstanding Investments owned by the Company and its Restricted Subsidiaries in the Subsidiary designated as Unrestricted will be deemed to be an Investment made as of the time of the designation and will reduce the amount available for Restricted Payments under the covenant described above under the caption Restricted Payments or under one or more clauses of the definition of Permitted Investments, as determined by the Company. That designation will only be permitted if the Investment would be permitted at that time and if the Restricted Subsidiary otherwise meets the definition of an Unrestricted Subsidiary. The Board of Directors of the Company may redesignate any Unrestricted Subsidiary to be a Restricted Subsidiary if that redesignation would not cause a Default.

Any designation of a Subsidiary of the Company as an Unrestricted Subsidiary will be evidenced to the trustee by filing with the trustee a certified copy of a resolution of the Board of Directors giving effect to such designation and an officers certificate certifying that such designation complied with the preceding conditions and was permitted by the covenant described above under the caption Restricted Payments. If, at any time, any Unrestricted Subsidiary would fail to meet the preceding requirements as an Unrestricted Subsidiary, it will thereafter cease to be an Unrestricted Subsidiary for purposes of the Indenture and any Indebtedness of such Subsidiary will be deemed to be incurred by a Restricted Subsidiary of the Company as of such date and, if such Indebtedness is not permitted to be incurred as of such date under the covenant described under the caption Incurrence of Indebtedness and Issuance of Preferred Stock, the Company will be in default of such covenant. The Board of Directors of the Company may at any time designate any Unrestricted Subsidiary to be a Restricted Subsidiary of the Company; *provided* that such designation will be deemed to be an incurrence of Indebtedness by a Restricted Subsidiary of the Company of any outstanding Indebtedness of such Unrestricted Subsidiary, and such designation will only be permitted if (1) such Indebtedness is permitted under the covenant described under the caption Incurrence of Indebtedness and Issuance of Preferred Stock, calculated on a pro forma basis as if such designation had occurred at the beginning of the applicable reference period; and (2) no Default or Event of Default would be in existence following such designation.

Table of Contents

Index to Financial Statements

Limitation on Issuances of Guarantees of Indebtedness

The Company will not permit any of its existing or future Restricted Subsidiaries (other than Immaterial Subsidiaries), or any of its existing Restricted Subsidiaries that ceases to constitute an Immaterial Subsidiary, to Guarantee the payment of any other Indebtedness (other than Indebtedness and letters of credit under the Credit Agreement) of the Company unless such Restricted Subsidiary executes a supplemental indenture providing for the Guarantee of the payment of the notes by such Restricted Subsidiary, which Guarantee will be senior to or *pari passu* with such Restricted Subsidiary's Guarantee of such other Indebtedness and delivers such supplemental indenture and an opinion of counsel satisfactory to the trustee within 20 Business Days after the date on which such Restricted Subsidiary guaranteed such other Indebtedness.

The Note Guarantee of a Guarantor will automatically and unconditionally be released:

- (1) in connection with any sale or other disposition of all or substantially all of the assets of that Guarantor by way of merger, consolidation or otherwise, to a Person that is not (either before or after giving effect to such transaction) the Company or a Restricted Subsidiary of the Company, if the sale or other disposition does not violate the Asset Sale provisions of the Indenture;
- (2) in connection with any sale or other disposition of the Capital Stock of that Guarantor to a Person that is not (either before or after giving effect to such transaction) the Company or a Restricted Subsidiary of the Company, if the sale or other disposition does not violate the Asset Sales provisions of the Indenture and the Guarantor ceases to be a Subsidiary of the Company as a result of the sale or other disposition;
- (3) if the Company designates any Restricted Subsidiary that is a Guarantor to be an Unrestricted Subsidiary in accordance with the applicable provisions of the Indenture;
- (4) upon legal defeasance, covenant defeasance or satisfaction and discharge of the Indenture as provided below under the captions Legal Defeasance and Covenant Defeasance and Satisfaction and Discharge ;
- (5) upon the liquidation or dissolution of such Guarantor provided no Default or Event of Default has occurred or is continuing;
- (6) upon the release or discharge of such Guarantor from the guarantee of Indebtedness that resulted in the obligation of such Guarantor to guarantee the notes (except as a result of payment under any such guarantee); or
- (7) upon such Guarantor consolidating with, merging into or transferring all of its assets to the Company or another Guarantor, and as a result of, or in connection with, such transaction such Guarantor dissolving or otherwise ceasing to exist.

The form of the Note Guarantee will be attached as an exhibit to the Indenture.

Payments for Consent

The Company will not, and will not permit any of its Restricted Subsidiaries to, directly or indirectly, pay or cause to be paid any consideration to or for the benefit of any holder of notes for or as an inducement to any consent, waiver or amendment of any of the terms or provisions of the Indenture or the notes unless such consideration is offered to be paid and is paid to all holders of the notes that consent, waive or agree to amend in the time frame set forth in the solicitation documents relating to such consent, waiver or amendment.

Table of Contents

Index to Financial Statements

Reports

Whether or not required by the rules and regulations of the SEC, so long as any notes are outstanding, the Company will furnish to the trustee and, upon its prior request, to any holder of notes (or, to the extent permitted by the SEC, file with the SEC for public availability), within the time periods specified in the SEC's rules and regulations, taking into account any extension of time, deemed filing date or safe harbor contemplated or provided for by Rule 12b-25, Rule 13a-11(c) and Rule 15d-11(c) under the Exchange Act or successor provisions:

- (1) all quarterly and annual reports that would be required to be filed with the SEC on Forms 10-Q and 10-K if the Company were required to file such reports, including a Management's Discussion and Analysis of Financial Condition and Results of Operations and, with respect to the annual information only, a report on the annual financial statements by the Company's certified independent accountants; and
- (2) all current reports that would be required to be filed with the SEC on Form 8-K if the Company were required to file such reports. The Company will be deemed to have furnished such reports to the trustee and the holders of notes if it has filed such reports with the SEC using the EDGAR filing system and such reports are publicly available.

All such reports will be prepared in all material respects in accordance with all of the rules and regulations applicable to such reports. The Company will at all times comply with TIA §314(a).

If, at any time, the Company is no longer subject to the periodic reporting requirements of the Exchange Act for any reason, the Company will nevertheless continue filing the reports specified in the preceding paragraphs of this covenant with the SEC within the time periods specified above unless the SEC will not accept such a filing. The Company will not take any action for the purpose of causing the SEC not to accept any such filings. If, notwithstanding the foregoing, the SEC will not accept the Company's filings for any reason, the Company will post the reports referred to in the preceding paragraphs on its website within the time periods that would apply if the Company were required to file those reports with the SEC.

If the Company has designated any of its Subsidiaries as Unrestricted Subsidiaries, and such Unrestricted Subsidiaries' aggregate Specified Consolidated Tangible Assets as of the end of the most recently completed fiscal year exceeds an amount equal to 5% of the Company's Consolidated Tangible Assets, then the quarterly and annual financial information required by the preceding paragraphs will include a reasonably detailed presentation, either on the face of the financial statements or in the footnotes thereto, and in Management's Discussion and Analysis of Financial Condition and Results of Operations, of the financial condition and results of operations of the Company and its Restricted Subsidiaries separate from the financial condition and results of operations of the Unrestricted Subsidiaries of the Company.

Events of Default and Remedies

Each of the following is an *Event of Default* :

- (1) default for 30 days in the payment when due of interest, if any, on the notes;
- (2) default in the payment when due (at maturity, upon redemption or otherwise) of the principal of, or premium, if any, on, the notes;
- (3) failure by the Company or any of its Restricted Subsidiaries to comply with the provisions described under the caption *Certain Covenants - Merger, Consolidation or Sale of Assets* or to consummate a purchase of notes when required pursuant to the provisions described under the captions *Repurchase at the Option of Holders - Change of Control* and *Repurchase at the Option of Holders - Asset Sales*

Edgar Filing: ATWOOD OCEANICS INC - Form S-3ASR

- (4) failure by the Company for 120 days after notice to the Company by the trustee or the holders of 25% in aggregate principal amount of the notes then outstanding voting as a single class to comply with the provisions described under the caption Reports ;

Table of Contents

Index to Financial Statements

- (5) failure by the Company or any of its Restricted Subsidiaries for 60 days after notice to the Company by the trustee or the holders of at least 25% in aggregate principal amount of the notes then outstanding voting as a single class to comply with any of the other agreements in the Indenture (including the provisions described under the captions Repurchase at the Option of Holders Change of Control and Repurchase at the Option of Holders Asset Sale to the extent not described in clause (3) above);
- (6) default under any mortgage, indenture or instrument under which there may be issued or by which there may be secured or evidenced any Indebtedness for money borrowed by the Company or any of its Restricted Subsidiaries (or the payment of which is guaranteed by the Company or any of its Restricted Subsidiaries), whether such Indebtedness or Guarantee now exists, or is created after the Issue Date, if that default:
- (a) is caused by a failure to pay principal of, premium or interest, if any, on, such Indebtedness prior to the expiration of the grace period provided in such Indebtedness on the date of such default (a *Payment Default*); or
- (b) results in the acceleration of such Indebtedness prior to its express maturity,
- and, in each case, the principal amount of any such Indebtedness, together with the principal amount of any other such Indebtedness under which there has been a Payment Default or the maturity of which has been so accelerated, aggregates \$50.0 million or more; *provided, however*, that if any such default is cured or waived or any such acceleration rescinded, or such Indebtedness is repaid and the notes have not been accelerated, such Event of Default shall be automatically rescinded, so long as such rescission does not conflict with any judgment or decree;
- (7) failure by the Company or any of its Restricted Subsidiaries to pay final judgments entered by a court or courts of competent jurisdiction aggregating in excess of \$50.0 million (to the extent not covered by insurance by a reputable and creditworthy insurer as to which the insurer has not disclaimed coverage), which judgments are not paid, discharged or stayed, for a period of 60 days;
- (8) except as permitted by the Indenture, any Note Guarantee is held in any judicial proceeding to be unenforceable or invalid or ceases for any reason to be in full force and effect, or any Guarantor, or any Person acting on behalf of any Guarantor, denies or disaffirms its obligations under its Note Guarantee; and
- (9) certain events of bankruptcy or insolvency described in the Indenture with respect to the Company or any of its Restricted Subsidiaries that is a Significant Subsidiary or any group of its Restricted Subsidiaries that, taken together, would constitute a Significant Subsidiary of the Company.

In the case of an Event of Default described in clause (9) above, all outstanding notes will become due and payable immediately without further action or notice. If any other Event of Default occurs and is continuing, the trustee or the holders of at least 25% in aggregate principal amount of the then outstanding notes may declare all the notes to be due and payable immediately.

Subject to certain limitations, holders of a majority in aggregate principal amount of the then outstanding notes may direct the trustee in its exercise of any trust or power. The trustee may withhold from holders of the notes notice of any continuing Default or Event of Default if it determines that withholding notice is in their interest, except a Default or Event of Default relating to the payment of principal of, or premium, interest or Additional Amounts, if any, on, the notes.

Subject to the provisions of the Indenture relating to the duties of the trustee, in case an Event of Default occurs and is continuing, the trustee will be under no obligation to exercise any of the rights or powers under the Indenture at the request or direction of any holders of notes unless such holders have offered to the trustee security or indemnity satisfactory to it against any loss, liability or expense. Except to enforce the right to receive payment of principal, premium, if any, interest, if any, or Additional Amounts, if any, when due, no holder of a note may pursue any remedy with respect to the Indenture or the notes unless:

- (1) such holder has previously given the trustee written notice that an Event of Default is continuing;

Table of Contents

Index to Financial Statements

- (2) holders of at least 25% in aggregate principal amount of the then outstanding notes make a written request to the trustee to pursue the remedy;
- (3) such holder or holders offer and, if requested, provide to the trustee security or indemnity satisfactory to the trustee against any loss, liability or expense;
- (4) the trustee does not comply with such request within 60 days after receipt of the request and the offer of security or indemnity; and
- (5) during such 60-day period, the holders of a majority in aggregate principal amount of the then outstanding notes do not give the trustee a direction inconsistent with such request.

The holders of a majority in aggregate principal amount of the then outstanding notes by written notice to the trustee may, on behalf of the holders of all of the notes, rescind an acceleration or waive any existing Default or Event of Default and its consequences under the Indenture, if the rescission would not conflict with any judgment or decree, except a continuing Default or Event of Default in the payment of principal of, premium on, if any, interest, if any, or Additional Amounts, if any, on, the notes.

The Company is required to deliver to the trustee annually a statement regarding compliance with the Indenture. Upon any officer of the Company becoming aware of any Default or Event of Default, the Company is required to deliver to the trustee a statement specifying such Default or Event of Default.

No Personal Liability of Directors, Officers, Employees and Shareholders

No director, officer, employee, incorporator or shareholder of the Company or any Guarantor, as such, will have any liability for any obligations of the Company or the Guarantors under the notes, the Indenture or any Note Guarantee or for any claim based on, in respect of, or by reason of, such obligations or their creation. Each holder of notes by accepting a note waives and releases all such liability. The waiver and release are part of the consideration for issuance of the notes. The waiver may not be effective to waive liabilities under the federal securities laws.

Legal Defeasance and Covenant Defeasance

The Company may at any time, pursuant to a resolution of its Board of Directors set forth in an officers' certificate, elect to have all of its obligations discharged with respect to the outstanding notes and all obligations of the Guarantors discharged with respect to their Note Guarantees (*Legal Defeasance*) except for:

- (1) the rights of holders of outstanding notes to receive payments in respect of the principal of, and premium, interest or Additional Amounts, if any, on, such notes when such payments are due from the trust referred to below;
- (2) the Company's obligations with respect to the notes concerning issuing temporary notes, registration of notes, mutilated, destroyed, lost or stolen notes and the maintenance of an office or agency for payment and money for security payments held in trust;
- (3) the rights, powers, trusts, duties and immunities of the trustee under the Indenture, and the Company's and the Guarantors' obligations in connection therewith; and
- (4) the Legal Defeasance and Covenant Defeasance provisions of the Indenture.

In addition, the Company may, pursuant to a resolution of its Board of Directors set forth in an officers' certificate, elect to have the obligations of the Company and the Guarantors released with respect to certain covenants (including its obligation to make Change of Control Offers and

Edgar Filing: ATWOOD OCEANICS INC - Form S-3ASR

Asset Sale Offers) that are described in the Indenture (*Covenant Defeasance*) and thereafter any omission to comply with those covenants will not constitute a Default or Event of Default with respect to the notes. In the event Covenant Defeasance occurs, all Events of Default described under Events of Default and Remedies (except those relating to payments on the notes or bankruptcy, receivership, rehabilitation or insolvency events) will no longer constitute an Event of Default with respect to the notes.

Table of Contents

Index to Financial Statements

If the Company exercises either its Legal Defeasance or Covenant Defeasance option, each Guarantor will be released and relieved of any obligation under its Note Guarantee.

In order to exercise either Legal Defeasance or Covenant Defeasance:

- (1) the Company must irrevocably deposit with the trustee, in trust, for the benefit of the holders of the notes, cash in U.S. dollars, non-callable government securities, or a combination thereof, in amounts as will be sufficient, in the opinion (except in the case of cash) of a nationally recognized investment bank, appraisal firm or firm of independent public accountants, to pay the principal of, premium, if any, on, and interest, if any, on, the outstanding notes on the stated date for payment thereof or on the applicable redemption date, as the case may be, and the Company must specify whether the notes are being defeased to such stated date for payment or to a particular redemption date;
- (2) in the case of Legal Defeasance, the Company must deliver to the trustee an opinion of counsel reasonably acceptable to the trustee confirming that (a) the Company has received from, or there has been published by, the Internal Revenue Service a ruling or (b) since the Issue Date, there has been a change in the applicable federal income tax law, in either case to the effect that, and based thereon such opinion of counsel will confirm that, the holders of the outstanding notes will not recognize income, gain or loss for federal income tax purposes as a result of such Legal Defeasance and will be subject to federal income tax on the same amounts, in the same manner and at the same times as would have been the case if such Legal Defeasance had not occurred;
- (3) in the case of Covenant Defeasance, the Company must deliver to the trustee an opinion of counsel reasonably acceptable to the trustee confirming that the holders of the outstanding notes will not recognize income, gain or loss for federal income tax purposes as a result of such Covenant Defeasance and will be subject to federal income tax on the same amounts, in the same manner and at the same times as would have been the case if such Covenant Defeasance had not occurred;
- (4) no Default or Event of Default has occurred and is continuing on the date of such deposit (other than a Default or Event of Default resulting from the borrowing of funds to be applied to such deposit (and any similar concurrent deposit relating to other Indebtedness), and the granting of Liens to secure such borrowings);
- (5) such Legal Defeasance or Covenant Defeasance will not result in a breach or violation of, or constitute a default under, any material agreement or instrument (other than the Indenture and the agreements governing any other Indebtedness being defeased, discharged or replaced) to which the Company or any of the Guarantors is a party or by which the Company or any of the Guarantors is bound;
- (6) the Company must deliver to the trustee an officers certificate stating that the deposit was not made by the Company with the intent of preferring the holders of notes over the other creditors of the Company with the intent of defeating, hindering, delaying or defrauding any creditors of the Company or others; and
- (7) the Company must deliver to the trustee an officers certificate and an opinion of counsel, each stating that all conditions precedent relating to the Legal Defeasance or the Covenant Defeasance have been complied with.

Amendment, Supplement and Waiver

Except as provided in the next two succeeding paragraphs, the Indenture or the notes or the Note Guarantees may be amended or supplemented with the consent of the holders of at least a majority in aggregate principal amount of the then outstanding notes (including, without limitation, additional notes, if any) voting as a single class (including, without limitation, consents obtained in connection with a tender offer or exchange offer for, or purchase of, the notes), and any existing Default or Event of Default or compliance with any provision of the Indenture or the notes

Edgar Filing: ATWOOD OCEANICS INC - Form S-3ASR

or the Note Guarantees may be waived with the consent of the holders of a majority in aggregate principal amount of the then outstanding notes (including, without limitation, additional notes, if any) voting as a single class (including, without limitation, consents obtained in connection with a purchase of, or tender offer or exchange offer for, notes).

Table of Contents

Index to Financial Statements

Without the consent of each holder of notes affected, an amendment, supplement or waiver may not (with respect to any notes held by a non-consenting holder):

- (1) reduce the percentage of principal amount of notes whose holders must consent to an amendment, supplement or waiver;
- (2) reduce any premium payable upon redemption of any notes or change the date on which any notes are subject to redemption (other than the notice provisions) or waive any payment with respect to the redemption of the notes; *provided, however*, that, solely for the avoidance of doubt, and without any other implication, any purchase or repurchase of the notes (including pursuant to the provisions relating to the covenants described above under the caption "Repurchase at the Option of Holders") shall not be deemed a redemption of the notes;
- (3) reduce the rate of or change the time for payment of interest, including default interest, on any note;
- (4) waive a Default or Event of Default in the payment of principal of, or premium, interest or Additional Amounts, if any, on, the notes (except a rescission of acceleration of the notes by the holders of at least a majority in aggregate principal amount of the then outstanding notes and a waiver of the payment default that resulted from such acceleration);
- (5) make any note payable in money other than that stated in the notes;
- (6) make any change in the provisions of the Indenture relating to waivers of past Defaults or the rights of holders of notes to receive payments of principal of, or premium, interest or Additional Amounts, if any, on, the notes (other than waivers permitted by clause (7) below);
- (7) waive a redemption or repurchase payment with respect to any note (other than a payment required by one of the covenants described above under the caption "Repurchase at the Option of Holders");
- (8) release any Guarantor from any of its obligations under its Note Guarantee or the Indenture, except in accordance with the terms of the Indenture; or
- (9) make any change in the preceding amendment, supplement and waiver provisions.

Notwithstanding the preceding, without the consent of any holder of notes, the Company, the Guarantors and the trustee may amend or supplement the Indenture, the notes or the Note Guarantees:

- (1) to cure any ambiguity, defect or inconsistency;
- (2) to provide for uncertificated notes in addition to or in place of certificated notes;

Edgar Filing: ATWOOD OCEANICS INC - Form S-3ASR

- (3) to provide for the assumption of the Company's or a Guarantor's obligations to holders of notes and Note Guarantees in the case of a merger or consolidation or sale of all or substantially all of the Company's or such Guarantor's assets, as applicable, in accordance with the covenant described under the caption "Certain Covenants - Merger, Consolidation or Sale of Assets";
- (4) to make any change that would provide any additional rights or benefits to the holders of notes or that does not adversely affect the legal rights under the Indenture of any holder, including, without limitation, to secure the notes or the Note Guarantees pursuant to the requirements of the covenants described above under the caption "Certain Covenants - Liens";
- (5) to comply with requirements of the SEC in order to effect or maintain the qualification of the Indenture under the Trust Indenture Act;
- (6) to conform the text of the Indenture, the notes or the Note Guarantees to any provision of this description of the notes to the extent that such provision in this description of the notes was intended to be a substantially verbatim recitation of a provision of the Indenture, the notes or the Note Guarantees, which intent may be evidenced by an officers' certificate to that effect;
- (7) to provide for the issuance of additional notes in accordance with the limitations set forth in the Indenture as of the Issue Date;

Table of Contents

Index to Financial Statements

- (8) to allow any Guarantor to execute a supplemental indenture and/or a Note Guarantee with respect to the Notes;
- (9) to add any additional Guarantor or to evidence the release of any Guarantor from its Note Guarantee, in each case as provided in the Indenture; or
- (10) to evidence or provide for the acceptance of appointment under the Indenture of a successor trustee.
The consent of the holders of the notes is not necessary under the Indenture to approve the particular form of any proposed amendment or waiver. It is sufficient if such consent approves the substance of the proposed amendment or waiver.

Satisfaction and Discharge

The Indenture will be discharged and will cease to be of further effect as to all notes issued thereunder (except as to rights of registration of transfer or exchange of notes, which shall survive until all notes have been canceled, and the rights, protections and immunities of the trustee), when:

- (1) either:
- (a) all notes that have been authenticated, except lost, stolen or destroyed notes that have been replaced or paid and notes for whose payment money has been deposited in trust and thereafter repaid to the Company, have been delivered to the trustee for cancellation; or
 - (b) all notes that have not been delivered to the trustee for cancellation have become due and payable by reason of the mailing of a notice of redemption or otherwise or will become due and payable within one year and the Company or any Guarantor has irrevocably deposited or caused to be deposited with the trustee as trust funds in trust solely for the benefit of the holders, cash in U.S. dollars, non-callable government securities, or a combination thereof, in amounts as will be sufficient, without consideration of any reinvestment of interest, to pay and discharge the entire Indebtedness on the notes not delivered to the trustee for cancellation for principal of, premium, if any, on, and interest, if any, on, the notes to the date of maturity or redemption;
- (2) in respect of clause 1(b), no Default or Event of Default has occurred and is continuing on the date of the deposit or will occur as a result of the deposit (other than a Default or Event of Default resulting from the borrowing of funds to be applied to such deposit and any similar deposit relating to other Indebtedness and, in each case, the granting of Liens to secure such borrowings) and the deposit will not result in a breach or violation of, or constitute a default under, any other instrument to which the Company or any Guarantor is a party or by which the Company or any Guarantor is bound (other than with respect to the borrowing of funds to be applied concurrently to make the deposit required to effect such satisfaction and discharge and any similar concurrent deposit relating to other Indebtedness, and in each case the granting of Liens to secure such borrowings);
- (3) the Company or any Guarantor has paid or caused to be paid all sums payable by it under the Indenture; and
- (4) the Company has delivered irrevocable instructions to the trustee under the Indenture to apply the deposited money toward the payment of the notes at maturity or on the redemption date, as the case may be.
In addition, the Company must deliver an officers certificate and an opinion of counsel to the trustee stating that all conditions precedent to satisfaction and discharge have been satisfied.

Concerning the Trustee

Wells Fargo Bank, National Association will be the trustee under the indenture. The trustee and its affiliates may perform certain commercial and investment banking services for us from time to time, including with respect to our Credit Agreement, for which they receive customary fees. The indenture contains limitations on the right of the trustee, if it or any of its affiliates is then our creditor, to obtain payment of claims, or to realize on certain property received for any such claim, as security or otherwise. The trustee and its affiliates are

Table of Contents

Index to Financial Statements

permitted to engage in other transactions with us. If, however, the trustee acquires any conflicting interest, it must eliminate that conflict or resign within 90 days after ascertaining that it has a conflicting interest and after the occurrence of a Default, unless the Default has been cured, waived or otherwise eliminated within the 90-day period.

The holders of a majority in aggregate principal amount of the then outstanding notes will have the right to direct the time, method and place of conducting any proceeding for exercising any remedy available to the trustee, subject to certain exceptions. The Indenture provides that in case an Event of Default has occurred and is continuing, the trustee will be required, in the exercise of its power, to use the degree of care of a prudent man would exercise or use under the circumstances in the conduct of his own affairs. Subject to such provisions, the trustee will be under no obligation to exercise any of its rights or powers under the Indenture at the request of any holder of notes, unless such holder has offered to the trustee security or indemnity satisfactory to it in its sole discretion against any loss, liability or expense.

Governing Law

The Indenture, the notes and the Subsidiary Guarantees will be governed by, and construed in accordance with, the laws of the State of New York.

Book-Entry, Delivery and Form

The notes will initially be issued in the form of one or more permanent global notes in definitive, fully registered, book-entry form. The global notes will be deposited upon issuance with the trustee as custodian for DTC, and registered in the name of DTC or its nominee, for credit to an account of a direct or indirect participant in DTC as described below.

DTC has advised the Company that DTC is a limited-purpose trust company created to hold securities for its participating organizations (collectively, the *Participants*) and to facilitate the clearance and settlement of transactions in those securities between Participants through electronic book-entry changes in accounts of its Participants. The Participants include securities brokers and dealers (including the underwriters), banks, trust companies, clearing corporations and certain other organizations. Access to DTC's system is also available to other entities such as banks, brokers, dealers and trust companies that clear through or maintain a custodial relationship with a Participant, either directly or indirectly (collectively, the *Indirect Participants*). Persons who are not Participants may beneficially own securities held by or on behalf of DTC only through the Participants or the Indirect Participants. The ownership interests in, and transfers of ownership interests in, each security held by or on behalf of DTC are recorded on the records of the Participants and Indirect Participants.

DTC has also advised the Company that, pursuant to procedures established by it:

- (1) upon deposit of the global notes, DTC will credit the accounts of the Participants designated by the underwriters with portions of the principal amount of the global notes; and
- (2) ownership of these interests in the global notes will be shown on, and the transfer of ownership of these interests will be effected only through, records maintained by DTC (with respect to the Participants) or by the Participants and the Indirect Participants (with respect to other owners of beneficial interest in the global notes).

Prospective purchasers are advised that the laws of some states require that certain Persons take physical delivery in definitive form of securities that they own. Consequently, the ability to transfer beneficial interests in a global note to such Persons will be limited to such extent. In addition, because DTC can act only on behalf of its Participants, who in turn act on behalf of persons who hold interests through such Participants, the ability of a person having an interest in notes represented by a global note to pledge or transfer those interests to persons or entities that do not participate in DTC's system, or otherwise to take actions in respect of such interest, may be affected by the lack of a physical definitive security in respect of such interest.

Table of Contents

Index to Financial Statements

So long as DTC or its nominee is the registered owner of the global notes, DTC or such nominee will be considered the sole holder under the Indenture of any notes evidenced by the global notes. Except as provided below, owners of beneficial interests in a global note will not be entitled to have notes represented by that global note registered in their names, will not receive or be entitled to receive physical delivery of certificated notes and will not be considered the owners or holders thereof under the Indenture or under the notes for any purpose, including with respect to the giving of any direction, instruction or approval to the trustee. Accordingly, each holder owning a beneficial interest in a global note must rely on the procedures of DTC and, if that holder is not a Participant or an Indirect Participant, on the procedures of the Participant through which that holder owns its interest, to exercise any rights of a holder of notes under the Indenture or the global note. Neither the Company nor the trustee will have any responsibility or liability for any aspect of the records of DTC or for maintaining, supervising or reviewing any records of DTC relating to the notes.

Payments in respect of the principal of, or premium, interest or Additional Amounts, if any, on, a global note registered in the name of DTC or its nominee will be payable to DTC in its capacity as the registered holder under the Indenture. Under the terms of the Indenture, the Company and the trustee will treat the Persons in whose names the notes, including the global notes, are registered as the owners of the notes for the purpose of receiving payments and for all other purposes. Consequently, none of the Company, the trustee or any agent of the Company or the trustee has or will have any responsibility or liability for:

(1) any aspect of DTC's records or any Participant's or Indirect Participant's records relating to or payments made on account of beneficial ownership interest in the global notes or for maintaining, supervising or reviewing any of DTC's records or any Participant's or Indirect Participant's records relating to the beneficial ownership interests in the global notes; or

(2) any other matter relating to the actions and practices of DTC or any of its Participants or Indirect Participants.

Based on DTC's current practice, we expect that upon receipt of any payment in respect of securities such as the notes (including principal and interest), DTC will credit the accounts of the relevant Participants with the payment on the payment date unless DTC has reason to believe that it will not receive payment on such payment date. Each relevant Participant is credited with an amount proportionate to its beneficial ownership of an interest in the principal amount of the relevant security as shown on the records of DTC. Payments by the Participants and the Indirect Participants to the beneficial owners of notes will be governed by standing instructions and customary practices and will be the responsibility of the Participants or the Indirect Participants and will not be the responsibility of DTC, the trustee or the Company. Neither the Company nor the trustee will be liable for any delay by DTC or any of the Participants or the Indirect Participants in identifying the beneficial owners of the notes, and the Company and the trustee may conclusively rely on and will be protected in relying on instructions from DTC or its nominee for all purposes.

Certificated Notes

The Company will issue certificated notes in registered definitive form to each person that DTC identifies as the beneficial owner of the notes represented by the global notes upon surrender by DTC of the global notes if:

(1) DTC notifies the Company that it (a) is unwilling or unable to continue as depository for the global notes or (b) has ceased to be a clearing agency registered under the Exchange Act and, in either case, the Company fails to appoint a successor depository within 90 days of such notice;

(2) the Company, at its option, notifies the trustee in writing that it elects to cause the issuance of the certificated notes; or

(3) there has occurred and is continuing an Event of Default with respect to the notes, and DTC requests the issuance of certificated notes.

Table of Contents

Index to Financial Statements

Neither the Company nor the trustee will be liable for any delay by DTC, its nominee or any Participant or Indirect Participant in identifying the beneficial owners of notes and the Company and the trustee may conclusively rely on, and will be protected in relying on, instructions from DTC or its nominee for all purposes, including with respect to the registration and delivery, and the respective principal amounts, of the notes to be issued.

Same Day Settlement

The notes represented by the global notes are expected to be eligible to trade in DTC's Same-Day Funds Settlement System, and any permitted secondary market trading activity in such notes will, therefore, be required by DTC to be settled in immediately available funds. The Company expects that secondary trading in any certificated notes will also be settled in immediately available funds.

Certain Definitions

Set forth below are certain defined terms used in the Indenture. Reference is made to the Indenture for a full disclosure of all defined terms used therein.

Acquired Debt means, with respect to any specified Person:

- (1) Indebtedness of any other Person existing at the time such other Person is merged with or into or became a Subsidiary of such specified Person, whether or not such Indebtedness is incurred in connection with, or in contemplation of, such other Person merging with or into, or becoming a Restricted Subsidiary of, such specified Person, but excluding Indebtedness which is extinguished, retired or repaid in connection with such Person merging with or into or becoming a Subsidiary of such specified Person; and

- (2) Indebtedness secured by a Lien encumbering any asset acquired by such specified Person.

Affiliate of any specified Person means any other Person directly or indirectly controlling or controlled by or under direct or indirect common control with such specified Person. For purposes of this definition, control, as used with respect to any Person, means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of such Person, whether through the ownership of voting securities, by agreement or otherwise. For purposes of this definition, the terms controlling, controlled by and under common control with have correlative meanings.

Applicable Premium means, with respect to any note on any redemption date, the greater of:

- (1) 1.0% of the principal amount of the note; and

- (2) the excess of:

- (a) the present value at such redemption date of (i) the redemption price of the note at _____, 2016, (such redemption price being set forth in the table appearing above under the caption "Optional Redemption") plus (ii) all required interest payments due on the note through _____, 2016, (excluding accrued but unpaid interest to the redemption date), computed using a discount rate equal to the Treasury Rate as of such redemption date plus 50 basis points; over

- (b) the principal amount of the note.

Asset Sale means:

- (1) the sale, lease, conveyance or other disposition of any assets or rights by the Company or any of the Company's Restricted Subsidiaries; *provided* that the sale, lease, conveyance or other disposition of all or substantially all of the assets of the Company and its Restricted Subsidiaries taken as a whole will not be an Asset Sale, but will be governed by the provisions of the Indenture described above under the caption Repurchase at the Option of Holders Change of Control and/or the provisions described above under the caption Certain Covenants Merger, Consolidation or Sale of Assets and not by the provisions of the Indenture described above under Repurchase at the Option of the Holders Asset Sales ; and

Table of Contents

Index to Financial Statements

- (2) the issuance of Equity Interests by any of the Company's Restricted Subsidiaries or the sale by the Company or any of the Company's Restricted Subsidiaries of Equity Interests in any of the Company's Restricted Subsidiaries (other than directors' qualifying shares or shares required by applicable law to be held by a Person other than the Company or a Restricted Subsidiary).

Notwithstanding the preceding, none of the following items will be deemed to be an Asset Sale:

- (1) any single transaction or series of related transactions that involves assets having a Fair Market Value of less than \$20.0 million;
 - (2) the sale, lease, conveyance or other disposition of assets between or among the Company and its Restricted Subsidiaries;
 - (3) an issuance or sale of Equity Interests by a Restricted Subsidiary of the Company to the Company or to another Restricted Subsidiary of the Company;
 - (4) the sale, lease, conveyance or other disposition of products, services or accounts receivable in the ordinary course of business and any sale or other disposition of damaged, worn-out or obsolete equipment or other assets in the ordinary course of business (including the abandonment or other disposition of intellectual property that is, in the reasonable judgment of the Company, no longer economically practicable to maintain or useful in the conduct of the business of the Company and its Restricted Subsidiaries taken as whole);
 - (5) licenses and sublicenses by the Company or any of its Restricted Subsidiaries of software or intellectual property in the ordinary course of business;
 - (6) any surrender or waiver of contract rights or the settlement, release, recovery on or surrender of contract, tort or other claims;
 - (7) the granting of Liens not prohibited by the covenant described above under the caption "Liens" and any disposition of assets resulting from the enforcement or foreclosure of any such Permitted Lien;
 - (8) the sale or other disposition of cash or Cash Equivalents;
 - (9) a Permitted Investment or a Restricted Payment that does not violate the covenant described above under the caption "Certain Covenants Restricted Payments";
 - (10) any sale or other disposition of Equity Interests in, or other ownership interests in or assets or property, including Indebtedness, or other securities of, an Unrestricted Subsidiary;
 - (11) the lease or sublease of any real property in the ordinary course of business; and
 - (12) any disposition of accounts receivable in connection with the compromise, settlement or collection thereof in bankruptcy or similar proceedings.
- Asset Sale Offer* has the meaning assigned to that term in the Indenture governing the notes.

Edgar Filing: ATWOOD OCEANICS INC - Form S-3ASR

Attributable Debt in respect of a sale and leaseback transaction means, at the time of determination, the present value of the obligation of the lessee for net rental payments during the remaining term of the lease included in such sale and leaseback transaction including any period for which such lease has been extended or may, at the option of the lessor, be extended. Such present value shall be calculated using a discount rate equal to the rate of interest implicit in such transaction, determined in accordance with GAAP; *provided, however*, that if such sale and leaseback transaction results in a Capital Lease Obligation, the amount of Indebtedness represented thereby will be determined in accordance with the definition of Capital Lease Obligation. As used in the first sentence of this definition, the net rental payments under any lease for any period shall mean the sum of rental and other payments required to be paid with respect to such period by the lessee thereunder, excluding any amounts required to be paid by such lessee on account of maintenance and repairs, insurance, taxes, assessments, water rates or similar charges.

Table of Contents

Index to Financial Statements

Beneficial Owner has the meaning assigned to such term in Rule 13d-3 and Rule 13d-5 under the Exchange Act, except that in calculating the beneficial ownership of any particular person (as that term is used in Section 13(d)(3) of the Exchange Act), such person will be deemed to have beneficial ownership of all securities that such person has the right to acquire by conversion or exercise of other securities, whether such right is currently exercisable or is exercisable only after the passage of time. The terms *Beneficially Owns* and *Beneficially Owned* have corresponding meanings.

Board of Directors means:

- (1) with respect to a corporation, the board of directors of the corporation or, except in the context of the definitions *Change of Control* and *Continuing Directors*, any committee thereof duly authorized to act on behalf of such board;
- (2) with respect to a partnership, the Board of Directors of the general partner of the partnership;
- (3) with respect to a limited liability company, the managing member or members or any controlling committee of managing members thereof; and
- (4) with respect to any other Person, the board or committee of such Person serving a similar function.

Business Day means each day that is not a Saturday, Sunday or other day on which banking institutions in Houston, Texas or in New York, New York or another place of payment are authorized or required by law to close.

Capital Lease Obligation means, at the time any determination is to be made, the amount of the liability in respect of a capital lease that would at that time be required to be capitalized on a balance sheet prepared in accordance with GAAP, excluding liabilities resulting from a change in GAAP subsequent to the Issue Date, and the Stated Maturity thereof shall be the date of the last payment of rent or any other amount due under such lease prior to the first date upon which such lease may be prepaid by the lessee without payment of a penalty.

Capital Stock means:

- (1) in the case of a corporation, corporate stock;
- (2) in the case of an association or business entity, any and all shares, interests, participations, rights or other equivalents (however designated) of corporate stock;
- (3) in the case of a partnership or limited liability company, partnership interests (whether general or limited) or membership interests; and
- (4) any other interest or participation that confers on a Person the right to receive a share of the profits and losses of, or distributions of assets of, the issuing Person, but excluding from all of the foregoing any debt securities convertible into Capital Stock, whether or not such debt securities include any right of participation with Capital Stock.

Cash Equivalents means:

Edgar Filing: ATWOOD OCEANICS INC - Form S-3ASR

- (1) United States dollars;

- (2) securities issued or directly and fully guaranteed or insured by (i) the United States government or any agency or instrumentality of the United States government (*provided* that the full faith and credit of the United States is pledged in support of those securities) or (ii) any foreign country whose sovereign debt has a rating of at least A1 from Moody's and at least A+ from S&P or any agency or instrumentality of such foreign country (*provided* that the full faith and credit of such foreign country is pledged in support of those securities), in each case having maturities of not more than one year from the date of acquisition;

Table of Contents

Index to Financial Statements

- (3) certificates of deposit, demand deposit and eurodollar time deposits with maturities of one year or less from the date of acquisition, bankers acceptances with maturities not exceeding one year and overnight bank deposits, in each case, with any lender party to the Credit Agreement or with any domestic commercial bank having capital and surplus in excess of \$500.0 million and a Thomson Bank Watch Rating of B or better;
- (4) marketable general obligations issued by any state of the United States or any political subdivision of any such state or any public instrumentality thereof maturing within one year from the date of acquisition thereof and, at the time of acquisition thereof, having a credit rating of A or better from either S&P or Moody's;
- (5) repurchase obligations with a term of not more than seven days for underlying securities of the types described in clauses (2), (3) and (4) above entered into with any financial institution meeting the qualifications specified in clause (3) above;
- (6) commercial paper having one of the two highest ratings obtainable from Moody's or S&P and, in each case, maturing within one year after the date of acquisition;
- (7) money market funds at least 95% of the assets of which constitute Cash Equivalents of the kinds described in clauses (1) through (6) of this definition; and
- (8) in the case of any Subsidiary of the Company organized or having its principal place of business outside the United States, investments denominated in the currency of the jurisdiction in which such Subsidiary is organized or has its principal place of business which are similar to the items specified in clauses (1) through (7) of this definition.

Change of Control means the occurrence of any of the following:

- (1) the direct or indirect sale, lease, transfer, conveyance or other disposition (other than by way of merger or consolidation), in one or a series of related transactions, of all or substantially all of the properties or assets of the Company and its Subsidiaries taken as a whole to any Person (including any person (as that term is used in Section 13(d)(3) of the Exchange Act)) other than a Subsidiary of the Company;
- (2) the adoption of a plan relating to the liquidation or dissolution of the Company;
- (3) the consummation of any transaction (including, without limitation, any merger or consolidation), the result of which is that any Person (including any person (as defined above) becomes the Beneficial Owner, directly or indirectly, of more than 50% of the Voting Stock of the Company, measured by voting power rather than number of shares; or

(4) the first day on which a majority of the members of the Board of Directors of the Company are not Continuing Directors. Notwithstanding the foregoing, a transaction will not be deemed to involve a Change of Control if (a) the Company becomes a direct or indirect Wholly-Owned Subsidiary of a Person or directly or indirectly sells, transfers, conveys or otherwise disposes of all or substantially all of the properties or assets of the Company and its Subsidiaries, taken as a whole, to such Person or a Wholly-Owned Subsidiary thereof and (b)(i) the holders of the Voting Stock of such Person immediately following that transaction are substantially the same as the holders of the Company's Voting Stock immediately prior to that transaction or (ii) no person (as that term is used in Section 13(d)(3) of the Exchange Act) (other than a holding company satisfying the requirements of this sentence) becomes the Beneficial Owner, directly or indirectly, of more than 50% of the Voting Stock of such Person, measured by voting power rather than number of shares, immediately following such transaction.

Edgar Filing: ATWOOD OCEANICS INC - Form S-3ASR

Consolidated EBITDA means, with respect to any specified Person for any period, the Consolidated Net Income of such Person for such period *plus*, without duplication:

- (1) an amount equal to any extraordinary loss plus any net loss realized by such Person or any of its Restricted Subsidiaries in connection with an Asset Sale, to the extent such losses were deducted in computing such Consolidated Net Income; *plus*

Table of Contents

Index to Financial Statements

- (2) provision for taxes based on income or profits of such Person and its Restricted Subsidiaries for such period, to the extent that such provision for taxes was deducted in computing such Consolidated Net Income; *plus*
- (3) the Fixed Charges of such Person and its Restricted Subsidiaries for such period, to the extent that such Fixed Charges were deducted in computing such Consolidated Net Income; *plus*
- (4) any foreign currency translation losses (including losses related to currency remeasurements of Indebtedness) of such Person and its Restricted Subsidiaries for such period, to the extent that such losses were taken into account in computing such Consolidated Net Income; *plus*
- (5) depreciation, amortization (including amortization of intangibles but excluding amortization of prepaid cash expenses that were paid in a prior period) and other non-cash charges and expenses (excluding any such non-cash charge or expense to the extent that it represents an accrual of or reserve for cash charges or expenses in any future period or amortization of a prepaid cash charge or expense that was paid in a prior period) of such Person and its Restricted Subsidiaries for such period to the extent that such depreciation, amortization and other non-cash charges or expenses were deducted in computing such Consolidated Net Income; *minus*
- (6) any foreign currency translation gains (including gains related to currency remeasurements of Indebtedness) of such Person and its Restricted Subsidiaries for such period, to the extent that such gains were taken into account in computing such Consolidated Net Income; *minus*
- (7) non-cash items increasing such Consolidated Net Income for such period, other than the accrual of revenue in the ordinary course of business (and excluding any such non-cash item to the extent that it represents the reversal of an accrual or reserve for a potential cash charge or expense that reduced Consolidated EBITDA in a prior period),
in each case, on a consolidated basis and determined in accordance with GAAP.

Consolidated Net Income means, with respect to any specified Person for any period, the aggregate of the net income (loss) of such Person and its Restricted Subsidiaries for such period, on a consolidated basis (excluding the net income (loss) of any Unrestricted Subsidiary of such Person), determined in accordance with GAAP and without any reduction in respect of preferred stock dividends; *provided that*:

- (1) all extraordinary gains (or losses) and all gains (or losses) realized in connection with any Asset Sale or the disposition of securities or the early extinguishment of Indebtedness, together with any related provision for taxes on any such gain (or loss), will be excluded;
- (2) the net income (but not loss) of any Person that is not a Restricted Subsidiary or that is accounted for by the equity method of accounting will be included only to the extent of the amount of dividends or similar distributions paid in cash to the specified Person or a Restricted Subsidiary of the Person;
- (3) the net income (but not loss) of any Restricted Subsidiary will be excluded to the extent that the declaration or payment of dividends or similar distributions by that Restricted Subsidiary of that net income is not at the date of determination permitted without any prior governmental approval (that has not been obtained) or, directly or indirectly, by operation of the terms of its charter or any agreement, instrument, judgment, decree, order, statute, rule or governmental regulation applicable to that Restricted Subsidiary or its stockholders;
- (4) the cumulative effect of a change in accounting principles will be excluded; and

- (5) unrealized losses and gains under Hedging Contracts included in the determination of Consolidated Net Income, including, without limitation, those resulting from the application of FASB ASC Topic 815, Derivatives and Hedging, will be excluded.

Table of Contents

Index to Financial Statements

Consolidated Tangible Assets means, with respect to any Person as of any date, the amount which, in accordance with GAAP, would be set forth under the caption Total Assets (or any like caption) on a consolidated balance sheet of such Person and its Restricted Subsidiaries determined in accordance with GAAP, less, to the extent included in a determination of Total Assets, and without duplication, all goodwill, patents, tradenames, trademarks, copyrights, franchises, experimental expenses, organization expenses and any other amounts classified as intangible assets in accordance with GAAP.

continuing means, with respect to any Default or Event of Default, that such Default or Event of Default has not been cured or waived.

Continuing Directors means, as of any date of determination, any member of the Board of Directors of the Company who:

(1) was a member of such Board of Directors on the Issue Date; or

(2) was nominated for election or elected to such Board of Directors with the approval of a majority of the Continuing Directors who were members of such Board of Directors at the time of such nomination or election.

Credit Agreement means that certain Credit Agreement, dated as of May 6, 2011, by and among the Company, Atwood Offshore Worldwide Limited, the various lenders thereto and Nordea Bank Finland plc, New York Branch, as administrative agent, including any related notes, Guarantees, collateral documents, instruments and agreements executed in connection therewith, and, in each case, as amended, restated, modified, increased, renewed, refunded, replaced in any manner (whether upon or after termination or otherwise, and whether with the original lenders, investors, agents or otherwise) or refinanced (including by means of any capital markets transaction and involving any refinancing that increases the amount of Indebtedness borrowed or issued thereunder) in whole or in part from time to time.

Credit Facilities means one or more debt facilities (including, without limitation, the Credit Agreement), commercial paper facilities or Debt Issuances, in each case, with banks or other institutional lenders or institutional investors providing for revolving credit loans, term loans, receivables financing (including through the sale of receivables to such lenders or to special purpose entities formed to borrow from such lenders against such receivables), letters of credit or other borrowings or Debt Issuances, in each case, as amended, restated, modified, renewed, refunded, replaced in any manner (whether upon or after termination or otherwise) or refinanced (including by means of including by means of any capital markets transaction and involving any refinancing that increases the amount of Indebtedness borrowed or issued thereunder) in whole or in part from time to time.

Debt Issuance means, with respect to the Company or any of its Restricted Subsidiaries, one or more issuances after the Issue Date of Indebtedness evidenced by notes, debentures, bonds or other similar securities or instruments.

Default means any event that is, or with the passage of time or the giving of notice or both would be, an Event of Default.

Disqualified Stock means any Capital Stock that, by its terms (or by the terms of any security into which it is convertible, or for which it is exchangeable, in each case, at the option of the holder of the Capital Stock), or upon the happening of any event, matures or is mandatorily redeemable, pursuant to a sinking fund obligation or otherwise, or redeemable at the option of the holder of the Capital Stock, in whole or in part, on or prior to the date that is 91 days after the date on which the notes mature; *provided* that only the portion of Capital Stock which so matures or is mandatorily redeemable, is so convertible or exchangeable or is so redeemable at the option of the holder thereof prior to such date shall be deemed to be Disqualified Stock; *provided, further*, that any class of Capital Stock of such Person that by its terms authorizes such Person to satisfy its obligations

Table of Contents

Index to Financial Statements

thereunder by delivery of Capital Stock that is not Disqualified Stock shall not be deemed to be Disqualified Stock so long as such Person satisfies its obligations with respect thereto solely by the delivery of Capital Stock that is not Disqualified Stock. Notwithstanding the preceding sentence, any Capital Stock that would constitute Disqualified Stock solely because the holders of the Capital Stock have the right to require the Company to repurchase or redeem such Capital Stock upon the occurrence of a change of control or an asset sale will not constitute Disqualified Stock if the terms of such Capital Stock provide that the Company may not repurchase or redeem any such Capital Stock pursuant to such provisions unless such repurchase or redemption complies with the covenant described above under the caption *Certain Covenants Restricted Payments*. The amount of Disqualified Stock deemed to be outstanding at any time for purposes of the Indenture will be the maximum amount that the Company and its Restricted Subsidiaries may become obligated to pay upon the maturity of, or pursuant to any mandatory redemption provisions of, such Disqualified Stock, exclusive of accrued dividends.

Equity Interests means Capital Stock and all warrants, options or other rights to acquire Capital Stock (but excluding any debt security that is convertible into, or exchangeable for, Capital Stock).

Equity Offering means a public or private sale of Equity Interests of the Company by the Company (other than Disqualified Stock and other than to a Subsidiary of the Company) made for cash on a primary basis by the Company after the Issue Date.

Exchange Act means the U.S. Securities Exchange Act of 1934, as amended.

Existing Indebtedness means all Indebtedness of the Company and its Subsidiaries (other than Indebtedness under the Credit Agreement) in existence on the Issue Date, until such amounts are repaid.

Fair Market Value means the value that would be paid by a willing buyer to an unaffiliated willing seller in a transaction not involving distress or necessity of either party, reasonably determined in good faith by the Board of Directors of the Company in the case of amounts greater than or equal to \$50.0 million and otherwise, by any officer of the Company (unless otherwise provided in the Indenture).

Fixed Charge Coverage Ratio means with respect to any specified Person for any period, the ratio of the Consolidated EBITDA of such Person for such period to the Fixed Charges of such Person for such period. In the event that the specified Person or any of its Restricted Subsidiaries incurs, assumes, guarantees, repays, repurchases, redeems, defeases or otherwise discharges any Indebtedness (other than ordinary working capital borrowings) or issues, repurchases or redeems preferred stock subsequent to the commencement of the period for which the Fixed Charge Coverage Ratio is being calculated and on or prior to the date on which the event for which the calculation of the Fixed Charge Coverage Ratio is made (the *Calculation Date*), then the Fixed Charge Coverage Ratio will be calculated giving pro forma effect (in accordance with Regulation S-X under the Securities Act) to such incurrence, assumption, guarantee, repayment, repurchase, redemption, defeasance or other discharge of Indebtedness, or such issuance, repurchase or redemption of preferred stock, and the use of the proceeds therefrom, as if the same had occurred at the beginning of the applicable four-quarter reference period.

In addition, for purposes of calculating the Fixed Charge Coverage Ratio:

- (1) acquisitions that have been made by the specified Person or any of its Restricted Subsidiaries, including through mergers or consolidations, or any Person or any of its Restricted Subsidiaries acquired by the specified Person or any of its Restricted Subsidiaries, and including in each case all related financing transactions (including repayment of Indebtedness) and including increases in ownership of Restricted Subsidiaries, during the applicable four-quarter reference period or subsequent to such reference period and on or prior to the Calculation Date, or that are to be made on the Calculation Date, will be given pro forma effect (in accordance with Regulation S-X under the Securities Act) as if they had occurred on the first day of the four-quarter reference period and the Consolidated EBITDA for such reference period will be calculated giving pro forma effect to any expense and cost reductions or synergies that have occurred or are reasonably expected to occur within 12 months of the Calculation Date, in the reasonable judgment of the

Table of Contents

Index to Financial Statements

chief financial or accounting officer of the Company (provided those cost savings or operating improvements could then be reflected in pro forma financial statements in accordance with Regulation S-X under the Securities Act);

- (2) the Consolidated EBITDA attributable to discontinued operations, as determined in accordance with GAAP, and operations or businesses (and ownership interests therein) disposed of prior to the Calculation Date, will be excluded;
- (3) the Fixed Charges attributable to discontinued operations, as determined in accordance with GAAP, and operations or businesses (and ownership interests therein) disposed of prior to the Calculation Date, will be excluded, but only to the extent that the obligations giving rise to such Fixed Charges will not be obligations of the specified Person or any of its Restricted Subsidiaries following the Calculation Date;
- (4) any Person that is a Restricted Subsidiary of the specified Person on the Calculation Date will be deemed to have been a Restricted Subsidiary of the specified Person at all times during such four-quarter period;
- (5) any Person that is not a Restricted Subsidiary of the specified Person on the Calculation Date will be deemed not to have been a Restricted Subsidiary of the specified Person at any time during such four-quarter period; and
- (6) if any Indebtedness to which pro forma effect is being given bears a floating rate of interest, the interest expense on such Indebtedness will be calculated as if the rate in effect on the Calculation Date had been the applicable rate for the entire period (taking into account any Hedging Obligation applicable to such Indebtedness if such Hedging Obligation has a remaining term as at the Calculation Date in excess of 12 months).

Fixed Charges means, with respect to any specified Person for any period, the sum, without duplication, of:

- (1) the consolidated interest expense of such Person and its Restricted Subsidiaries for such period, whether paid or accrued, including, without limitation, amortization of debt issuance costs and original issue discount, non-cash interest payments, the interest component of any deferred payment obligations, the interest component of all payments associated with Capital Lease Obligations, imputed interest with respect to Attributable Debt, commissions, discounts and other fees and charges incurred in respect of letter of credit or bankers' acceptance financings, and net of the effect of all payments made or received pursuant to Hedging Obligations in respect of interest rates; *plus*
- (2) the consolidated interest expense of such Person and its Restricted Subsidiaries that was capitalized during such period; *plus*
- (3) any interest expense on Indebtedness of another Person that is guaranteed by such Person or one of its Restricted Subsidiaries or secured by a Lien on assets of such Person or one of its Restricted Subsidiaries, whether or not such Guarantee or Lien is called upon; *plus*
- (4) all dividends, whether paid or accrued and whether or not in cash, on any series of preferred stock of such Person or any of its Restricted Subsidiaries, other than dividends on Equity Interests payable solely in Equity Interests of the Company (other than Disqualified Stock) or to the Company or a Restricted Subsidiary of the Company, in each case, determined on a consolidated basis in accordance with GAAP.

GAAP means generally accepted accounting principles set forth in the opinions and pronouncements of the Accounting Principles Board of the American Institute of Certified Public Accountants and statements and pronouncements of the Financial Accounting Standards Board or in such other statements by such other entity as have been approved by a significant segment of the accounting profession, which are in effect from time to time.

Edgar Filing: ATWOOD OCEANICS INC - Form S-3ASR

Guarantee means a guarantee other than by endorsement of negotiable instruments for collection in the ordinary course of business, direct or indirect, in any manner including, without limitation, by way of a pledge of assets or through letters of credit or reimbursement agreements in respect thereof, of all or any part of any Indebtedness (whether arising by virtue of partnership arrangements, or by agreements to keep-well, to purchase assets, goods, securities or services, to take or pay or to maintain financial statement conditions or otherwise).

Table of Contents

Index to Financial Statements

Guarantor means any Subsidiary of the Company that executes a Note Guarantee in accordance with the provisions of the Indenture, and its respective successors and assigns, in each case, until the Note Guarantee of such Person has been released in accordance with the provisions of the Indenture.

Hedging Obligations means, with respect to any specified Person, the obligations of such Person under:

- (1) interest rate swap agreements (whether from fixed to floating or from floating to fixed), interest rate cap agreements and interest rate collar agreements entered into with one or more financial institutions and designed to protect the Person or any of its Restricted Subsidiaries entering into the agreement against fluctuations in interest rates, or to otherwise reduce the cost of borrowing of such Person or any of such Restricted Subsidiaries, with respect to Indebtedness incurred;
- (2) foreign exchange contracts and currency protection agreements entered into with one or more financial institutions and designed to protect the Person or any of its Restricted Subsidiaries entering into the agreement against fluctuations in currency exchange rates;
- (3) any commodity futures contract, commodity swap, commodity option, commodity forward sale or other similar agreement or arrangement designed to protect against fluctuations in the price of commodities used by that Person or any of its Restricted Subsidiaries at the time; and
- (4) other agreements or arrangements designed to protect such Person or any of its Restricted Subsidiaries against fluctuations in interest rates, commodity prices or currency exchange rates.

Immaterial Subsidiary means, as of any date, any Restricted Subsidiary whose total assets, as of that date, are less than \$100,000 and whose total revenues for the most recent 12-month period do not exceed \$100,000; *provided* that a Restricted Subsidiary will not be considered to be an Immaterial Subsidiary if it, directly or indirectly, guarantees or otherwise provides direct credit support for any Indebtedness of the Company or any of its Subsidiaries.

Indebtedness means, with respect to any specified Person, any indebtedness of such Person (excluding accrued expenses and trade payables), whether or not contingent:

- (1) in respect of borrowed money;
- (2) evidenced by bonds, notes, debentures or similar instruments or letters of credit (or reimbursement agreements in respect thereof);
- (3) in respect of banker's acceptances;
- (4) representing Capital Lease Obligations or Attributable Debt in respect of sale and leaseback transactions;
- (5) representing the balance deferred and unpaid of the purchase price of any property or services due more than six months after such property is acquired or such services are completed; or

(6) representing any Hedging Obligations, if and to the extent any of the preceding items (other than letters of credit, Attributable Debt and Hedging Obligations) would appear as a liability upon a balance sheet of the specified Person prepared in accordance with GAAP. In addition, the term "Indebtedness" includes all Indebtedness of others secured by a Lien on any asset of the specified Person (whether or not such Indebtedness is assumed by the specified Person) and, to the extent not otherwise included, the Guarantee by the specified Person of any Indebtedness of any other Person. Indebtedness shall be calculated without giving effect to the effects of FASB ASC Topic 815 and related interpretations to the extent such effects would otherwise increase or decrease an amount of Indebtedness for any purpose under the Indenture as a result of accounting for any embedded derivatives created by the terms of such Indebtedness. Furthermore, notwithstanding the foregoing, the following shall not constitute or be deemed "Indebtedness" :

- (i) any indebtedness which has been defeased in accordance with GAAP or defeased pursuant to the deposit of cash or Cash Equivalents (in an amount sufficient to satisfy all such indebtedness obligations)

Table of Contents

Index to Financial Statements

at maturity or redemption, as applicable, and all payments of interest and premium, if any) in a trust or account created or pledged for the sole benefit of the holders of such indebtedness, and subject to no other Liens, and the other applicable terms of the instrument governing such indebtedness;

(ii) any obligations arising from agreements of a Person providing for indemnification, guarantees, adjustment of purchase price, holdbacks, contingent payment obligations based on a final financial statement or performance of acquired or disposed of assets or similar obligations (other than guarantees of Indebtedness), in each case, incurred or assumed by such Person in connection with the acquisition or disposition of assets (including through mergers, consolidations or otherwise); and

(iii) taxes, assessments or other similar governmental charges or claims.

The amount of any Indebtedness outstanding as of any date will be:

- (1) the accreted value of the Indebtedness, in the case of any Indebtedness issued with original issue discount;
- (2) the principal amount of the Indebtedness, in the case of any other Indebtedness;
- (3) in respect of Indebtedness of another Person secured by a Lien on the assets of the specified Person, the lesser of:
 - (a) the Fair Market Value of such assets at the date of determination; and
 - (b) the amount of the Indebtedness of the other Person; and
- (4) in the case of Hedging Obligations, the termination value of the agreement or arrangement giving rise to such Hedging Obligations that would be payable by the specified Person at such date.

Investments means, with respect to any Person, all direct or indirect investments by such Person in other Persons (including Affiliates) in the forms of loans (including Guarantees), advances or capital contributions (excluding (1) commission, travel and similar advances to officers and employees made in the ordinary course of business and (2) advances to customers in the ordinary course of business that are recorded as accounts receivable on the balance sheet of such Person), purchases or other acquisitions for consideration of Indebtedness, Equity Interests or other securities, together with all items that are or would be classified as investments on a balance sheet prepared in accordance with GAAP. If the Company or any Restricted Subsidiary of the Company sells or otherwise disposes of any Equity Interests of any direct or indirect Restricted Subsidiary of the Company such that, after giving effect to any such sale or disposition, such Person is no longer a Restricted Subsidiary of the Company, the Company will be deemed to have made an Investment on the date of any such sale or disposition equal to the Fair Market Value of the Company's Investments in such Subsidiary that were not sold or disposed of in an amount determined as provided in the final paragraph of the covenant described above under the caption Certain Covenants Restricted Payments. The acquisition by the Company or any Restricted Subsidiary of the Company of a Person that holds an Investment in a third Person will be deemed to be an Investment by the Company or such Restricted Subsidiary in such third Person in an amount equal to the Fair Market Value of the Investments held by the acquired Person in such third Person on the date of such acquisition in an amount determined as provided in the final paragraph of the covenant described above under the caption Certain Covenants Restricted Payments. Except as otherwise provided in the Indenture, the amount of an Investment will be determined at the time the Investment is made and without giving effect to subsequent changes in value or write-ups, write-downs or write-offs with respect to such Investment.

Issue Date means the first date on which the notes are issued under the Indenture.

Edgar Filing: ATWOOD OCEANICS INC - Form S-3ASR

Joint Venture means any Person that is not a direct or indirect Subsidiary of the Company in which the Company or any of its Restricted Subsidiaries makes any Investment.

Table of Contents

Index to Financial Statements

Lien means, with respect to any asset, any mortgage, lien, pledge, charge, security interest or encumbrance of any kind in respect of such asset, whether or not filed, recorded or otherwise perfected under applicable law, including any conditional sale or other title retention agreement, any lease in the nature thereof, any option or other agreement to sell or give a security interest in and any filing of or agreement to give any financing statement under the Uniform Commercial Code (or equivalent statutes) of any jurisdiction, other than a precautionary financing statement in respect of a lease not intended as a security agreement.

Moody's means Moody's Investors Service, Inc., or any successor to the ratings business thereof.

Net Proceeds means the aggregate cash proceeds and Cash Equivalents received by the Company or any of its Restricted Subsidiaries in respect of any Asset Sale (including, without limitation, any cash or Cash Equivalents received upon the sale or other disposition of any non-cash consideration received in any Asset Sale), net of (1) the direct costs relating to such Asset Sale, including, without limitation, legal, accounting and investment banking fees, and sales commissions, severance costs and any relocation expenses incurred as a result of such Asset Sale, (2) taxes paid or payable as a result of the Asset Sale, in each case, after taking into account any available tax credits or deductions and any tax sharing arrangements, (3) amounts required to be applied to the repayment of Indebtedness secured by a Lien on the properties or assets that were the subject of such Asset Sale, or which must by its terms, or in order to obtain a necessary consent to such Asset Sale or by applicable law, be repaid out of the proceeds from such Asset Sale and (4) any amounts to be set aside in any reserve established in accordance with GAAP or any amount placed in escrow, in either case for adjustment in respect of the sale price of such properties or assets, for indemnification obligations of the Company or any of its Restricted Subsidiaries in connection with such Asset Sale or for other liabilities associated with such Asset Sale and retained by the Company or any of its Restricted Subsidiaries until such time as such reserve is reversed or such escrow arrangement is terminated, in which case Net Proceeds shall include only the amount of the reserve so reversed or the amount returned to the Company or its Restricted Subsidiaries from such escrow arrangement, as the case may be.

Non-Recourse Debt means Indebtedness:

- (1) as to which neither the Company nor any of its Restricted Subsidiaries (a) provides credit support of any kind (including any undertaking, agreement or instrument that would constitute Indebtedness) or (b) is directly or indirectly liable as a guarantor or otherwise, except pursuant to a Lien of the type permitted by item (14) in the definition of Permitted Liens ;
- (2) no default with respect to which (including any rights that the holders of the Indebtedness may have to take enforcement action against an Unrestricted Subsidiary) would permit upon notice, lapse of time or both any holder of any other Indebtedness (other than the notes) of the Company or any of its Restricted Subsidiaries to declare a default on such other Indebtedness or cause the payment of the Indebtedness to be accelerated or payable prior to its Stated Maturity; and
- (3) the explicit terms of which provide there is no recourse against any of the assets of the Company or any of its Restricted Subsidiaries (other than the Equity Interests of an Unrestricted Subsidiary).

For purposes of determining compliance with the covenant described under Certain Covenants Incurrence of Indebtedness and Issuance of Preferred Stock above, in the event that any Non-Recourse Debt of any of the Company's Unrestricted Subsidiaries ceases to be Non-Recourse Debt of such Unrestricted Subsidiary, such event will be deemed to constitute an incurrence of Indebtedness by a Restricted Subsidiary of the Company.

Note Guarantee means the Guarantee by each Guarantor of the Company's payment obligations under the Indenture and the notes, executed pursuant to the provisions of the Indenture.

Obligations means any principal, premium, if any, interest, penalties, fees, indemnifications, reimbursements, damages and other liabilities payable under the documentation governing any Indebtedness.

Table of Contents

Index to Financial Statements

Permitted Acquisition Indebtedness means Indebtedness or Disqualified Stock of the Company or any of its Restricted Subsidiaries to the extent such Indebtedness or Disqualified Stock was Indebtedness or Disqualified Stock of any other Person existing at the time (a) such Person became a Restricted Subsidiary of the Company, (b) such Person was merged or consolidated with or into the Company or any of its Restricted Subsidiaries, or (c) assets of such Person were acquired by the Company or any of its Restricted Subsidiaries and such Indebtedness was assumed in connection therewith (excluding any such Indebtedness that is repaid contemporaneously with such event), *provided* that on the date such Person became a Restricted Subsidiary of the Company or the date such Person was merged or consolidated with or into the Company or any of its Restricted Subsidiaries, or on the date of such asset acquisition, as applicable, either

- (1) immediately after giving effect to such transaction on a pro forma basis as if the same had occurred at the beginning of the applicable four-quarter period, the Company or such Restricted Subsidiary, as applicable, would be permitted to incur at least \$1.00 of additional Indebtedness pursuant to the Fixed Charge Coverage Ratio test set forth in the first paragraph of the covenant described above under the caption *Certain Covenants Incurrence of Indebtedness and Issuance of Preferred Stock*, or
- (2) immediately after giving effect to such transaction on a pro forma basis as if the same had occurred at the beginning of the applicable four-quarter period, the Fixed Charge Coverage Ratio of the Company would be equal to or greater than the Fixed Charge Coverage Ratio of the Company immediately prior to such transaction.

Permitted Business means any business that is the same as, or reasonably related, ancillary or complementary to, any of the businesses in which the Company and its Restricted Subsidiaries are engaged on the Issue Date, and reasonable extensions thereof.

Permitted Foreign Jurisdiction means each of Australia, Barbados, the British Virgin Islands, the Cayman Islands, Cyprus, Ireland, Gibraltar, Luxembourg, the Netherlands, Switzerland and the United Kingdom.

Permitted Investments means:

- (1) any Investment in the Company or in a Restricted Subsidiary of the Company;
- (2) any Investment in Cash Equivalents;
- (3) any Investment by the Company or any Restricted Subsidiary of the Company in a Person, if as a result of such Investment:
 - (a) such Person becomes a Restricted Subsidiary of the Company; or
 - (b) such Person is merged, consolidated or amalgamated with or into, or transfers or conveys substantially all of its assets to, or is liquidated into, the Company or a Restricted Subsidiary of the Company;
- (4) any Investment made as a result of the receipt of non-cash consideration from (a) an Asset Sale that was made pursuant to and in compliance with the covenant described above under the caption *Repurchase at the Option of Holders Asset Sales* or (b) a disposition of assets that does not constitute an Asset Sale;
- (5) any Investment in any Person solely in exchange for the issuance of Equity Interests (other than Disqualified Stock) of the Company;

- (6) any Investments received (a) in compromise or resolution of, upon satisfaction of judgments with respect to, (i) obligations of trade creditors or customers that were incurred in the ordinary course of business of the Company or any of its Restricted Subsidiaries, including pursuant to any plan of reorganization or similar arrangement upon the bankruptcy or insolvency of any trade creditor or customer, or (ii) litigation, arbitration or other disputes; or (b) as a result of a foreclosure by the Company or any of its Restricted Subsidiaries with respect to any secured Investment in default;

- (7) Investments represented by Hedging Obligations;

Table of Contents

Index to Financial Statements

- (8) loans or advances to employees made in the ordinary course of business of the Company or any Restricted Subsidiary of the Company in an aggregate principal amount not to exceed (a) \$1.0 million to any individual employee and (b) \$2.5 million in the aggregate at any one time outstanding;
- (9) repurchases of the notes;
- (10) any guarantee of Indebtedness permitted to be incurred by the covenant entitled *Certain Covenants Incurrence of Indebtedness and Issuance of Preferred Stock* other than a guarantee of Indebtedness of an Affiliate of the Company that is not a Restricted Subsidiary of the Company;
- (11) any Investment existing on, or made pursuant to binding commitments existing on, the Issue Date and any Investment consisting of an extension, modification or renewal of any Investment existing on, or made pursuant to a binding commitment existing on, the Issue Date; *provided* that the amount of any such Investment may be increased (a) as required by the terms of such Investment as in existence on the Issue Date or (b) as otherwise permitted under the Indenture;
- (12) Investments acquired after the Issue Date as a result of the acquisition by the Company or any Restricted Subsidiary of the Company of another Person, including by way of a merger, amalgamation or consolidation with or into the Company or any of its Restricted Subsidiaries in a transaction that is not prohibited by the covenant described above under the caption *Merger, Consolidation or Sale of Assets* after the Issue Date, to the extent that such Investments were not made in contemplation of such acquisition, merger, amalgamation or consolidation and were in existence on the date of such acquisition, merger, amalgamation or consolidation;
- (13) guarantees by the Company or any of its Restricted Subsidiaries of operating leases (other than Capital Lease Obligations) or of other obligations that do not constitute Indebtedness, in each case entered into by the Company or any Restricted Subsidiary of the Company in the ordinary course of business;
- (14) Investments in any Person to the extent such Investments consist of prepaid expenses, negotiable instruments held for collection and lease, utility and workers' compensation, performance and other similar deposits made in the ordinary course of business by the Company or any of its Restricted Subsidiaries;
- (15) Permitted Joint Venture Investments made by the Company or any of its Restricted Subsidiaries, in an aggregate amount (measured on the date each such Investment was made and without giving effect to subsequent changes in value), when taken together will all other Investments made pursuant to this clause (15) and then outstanding, that does not exceed the greater of (a) \$50.0 million and (b) 2% of the Company's Consolidated Tangible Assets; and
- (16) other Investments in any Person having an aggregate Fair Market Value (measured on the date each such Investment was made and without giving effect to subsequent changes in value), when taken together with all other Investments made pursuant to this clause (16) that are at the time outstanding not to exceed the greater of (a) \$50.0 million and (b) 2% of the Company's Consolidated Tangible Assets.

In determining whether an Investment is a Permitted Investment, the Company may allocate all or any portion of any Investment and later reallocate all or any portion of any Investment to one or more of the above clauses (1) through (16) and any of the provisions of the covenant described under *Certain Covenants Restricted Payments*.

Permitted Joint Venture Investments means, with respect to an Investment by any specified Person, an Investment by such specified Person in any other Person engaged in a Permitted Business (a) over which the specified Person is responsible (either directly or through a services

Edgar Filing: ATWOOD OCEANICS INC - Form S-3ASR

agreement) for day-to-day operations or otherwise has direct or indirect operational and managerial control of such other Person, or veto power over significant management decisions affecting such other Person and (b) of which at least 20% of the Equity Interests of such other Person is at the time owned directly or indirectly by the specified Person.

Table of Contents

Index to Financial Statements

Permitted Liens means:

- (1) Liens on assets of the Company or any of its Restricted Subsidiaries securing Indebtedness and other Obligations under Credit Facilities that was permitted by the terms of the Indenture to be incurred pursuant to clause (1) of the definition of Permitted Debt and/or securing Hedging Obligations related thereto and/or securing Obligations with regard to Treasury Management Arrangements;
- (2) Liens in favor of the Company or the Guarantors;
- (3) Liens on property of a Person existing at the time such Person becomes a Restricted Subsidiary of the Company or is merged with or into or consolidated with the Company or any Restricted Subsidiary of the Company; *provided* that such Liens were in existence prior to the contemplation of such Person becoming a Restricted Subsidiary of the Company or such merger or consolidation and do not extend to any assets (other than improvements thereon, accessions thereto and proceeds thereof) other than those of the Person that becomes a Restricted Subsidiary of the Company or is merged with or into or consolidated with the Company or any Restricted Subsidiary of the Company;
- (4) Liens on property (including Capital Stock) existing at the time of acquisition of the property by the Company or any Subsidiary of the Company; *provided* that such Liens were in existence prior to such acquisition and not incurred in contemplation of, such acquisition;
- (5) Liens to secure the performance of tenders, bids, statutory obligations, insurance, surety or appeal bonds, government contracts, leases, workers compensation obligations, performance bonds or other obligations of a like nature incurred in the ordinary course of business (including Liens to secure letters of credit issued to assure payment of such obligations);
- (6) Liens to secure Indebtedness (including Capital Lease Obligations) permitted by clause (4) of the second paragraph of the covenant entitled Certain Covenants Incurrence of Indebtedness and Issuance of Preferred Stock covering only the assets acquired, designed, constructed, installed or improved with, or financed by, such Indebtedness (and improvements thereon, accessions thereto and proceeds thereof);
- (7) Liens existing on the Issue Date;
- (8) Liens for taxes, assessments or governmental charges or claims that are not yet delinquent or that are being contested in good faith by appropriate proceedings promptly instituted and diligently concluded; *provided* that any reserve or other appropriate provision as is required in conformity with GAAP has been made therefor;
- (9) carriers, warehousemen, landlords and mechanics, materialmen, repairmen or like Liens, in each case, incurred in the ordinary course of business;
- (10) survey exceptions, easements or reservations of, or rights of others for, licenses, rights-of-way, sewers, electric lines, telegraph and telephone lines and other similar purposes, or zoning or other restrictions as to the use of real property that were not incurred in connection with Indebtedness and that do not in the aggregate materially adversely affect the value of said properties or materially impair their use in the operation of the business of such Person;

Edgar Filing: ATWOOD OCEANICS INC - Form S-3ASR

- (11) Liens created for the benefit of (or to secure) the notes (or the Note Guarantees);
- (12) Liens to secure any Permitted Refinancing Indebtedness permitted to be incurred under the Indenture; *provided, however*, that:
- (a) the new Lien is limited to all or part of the same property and assets that secured or, under the written agreements pursuant to which the original Lien arose, could secure the original Lien (plus improvements and accessions to, such property or proceeds or distributions thereof); and
 - (b) the Indebtedness secured by the new Lien is not increased to any amount greater than the sum of (x) the outstanding principal amount, or, if greater, committed amount, of the Indebtedness renewed, refunded, refinanced, replaced, defeased or discharged with such Permitted Refinancing Indebtedness and (y) an amount necessary to pay any fees and expenses, including premiums, related to such renewal, refunding, refinancing, replacement, defeasance or discharge;

Table of Contents

Index to Financial Statements

- (13) Liens on insurance policies and proceeds thereof, or other deposits, to secure insurance premium financings;
- (14) Liens on and pledges of the Equity Interests of any Unrestricted Subsidiary or any Joint Venture owned by the Company or any Restricted Subsidiary of the Company to the extent securing Non-Recourse Debt or other Indebtedness of such Unrestricted Subsidiary or Joint Venture;
- (15) bankers' Liens, rights of setoff, Liens arising out of judgments or awards not constituting an Event of Default and notices of *lis pendens* and associated rights related to litigation being contested in good faith by appropriate proceedings and for which adequate reserves have been made;
- (16) Liens on cash, Cash Equivalents or other property arising in connection with the defeasance, discharge or redemption of Indebtedness;
- (17) Liens on specific items of inventory or other goods (and the proceeds thereof) of any Person securing such Person's obligations in respect of bankers' acceptances issued or created in the ordinary course of business for the account of such Person to facilitate the purchase, shipment or storage of such inventory or other goods;
- (18) grants of software and other technology licenses in the ordinary course of business;
- (19) Liens arising out of conditional sale, title retention, consignment or similar arrangements for the sale of goods entered into in the ordinary course of business;
- (20) Liens to secure Hedging Obligations of the Company or any of its Restricted Subsidiaries entered into in the ordinary course of business and not for speculative purposes;
- (21) Liens on property or assets under construction (and related rights) in favor of a contractor or developer or arising from progress or partial payments by a third party relating to such property or assets;
- (22) Liens arising under the Indenture in favor of the trustee for its own benefit and similar Liens in favor of other trustees, agents and representatives arising under instruments governing Indebtedness permitted to be incurred under the Indenture, *provided* that such Liens are solely for the benefit of the trustees, agents or representatives in their capacities as such and not for the benefit of the holders of such Indebtedness; and
- (23) other Liens incurred by the Company or any Restricted Subsidiary of the Company with respect to obligations that do not exceed the greater of (a) \$75.0 million and (b) 4% of the Company's Consolidated Tangible Assets at any one time outstanding.
Permitted Refinancing Indebtedness means any Indebtedness of the Company or any of its Restricted Subsidiaries issued in exchange for, or the net proceeds of which are used to renew, refund, refinance, replace, defease or discharge, in whole or in part, other Indebtedness of the Company or any of its Restricted Subsidiaries (other than intercompany Indebtedness) or any Disqualified Stock of the Company (the *Refinanced Indebtedness*); *provided* that:

Edgar Filing: ATWOOD OCEANICS INC - Form S-3ASR

- (1) the principal amount (or accreted value, if applicable, or in the case of Disqualified Stock, the amount thereof determined in accordance with the definition thereof) of such Permitted Refinancing Indebtedness does not exceed the principal amount (or accreted value, if applicable, or in the case of Disqualified Stock, the amount thereof determined in accordance with the definition thereof) of the Refinanced Indebtedness (plus all accrued (including, for the purposes of defeasance, future accrued) interest on, or accrued dividends on, the Refinanced Indebtedness and the amount of all fees and expenses, including premiums, incurred in connection therewith);
- (2) such Permitted Refinancing Indebtedness (a) has a final maturity date that is later than the final maturity date of the Refinanced Indebtedness, and has a Weighted Average Life to Maturity at the time such Permitted Refinancing Indebtedness is incurred equal to or greater than the Weighted Average Life to Maturity of the Refinanced Indebtedness or (b) has a final maturity date that is more than 90 days after the final maturity date of the notes;

Table of Contents

Index to Financial Statements

(3) if the Refinanced Indebtedness is contractually subordinated in right of payment to the notes, such Permitted Refinancing Indebtedness is contractually subordinated in right of payment to the notes on terms at least as favorable to the holders of notes as those contained in the documentation governing the Refinanced Indebtedness; and

(4) if the Company or a Guarantor is the issuer of or otherwise an obligor on the Refinanced Indebtedness, such Permitted Refinancing Indebtedness is not incurred (other than by way of a Guarantee) by any Restricted Subsidiary of the Company that is not a Guarantor. *Person* means any individual, corporation, partnership, joint venture, association, joint-stock company, trust, unincorporated organization, limited liability company or government or other entity.

Qualifying Equity Interests means Equity Interests of the Company other than Disqualified Stock.

Reporting Default means a Default described in clause (4) under Events of Default and Remedies.

Restricted Investment means an Investment other than a Permitted Investment.

Restricted Subsidiary of a Person means any Subsidiary of such Person that is not an Unrestricted Subsidiary.

S&P means Standard & Poor's Ratings Group, or any successor to the ratings business thereof.

SEC means the U.S. Securities and Exchange Commission.

Senior Debt means:

(1) all Indebtedness of the Company or any of its Restricted Subsidiaries outstanding under Credit Facilities and all Hedging Obligations with respect thereto;

(2) any other Indebtedness of the Company or any of its Restricted Subsidiaries permitted to be incurred under the terms of the Indenture, unless the instrument under which such Indebtedness is incurred expressly provides that it is subordinated in right of payment to the notes or any Subsidiary Guarantee; and

(3) all Obligations with respect to the items listed in the preceding clauses (1) and (2).

Notwithstanding anything to the contrary in the preceding sentence, Senior Debt will not include: (a) any intercompany Indebtedness of the Company or any of its Subsidiaries to the Company or any of its Affiliates; (b) any Indebtedness that is incurred in violation of the Indenture; or (c) any trade payables or taxes owed or owing by the Company or any Restricted Subsidiary.

Significant Subsidiary means any Restricted Subsidiary that would be a significant subsidiary as defined in Article 1, Rule 1-02 of Regulation S-X, promulgated pursuant to the Securities Act, as such Regulation is in effect on the Issue Date.

Specified Consolidated Tangible Assets means, with respect to any Person as of any date, the amount which, in accordance with GAAP, would be set forth under the caption Total Assets (or any like caption) on a consolidated balance sheet of such Person and its Subsidiaries determined in accordance with GAAP, less, to the extent included in a determination of Total Assets, and without duplication, all goodwill, patents, tradenames, trademarks, copyrights, franchises, experimental expenses, organization expenses and any other amounts classified as intangible assets in accordance with GAAP.

Specified Rig means any of the Seahawk and Richmond semisubmersible rigs, and the Atwood Southern Cross semisubmersible tender assist rig.

Table of Contents**Index to Financial Statements**

Stated Maturity means, with respect to any installment of interest or principal on any series of Indebtedness, the date on which the payment of interest or principal was scheduled to be paid in the documentation governing such Indebtedness as of the date of incurrence thereof, and will not include any contingent obligations to repay, redeem or repurchase any such interest or principal prior to the date originally scheduled for the payment thereof.

Subsidiary means, with respect to any specified Person:

- (1) any corporation, association or other business entity (other than a partnership or limited liability company) of which more than 50% of the total voting power of shares of Capital Stock entitled (without regard to the occurrence of any contingency and after giving effect to any voting agreement or stockholders' agreement that effectively transfers voting power) to vote in the election of directors, managers or trustees of the corporation, association or other business entity is at the time owned or controlled, directly or indirectly, by that Person or one or more of the other Subsidiaries of that Person (or a combination thereof); and
- (2) any partnership (whether general or limited) or limited liability company of which (a) the sole general partner or member of which is such Person or a Subsidiary of such Person, or (b) if there is more than a single general partner or member, either (x) the only managing general partners or managing members of which are such Person or one or more Subsidiaries of such Person (or any combination thereof) or (y) more than 50% of the capital accounts, distribution rights, total equity and voting interests or general and limited partnership interests, as applicable, are owned or controlled, directly or indirectly, by such Person or one or more of the other Subsidiaries of that Person or a combination thereof, whether in the form of membership, general, special or limited partnership interests or otherwise.

Treasury Management Arrangement means any agreement or other arrangement governing the provision of treasury or cash management services, including deposit accounts, overdraft, credit or debit card, funds transfer, automated clearinghouse, zero balance accounts, returned check concentration, controlled disbursement, lockbox, account reconciliation and reporting and trade finance services and other cash management services.

Treasury Rate means, as of any redemption date, the yield to maturity as of such redemption date of United States Treasury securities with a constant maturity (as compiled and published in the most recent Federal Reserve Statistical Release H.15 (519) that has become publicly available at least two Business Days prior to the redemption date (or, if such Statistical Release is no longer published, any publicly available source of similar market data)) most nearly equal to the period from the redemption date to _____, 2016; provided, however, that if such period is not equal to the constant maturity of a United States Treasury security for which a weekly average yield is given, the Company shall obtain the Treasury Rate by linear interpolation (calculated to the nearest one-twelfth of a year) from the weekly average yields of United States Treasury securities for which such yields are given, except that if the period from the redemption date to _____, 2016, is less than one year, the weekly average yield on actually traded United States Treasury securities adjusted to a constant maturity of one year will be used.

Unrestricted Subsidiary means any Subsidiary of the Company that is designated by the Board of Directors of the Company as an Unrestricted Subsidiary pursuant to a resolution of the Board of Directors, but only to the extent that such Subsidiary:

- (1) has no Indebtedness other than Non-Recourse Debt;
- (2) except as permitted by the covenant described above under the caption *Certain Covenants - Transactions with Affiliates*, is not party to any agreement, contract, arrangement or understanding with the Company or any Restricted Subsidiary of the Company unless the terms of any such agreement, contract, arrangement or understanding are no less favorable to the Company or such Restricted Subsidiary than those that might be obtained at the time from Persons who are not Affiliates of the Company;

Table of Contents

Index to Financial Statements

(3) is a Person with respect to which neither the Company nor any of its Restricted Subsidiaries has any direct or indirect obligation (a) to subscribe for additional Equity Interests or (b) to maintain or preserve such Person's financial condition or to cause such Person to achieve any specified levels of operating results; and

(4) has not guaranteed or otherwise directly or indirectly provided credit support for any Indebtedness of the Company or any of its Restricted Subsidiaries.

All Subsidiaries of an Unrestricted Subsidiary shall also be Unrestricted Subsidiaries.

Voting Stock of any specified Person as of any date means the Capital Stock of such Person that is at the time entitled to vote in the election of the Board of Directors of such Person.

Weighted Average Life to Maturity means, when applied to any Indebtedness at any date, the number of years obtained by dividing:

(1) the sum of the products obtained by multiplying (a) the amount of each then remaining installment, sinking fund, serial maturity or other required payments of principal, including payment at final maturity, in respect of the Indebtedness, by (b) the number of years (calculated to the nearest one-twelfth) that will elapse between such date and the making of such payment; *by*

(2) the then outstanding principal amount of such Indebtedness.

Wholly-Owned Subsidiary of a Person means a Subsidiary, all of the Equity Interests of which (other than directors' qualifying shares) are owned by such Person or another Wholly-Owned Subsidiary of such Person.

Table of Contents

Index to Financial Statements

MATERIAL UNITED STATES FEDERAL INCOME TAX CONSIDERATIONS

Scope of Discussion

The following discussion summarizes the material United States federal income tax consequences relating to the purchase, ownership and disposition of the notes. This discussion does not address any aspect of non-income taxation or state, local or foreign taxation. In addition, this discussion does not address the tax consequences of an investment in the notes arising under the unearned income Medicare contribution tax pursuant to the Health Care and Education Reconciliation Act of 2010.

This discussion is limited to holders of the notes who (i) purchase their notes in the initial offering at the issue price and (ii) hold the notes as capital assets within the meaning of Section 1221 of the Internal Revenue Code of 1986, as amended (the Code) (generally, property held for investment). The issue price of the notes is the first price at which a substantial amount of the notes is sold for cash to persons other than bond houses, brokers or similar persons or organizations acting in the capacity of underwriters, placement agents or wholesalers. For purposes of this discussion, a U.S. holder is a beneficial owner of notes who is:

an individual who is a U.S. citizen or resident alien;

a corporation or other entity created or organized under U.S. law (federal or state, including the District of Columbia) and treated as a corporation for U.S. federal income tax purposes;

an estate the income of which is subject to U.S. federal income tax; or

a trust if (1) a U.S. court can exercise primary supervision over the trust's administration and one or more U.S. persons are authorized to control all substantial decisions of the trust or (2) the trust has a valid election in effect under applicable Treasury Regulations to be treated as a U.S. person.

For purposes of this discussion, a non-U.S. holder is a beneficial owner of notes who is not a U.S. holder or a partnership (including an entity treated as a partnership) for U.S. federal income tax purposes.

This discussion does not address all of the U.S. federal income tax consequences that may be relevant to holders in light of their particular circumstances or to holders who may be subject to special treatment under U.S. federal income tax laws, such as insurance companies, regulated investment companies, tax-exempt organizations, dealers in securities or currencies, persons subject to the alternative minimum tax provisions of the Code, U.S. holders whose functional currency is not the U.S. dollar, persons who hold the notes as part of a hedge, conversion transaction, straddle, wash sale, or other risk reduction transaction, financial institutions (including banks), certain expatriates, former long-term residents of the United States. This discussion does not address the effect on any person of any benefits under an applicable income tax treaty with the United States.

If a partnership (including an entity or arrangement treated as a partnership for U.S. federal income tax purposes) is a beneficial owner of notes, the tax treatment of a partner in that partnership generally will depend upon the status of the partner, the activities of the partnership and certain determinations made at the partner level. Partners of partnerships that are beneficial owners of notes should consult their tax advisors.

THIS SUMMARY IS NOT A SUBSTITUTE FOR AN INDIVIDUAL ANALYSIS OF THE TAX CONSEQUENCES RELATING TO THE PURCHASE, OWNERSHIP OR DISPOSITION OF THE NOTES. WE URGE YOU TO CONSULT A TAX ADVISOR REGARDING THE PARTICULAR FEDERAL, STATE, LOCAL AND FOREIGN TAX CONSEQUENCES RELATING TO THE PURCHASE, OWNERSHIP OR DISPOSITION OF THE NOTES IN LIGHT OF YOUR OWN SITUATION.

Opinion of Counsel

Edgar Filing: ATWOOD OCEANICS INC - Form S-3ASR

Subject to the assumptions, qualifications and limitations set forth below, this discussion constitutes the opinion of Baker Botts L.L.P. (Counsel) insofar as it describes legal conclusions with respect to matters of U.S.

Table of Contents

Index to Financial Statements

federal income tax law. In providing this opinion, Counsel has examined and is relying upon the truth and accuracy at all relevant times of this prospectus, representations made by us (assuming that any representations that are made to the best knowledge of or with any similar qualification are correct without such qualification) and certain other records and documents relating to the transactions described in this prospectus. Counsel has not, however, undertaken any independent investigation of any factual matter set forth in any of the foregoing.

This opinion is based upon Counsel's interpretation of the Code, Treasury Regulations promulgated under the Code, court decisions, published positions of the Internal Revenue Service (the IRS) and other applicable authorities, all as in effect on the date of this prospectus and all of which are subject to change or differing interpretations, possibly with retroactive effect. This opinion is rendered as of the date of this prospectus, and Counsel assumes no obligation to advise us or any holder of notes of any change in fact, circumstances or law which may alter, affect or modify this opinion. This opinion is not binding on the IRS or a court, and no ruling has been or will be obtained from the IRS regarding any of the U.S. federal income tax consequences described below. As a result, no assurance can be given that the IRS will not assert, or that a court will not sustain, a position contrary to the conclusions set forth below.

Tax Consequences to U.S. Holders

Stated Interest and OID on the Notes

Stated interest on the notes generally will be taxable to a U.S. holder as ordinary income at the time that such interest is received or accrued, in accordance with such U.S. holder's method of tax accounting for U.S. federal income tax purposes.

If the principal amount of the notes exceeds their issue price by more than a statutorily defined *de minimis* amount, the notes would be treated as issued with original issue discount (OID) for U.S. federal income tax purposes. If the notes are issued with OID, a U.S. holder would be required to include OID in gross income as it accrues over an accrual period in accordance with a constant-yield method based on a compounding of interest. Accordingly, such a U.S. holder generally would have to include amounts in gross income before the receipt of cash payments on the notes. The amount of OID allocable to an accrual period would equal the product of the note's adjusted issue price at the beginning of the accrual period and its yield to maturity (determined based on the length of the accrual period) reduced by the amount of any stated interest allocable to the accrual period. The adjusted issue price at the beginning of any accrual period generally would equal the sum of the issue price of the note plus the amount of OID allocable to all prior accrual periods. The yield to maturity of a note would be the interest rate that, when used to compute the present value of all payments to be made on the note, produces an amount equal to the issue price of the note. Under these rules, a U.S. holder will generally have to include in gross income increasingly greater amounts of OID in successive accrual periods.

A U.S. holder may elect, subject to certain limitations, to include all interest that accrues on a note in gross income on a constant yield basis. For purposes of this election, interest includes stated interest and OID. When applying the constant yield method to a note for which this election has been made, the issue price would equal the U.S. holder's basis in the note immediately after its acquisition and the issue date of the note will be the date of its acquisition by the U.S. holder. This election generally will apply only to the note with respect to which it is made and may not be revoked without consent by the IRS.

Sale, Redemption or other Taxable Disposition of the Notes

A U.S. holder generally will recognize capital gain or loss upon the sale, redemption or other taxable disposition of a note equal to the difference between (i) the sum of the cash plus the fair market value of all other property received on such disposition (less any amount attributable to accrued and unpaid interest, which will be taxable as ordinary interest income to the extent the U.S. holder has not previously included such amounts in gross income in the manner described under *Stated Interest and OID on the Notes*) and (ii) the U.S. holder's

Table of Contents

Index to Financial Statements

adjusted tax basis in the note. A U.S. holder's adjusted tax basis in the notes generally will equal the amount the holder paid for the notes increased by the amount of any OID previously included in gross income. Any such capital gain or loss will be long-term capital gain or loss if the U.S. holder's holding period for the notes exceeds one year at the time of such disposition. Long-term capital gains recognized by certain non-corporate U.S. holders, including individuals, will generally be subject to a reduced rate of U.S. federal income tax. A U.S. holder's ability to deduct capital losses may be limited.

Backup Withholding and Information Reporting

Interest (including any OID) on the notes paid within the United States or through certain U.S.-related financial intermediaries is subject to information reporting and may be subject to backup withholding (currently at a 28% rate through December 31, 2012) unless the U.S. holder (i) is a corporation or other exempt recipient or (ii) provides a taxpayer identification number and satisfies certain certification requirements. Information reporting requirements and backup withholding may also apply to the cash proceeds of a sale of the notes.

In addition to being subject to backup withholding, if a U.S. holder of the notes does not provide us (or our paying agent) with such holder's correct taxpayer identification number or other required information, such holder may be subject to penalties imposed by the IRS. Any amounts withheld under the backup withholding rules may be allowed as a refund or a credit against the U.S. holder's U.S. federal income tax liability, provided that such holder furnishes certain required information to the IRS.

Tax Consequences to Non-U.S. Holders

The following is a summary of the material U.S. federal income tax consequences that will apply to a non-U.S. holder of the notes.

Stated Interest and OID on the Notes

Any payments of interest (including any payments to the extent treated as made in respect of any OID accrued on a note) received by a non-U.S. holder on the notes generally will be exempt from U.S. federal income and withholding tax under the portfolio interest exemption if the non-U.S. holder properly certifies as to its foreign status, as described below, and:

the non-U.S. holder does not own, actually or constructively, 10 percent or more of the total combined voting power of all classes of our stock entitled to vote;

the non-U.S. holder is not a controlled foreign corporation that is related to us actually or constructively through stock ownership; and

interest on the notes is not effectively connected with the conduct of a U.S. trade or business by the non-U.S. holder. The portfolio interest exemption applies only to non-U.S. holders who appropriately certify as to their foreign status. A non-U.S. holder generally can meet this certification requirement by providing a properly executed IRS Form W-8BEN or appropriate substitute form to the withholding agent. If the non-U.S. holder holds the notes through a financial institution or other agent acting on its behalf, the non-U.S. holder may be required to provide appropriate certifications to its agent.

If a non-U.S. holder cannot satisfy the requirements of the portfolio interest exemption described above, payments of interest received by the non-U.S. holder on the notes generally will be subject to U.S. federal withholding tax at a 30% rate, unless such holder provides the withholding agent with a properly executed (i) IRS Form W-8BEN (or suitable substitute form) claiming an exemption from or reduction in withholding under an applicable tax treaty or (ii) IRS Form W-8ECI (or suitable substitute form) stating that interest paid on the note is not subject to withholding tax because it is effectively connected with a U.S. trade or business (and, if an

Table of Contents

Index to Financial Statements

applicable tax treaty so requires, is attributable to such holder's permanent establishment in the United States). Any interest that is effectively connected with a U.S. trade or business (and, if an applicable tax treaty so requires, is attributable to such holder's permanent establishment in the United States) generally will be subject to U.S. federal income tax on a net income basis and at rates generally applicable to U.S. persons. Foreign corporations receiving payments of such interest may also be subject to a U.S. branch profits tax.

Sale, Redemption or other Taxable Disposition of the Notes

A non-U.S. holder generally will not be subject to U.S. federal income or withholding tax on gain realized on the sale, exchange, redemption or other disposition of a note unless:

- the non-U.S. holder is an individual present in the United States for 183 days or more in the year of such sale, exchange, redemption or other disposition and certain other conditions are met;

- the gain is effectively connected with the non-U.S. holder's conduct of a trade or business in the United States (and, if a treaty applies, the income is attributable to a permanent establishment maintained by the non-U.S. holder in the United States); or

- the non-U.S. holder does not establish an exemption from backup withholding, as discussed in *Backup Withholding and Information Reporting*, below.

A non-U.S. holder may be required to establish an exemption from U.S. federal income and withholding tax with respect to amounts attributable to accrued and unpaid interest (including any OID) on the notes. See *Payments of Interest on the Notes*, above.

A non-U.S. holder described in the first bullet point above will generally be subject to U.S. federal income tax at a 30% rate (or a lower applicable treaty rate) on the gain derived from the sale, exchange, redemption or other disposition, which may be offset by certain U.S. source capital losses. A non-U.S. holder described in the second bullet point above generally will be taxed in the same manner as if such non-U.S. holder were a U.S. holder, and if such non-U.S. holder is a foreign corporation, it may also be required to pay an additional branch profits tax at a 30% rate (or a lower applicable treaty rate).

Backup Withholding and Information Reporting

Payments of interest (including any OID) on a note and any amounts withheld from such payments generally will be reported to the IRS and to non-U.S. holders on IRS Form 1042-S. Generally, neither information reporting on IRS Form 1099 nor backup withholding will apply to principal or interest payments (including any OID) or to amounts received on the sale, exchange, redemption or other disposition of a note if a properly executed IRS Form W-8BEN or appropriate substitute form is provided to the withholding agent or the non-U.S. holder otherwise establishes an exemption. Any amount withheld under the backup withholding rules may be credited against the U.S. federal income tax liability of a non-U.S. holder, and any excess may be refundable to such non-U.S. holder if the proper information is timely provided to the IRS.

Certain Additional Tax Considerations

In certain circumstances, we may be succeeded as issuer of the notes by a successor entity organized in a foreign jurisdiction, as permitted by the covenant described under *Description of Notes* *Certain Covenants* *Merger, Consolidation or Sale of Assets*. In such event, the tax consequences of the acquisition, ownership and disposition of the notes, including the source of income with respect to the notes for purposes of computing the foreign tax credit allowable to U.S. holders under U.S. federal income tax laws, would be different from those described above. Prospective holders are urged to consult their tax advisors regarding the tax consequences of the acquisition, ownership and disposition of the notes in the event that our obligations with respect to the notes are assumed by such successor entity organized in such foreign jurisdiction.

Table of Contents

Index to Financial Statements

UNDERWRITING

Under the terms and subject to the conditions contained in an underwriting agreement dated January , 2012, we have agreed to sell to the underwriters, for whom Credit Suisse Securities (USA) LLC, Barclays Capital Inc. and Wells Fargo Securities, LLC are acting as representatives, the following respective principal amount of notes.

Underwriter	Principal Amount of Notes
Credit Suisse Securities (USA) LLC	\$
Barclays Capital Inc.	
Wells Fargo Securities, LLC	
DNB Markets, Inc.	
Credit Agricole Securities (USA) Inc.	
BNP Paribas Securities Corp.	
Natixis Securities Americas LLC	
Nordea Bank Danmark A/S	
UniCredit Capital Markets LLC	
HSBC Securities (USA) Inc.	
ING Financial Markets LLC	
Morgan Keegan & Company, Inc.	
Total	\$

The underwriting agreement provides that the underwriters are obligated to purchase all of the notes if any are purchased. The underwriting agreement also provides that if an underwriter defaults, the purchase commitments of non-defaulting underwriters may be increased or the offering may be terminated.

The underwriters have advised us that they propose initially to offer the notes to the public at the public offering price on the cover page of this prospectus, and to dealers at that price less a concession not in excess of % of the principal amount of the notes. The underwriters may allow, and the dealers may reallow, a discount not in excess of % of the principal amount of the notes to other dealers. After the initial public offering, the public offering price, concession and discount may be changed.

Because Nordea Bank Danmark A/S is not registered with the SEC as a U.S. registered broker-dealer, it will effect offers and sales of the notes solely outside of the United States or within the United States to the extent permitted by Rules 15a-6 under the Exchange Act through one or more U.S. registered broker-dealers and as permitted by the rules and regulations of the Financial Industry Regulatory Authority Inc. (FINRA).

The following table shows the discounts and commissions we will pay to the underwriters in connection with the offering of the notes:

	Paid by Atwood
Per Note	\$
Total	\$

The expenses of the offering, not including the underwriting discount, are estimated to be approximately \$1.4 million and are payable by us.

We have agreed to indemnify the underwriters against certain liabilities, including liabilities under the Securities Act of 1933, as amended, or, if such indemnification is not available, to contribute to payments the underwriters may be required to make in respect of these liabilities.

Table of Contents

Index to Financial Statements

No Sales of Similar Securities

The Company has agreed that it will not offer, sell, issue, contract to sell, pledge or otherwise dispose of, directly or indirectly, or file with the SEC a registration statement under the Securities Act relating to, any U.S. dollar-denominated debt securities issued or guaranteed by the Company and having a maturity of more than one year from the date of issue, or publicly disclose an intention to make any such offer, sale, pledge, disposition or filing, without the prior written consent of Credit Suisse Securities (USA) LLC, for a period of 90 days after the date of this prospectus.

Stabilization and Market Making

The notes are a new issue of securities for which there currently is no market. The underwriters have advised us that they intend to make a market in the notes as permitted by applicable law. They are not obligated, however, to make a market in the notes and any market-making may be discontinued at any time at their sole discretion. Accordingly, no assurance can be given as to the development or liquidity of any market for the notes. If an active public trading market for the notes does not develop, the market price and liquidity of the notes may be adversely affected.

The underwriters may engage in over-allotment, stabilizing transactions, covering transactions and penalty bids in accordance with Regulation M under the Securities Exchange Act of 1934:

Over-allotment involves sales in excess of the offering size, which creates a short position for the underwriters.

Stabilizing transactions permit bids to purchase the underlying security so long as the stabilizing bids do not exceed a specified maximum.

Covering transactions involve purchases of the notes in the open market after the distribution has been completed in order to cover short positions.

Penalty bids permit the underwriters to reclaim a selling concession from a broker/dealer when the notes originally sold by such broker/dealer are purchased in a stabilizing or covering transaction to cover short positions.

These stabilizing transactions, covering transactions and penalty bids may cause the price of the notes to be higher than it would otherwise be in the absence of these transactions. These transactions, if commenced, may be discontinued at any time. We make no representation or prediction as to the direction or magnitude of any effect that the transactions described above may have on the price of the notes. In addition, we make no representation that the underwriters will engage in these transactions or that these transactions, once commenced, will not be discontinued without notice.

Affiliations and Conflicts of Interest

Certain of the underwriters and their affiliates perform various financial advisory, investment banking and commercial banking services from time to time for us and our affiliates, for which they have received or may receive customary fees and expense reimbursements. In particular, an affiliate of Nordea Bank Danmark A/S is the administrative agent under our senior secured credit facility, for which it receives customary compensation and indemnity, and affiliates of each of the underwriters are lenders under the credit facility and, in that respect, will receive a substantial portion of the proceeds from this offering upon the repayment of outstanding borrowings under that credit facility. In addition, an affiliate of Wells Fargo Securities, LLC will act as the trustee under the indenture governing the notes.

Because affiliates of Wells Fargo Securities, LLC, Credit Agricole Securities (USA) Inc., DNB Markets, Inc., BNP Paribas Securities Corp., Natixis Securities Americas LLC, Nordea Bank Danmark A/S, and UniCredit Capital Markets LLC are lenders under our credit facility and will receive more than 5% of the net proceeds of this offering

Table of Contents

Index to Financial Statements

due to such repayment, this offering will be conducted in accordance with the applicable provisions of FINRA Rule 5121, which requires that a qualified independent underwriter, as defined by the FINRA rules, participate in the preparation of the registration statement and the prospectus and exercise the usual standards of due diligence in respect thereto. Credit Suisse Securities (USA) LLC has served in that capacity and will not receive any additional fees for serving as qualified independent underwriter in connection with this offering. We have agreed to indemnify Credit Suisse Securities (USA) LLC against liabilities incurred in connection with acting as a qualified independent underwriter, including liabilities under the Securities Act.

Notice to Prospective Investors in the European Economic Area

In relation to each Member State of the European Economic Area which has implemented the Prospectus Directive (each, a Relevant Member State), each Underwriter represents and agrees that with effect from and including the date on which the Prospectus Directive is implemented in that Relevant Member State (the Relevant Implementation Date) it has not made and will not make an offer of Securities to the public in that Relevant Member State prior to the publication of a prospectus in relation to the Securities which has been approved by the competent authority in that Relevant Member State or, where appropriate, approved in another Relevant Member State and notified to the competent authority in that Relevant Member State, all in accordance with the Prospectus Directive, except that it may, with effect from and including the Relevant Implementation Date, make an offer of notes to the public in that Relevant Member State at any time,

- (a) to legal entities that are authorized or regulated to operate in the financial markets or, if not so authorized or regulated, whose corporate purpose is solely to invest in securities;
- (b) to any legal entity that has two or more of (1) an average of at least 250 employees during the last financial year; (2) a total balance sheet of more than 43,000,000 and (3) an annual net turnover of more than 50,000,000, as shown in its last annual or consolidated accounts;
- (c) to fewer than 100 natural or legal persons (other than qualified investors as defined in the Prospectus Directive) subject to obtaining the prior consent of the manager for any such offer; or
- (d) in any other circumstances that do not require the publication by the Issuer of a prospectus pursuant to Article 3 of the Prospectus Directive.

The expression an offer of notes to the public in relation to any notes in any Relevant Member State means the communication in any form and by any means of sufficient information on the terms of the offer and the notes to be offered so as to enable an investor to decide to purchase or subscribe for the note, as the same may be varied in that Member State by any measure implementing the Prospectus Directive in that Member State and the expression Prospectus Directive means Directive 2003/71/EC and includes any relevant implementing measure in each Relevant Member State.

Notice to Prospective Investors in the United Kingdom

Each of the underwriters has severally represented, warranted and agreed as follows:

- (a) (i) it is a person whose ordinary activities involve it in acquiring, holding, managing or disposing of investments (as principal or agent) for the purposes of its business and (ii) it has not offered or sold and will not offer or sell the notes other than to persons whose ordinary activities involve them in acquiring, holding, managing or disposing of investments (as principal or as agent) for the purposes of their businesses or who it is reasonable to expect will acquire, hold, manage or dispose of investments (as principal or agent) for the purposes of their businesses where the issue of the notes would otherwise constitute a contravention of Section 19 of the Financial Services and Markets Act 2000 (FSMA) by the company;

Table of Contents

Index to Financial Statements

- (b) it has only communicated or caused to be communicated and will only communicate or cause to be communicated an invitation or inducement to engage in investment activity (within the meaning of section 21 of FSMA) to persons who have professional experience in matters relating to investments falling with Article 19(5) of the FSMA) Order 2005 or in circumstances in which section 21 of FSMA does not apply to the company; and

- (c) it has complied with, and will comply with all applicable provisions of FSMA with respect to anything done by it in relation to the notes in, from or otherwise involving the United Kingdom.

Table of Contents

Index to Financial Statements

LEGAL MATTERS

The validity of notes offered under this prospectus will be passed upon for us by Baker Botts L.L.P., Houston, Texas. Certain legal matters in connection with this offering will be passed upon for the underwriters by Latham & Watkins LLP, Houston, Texas.

EXPERTS

The consolidated financial statements as of September 30, 2011 and 2010, and for each of the three years in the period ended September 30, 2011 included in this prospectus and management's assessment of the effectiveness of internal control over financial reporting (which is included in Management's Report on Internal Control over Financial Reporting) as of September 30, 2011 incorporated by reference in this prospectus have been so included or incorporated in reliance on the report of PricewaterhouseCoopers LLP, an independent registered public accounting firm, given on the authority of such firm as experts in accounting and auditing.

FORWARD-LOOKING STATEMENTS

Statements included in this prospectus regarding future financial performance, capital sources and results of operations and other statements, other than statements of historical fact, that address activities, events or developments that we expect, believe or anticipate will or may occur in the future are forward-looking statements within the meaning of Section 27A of the Securities Act of 1933, and Section 21E of the Securities Exchange Act of 1934. Such statements are those concerning strategic plans, expectations and objectives for future operations and performance. When used in this report, the words believes, expects, anticipates, plans, intends, estimates, projects, could, should, may, or similar words are intended to be among the statements that identify forward-looking statements.

Such statements are subject to numerous risks, uncertainties and assumptions that are beyond our ability to control, including, but not limited to:

prices of oil and natural gas and industry expectations about future prices;

market conditions, expansion and other development trends in the drilling industry and the global economy in general;

the operational risks involved in drilling for oil and natural gas;

the highly competitive and volatile nature of our business;

the impact of governmental or industry regulation, both in the United States and internationally;

the risks of and disruptions to international operations, including political instability and the impact of terrorist acts, acts of piracy, embargoes, war or other military operations;

our ability to enter into, and the terms of, future drilling contracts, including contracts for our new build units;

our ability to retain the business of one or more significant customers;

our ability to obtain and retain qualified personnel to operate our vessels;

timely access to spare parts, equipment and personnel to maintain and service our fleet;

the termination or renegotiation of contracts by customers or payment or other delays by our customers;

customer requirements for drilling capacity and customer drilling plans;

the adequacy of sources of liquidity for us and for our customers;

Table of Contents

Index to Financial Statements

changes in tax laws, treaties and regulations;

the risks involved in the construction, upgrade, and repair of our drilling units;

unplanned downtime and repairs on our rigs; and

such other risks discussed in Risk Factors.

Forward-looking statements are made based upon management's current plans, expectations, estimates, assumptions and beliefs concerning future events impacting us and therefore involve a number of risks and uncertainties. We caution that forward-looking statements are not guarantees and that actual results could differ materially from those expressed or implied in the forward-looking statements. Undue reliance should not be placed on these forward-looking statements, which are applicable only on the date hereof. We undertake no obligation to revise or update these forward-looking statements to reflect events or circumstances that arise after the date hereof or to reflect the occurrence of unanticipated events.

WHERE YOU CAN FIND ADDITIONAL INFORMATION

We file reports, proxy statements and other information with the SEC. You can read and copy any materials we file with the SEC at the SEC's public reference room at 100 F Street, NE, Washington, D.C. 20549. You can obtain information about the operation of the SEC's public reference room by calling the SEC at 1-800-SEC-0330. The SEC also maintains a Web site that contains information we file electronically with the SEC, which you can access over the Internet at <http://www.sec.gov>. You can obtain information about us at the offices of the New York Stock Exchange, 20 Broad Street, New York, New York 10005.

This prospectus is part of a registration statement we have filed with the SEC relating to the notes. As permitted by SEC rules, this prospectus does not contain all of the information we have included in the registration statement and the accompanying exhibits and schedules we file with the SEC. You may refer to the registration statement, the exhibits and the schedules for more information about us and the notes. The registration statement, exhibits and schedules are available at the SEC's public reference room or through its Web site.

We are incorporating by reference information we file with the SEC, which means that we are disclosing important information to you by referring you to those documents. The information we incorporate by reference is an important part of this prospectus, and later information that we file with the SEC automatically will update and supersede this information. We incorporate by reference the documents listed below and any future filings we make with the SEC under Section 13(a), 13(c), 14 or 15(d) of the Securities Exchange Act of 1934 until the termination of the offering:

our annual report on Form 10-K for the fiscal year ended September 30, 2011; and

our current reports on Form 8-K filed with the SEC on October 18, 2011, October 20, 2011 and November 23, 2011.

You may request a copy of these filings (other than an exhibit to those filings unless we have specifically incorporated that exhibit by reference into the filing), at no cost, by writing or telephoning us at the following address:

Atwood Oceanics, Inc.

15832 Park Ten Place Drive

Houston, Texas 77084

Attention: Investor Relations Department

Telephone: (281) 749-7800

Table of Contents

Index to Financial Statements

INDEX TO THE FINANCIAL STATEMENTS

<u>Report of Independent Registered Public Accounting Firm</u>	F-2
<u>Consolidated Balance Sheets</u>	F-3
<u>Consolidated Statements of Operations</u>	F-4
<u>Consolidated Statements of Cash Flows</u>	F-5
<u>Consolidated Statements of Changes in Shareholders' Equity</u>	F-6
<u>Consolidated Statements of Comprehensive Income</u>	F-7
<u>Notes to Consolidated Financial Statements</u>	F-8

F-1

Table of Contents

Index to Financial Statements

Report of Independent Registered Public Accounting Firm

To the Board of Directors and Shareholders of Atwood Oceanics, Inc.

In our opinion, the accompanying consolidated balance sheets and the related consolidated statements of operations, of cash flows and of changes in shareholders' equity present fairly, in all material respects, the financial position of Atwood Oceanics, Inc. and its subsidiaries at September 30, 2011 and 2010, and the results of their operations and their cash flows for each of the three years in the period ended September 30, 2011 in conformity with accounting principles generally accepted in the United States of America. Also in our opinion, the Company maintained, in all material respects, effective internal control over financial reporting as of September 30, 2011, based on criteria established in *Internal Control - Integrated Framework* issued by the Committee of Sponsoring Organizations of the Treadway Commission. The Company's management is responsible for these financial statements, for maintaining effective internal control over financial reporting and for its assessment of the effectiveness of internal control over financial reporting, included in the accompanying Management's Report on Internal Control Over Financial Reporting. Our responsibility is to express opinions on these financial statements and on the Company's internal control over financial reporting based on our integrated audits. We conducted our audits in accordance with the standards of the Public Company Accounting Oversight Board (United States). Those standards require that we plan and perform the audits to obtain reasonable assurance about whether the financial statements are free of material misstatement and whether effective internal control over financial reporting was maintained in all material respects. Our audits of the financial statements included examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements, assessing the accounting principles used and significant estimates made by management, and evaluating the overall financial statement presentation. Our audit of internal control over financial reporting included obtaining an understanding of the Company's internal control over financial reporting, assessing the risk that a material weakness exists, and testing and evaluating the design and operating effectiveness of internal control based on the assessed risk. Our audits also included performing such other procedures as we considered necessary in the circumstances. We believe that our audits provide a reasonable basis for our opinions.

A company's internal control over financial reporting is a process designed to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles. A company's internal control over financial reporting includes those policies and procedures that (i) pertain to the maintenance of records that, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of the company; (ii) provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with generally accepted accounting principles, and that receipts and expenditures of the company are being made only in accordance with authorizations of management and directors of the company; and (iii) provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use, or disposition of the company's assets that could have a material effect on the financial statements.

Because of its inherent limitations, internal control over financial reporting may not prevent or detect misstatements. Also, projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies or procedures may deteriorate.

/s/ PricewaterhouseCoopers LLP

Houston, Texas

November 22, 2011

Table of ContentsIndex to Financial Statements**Atwood Oceanics, Inc. and Subsidiaries****CONSOLIDATED BALANCE SHEETS**

(In thousands)	September 30,	
	2011	2010
ASSETS		
Current assets:		
Cash and cash equivalents	\$ 295,002	\$ 180,523
Accounts receivable	87,173	96,463
Income tax receivable	5,631	16,052
Inventories of materials and supplies	58,263	52,749
Prepaid expenses and deferred costs	14,862	14,207
Total current assets	460,931	359,994
Property and equipment, net	1,887,321	1,343,961
Other receivables	11,875	15,799
Deferred costs and other assets	15,264	4,686
Total assets	\$ 2,375,391	\$ 1,724,440
LIABILITIES AND SHAREHOLDERS' EQUITY		
Current liabilities:		
Accounts payable	\$ 113,021	\$ 37,192
Accrued liabilities	30,680	25,368
Notes payable	5,461	
Income tax payable	8,461	26,367
Deferred credits	1,700	4,533
Total Current Liabilities	159,323	93,460
Long-term debt	520,000	230,000
Deferred income taxes	9,780	10,845
Deferred credits	7,910	2,919
Other long-term liabilities	25,591	17,082
Total long-term liabilities	563,281	260,846
Commitments and contingencies (Note 12)		
Shareholders' equity (Note 8):		
Preferred stock, no par value; 1,000 shares authorized, none outstanding		
Common stock, \$1 par value, 90,000 shares authorized with 64,960 and 64,443 issued and outstanding at September 30, 2011 and 2010, respectively	64,960	64,443
Paid-in capital	145,084	133,095
Retained earnings	1,444,270	1,172,596
Accumulated other comprehensive loss	(1,527)	
Total shareholders' equity	1,652,787	1,370,134

Edgar Filing: ATWOOD OCEANICS INC - Form S-3ASR

Total liabilities and shareholders equity	\$ 2,375,391	\$ 1,724,440
--	--------------	--------------

The accompanying notes are an integral part of these consolidated financial statements.

F-3

Table of Contents

Index to Financial Statements

Atwood Oceanics, Inc. and Subsidiaries

CONSOLIDATED STATEMENTS OF OPERATIONS

(In thousands, except per share amounts)	Years Ended September 30,		
	2011	2010	2009
Operating revenues			
Contract drilling	\$ 645,076	\$ 650,562	\$ 586,507
Operating costs and expenses			
Contract drilling	223,565	252,427	221,709
Depreciation	43,597	37,030	35,119
General and administrative	44,407	40,620	31,639
Other, net	4,847	(1,855)	(402)
	316,416	328,222	288,065
Operating income	328,660	322,340	298,442
Other income (expense):			
Interest expense, net of capitalized interest	(4,530)	(2,725)	(2,293)
Interest income	717	364	282
	(3,813)	(2,361)	(2,011)
Income before income taxes	324,847	319,979	296,431
Provision for income taxes	53,173	62,983	45,686
Net income	\$ 271,674	\$ 256,996	\$ 250,745
Earnings per common share (Note 2):			
Basic	\$ 4.20	\$ 3.99	\$ 3.91
Diluted	\$ 4.15	\$ 3.95	3.89
Average common shares outstanding (Note 2):			
Basic	64,754	64,391	64,167
Diluted	65,403	65,028	64,493

The accompanying notes are an integral part of these consolidated financial statements.

Table of ContentsIndex to Financial Statements

Atwood Oceanics, Inc. and Subsidiaries

CONSOLIDATED STATEMENTS OF CASH FLOWS

(In thousands)	Years Ended September 30,		
	2011	2010	2009
Cash flows from operating activities:			
Net income	\$ 271,674	\$ 256,996	\$ 250,745
Adjustments to reconcile net income to net cash provided by operating activities:			
Depreciation	43,597	37,030	35,119
Amortization of debt issuance costs	2,363	803	717
Amortization of deferred items	3,333	13,755	(15,902)
Provision for doubtful accounts		(65)	1,002
Provision for inventory obsolescence	735	1,123	680
Deferred income tax (benefit) expense	(1,065)	4,798	(4,527)
Share-based compensation expense	6,314	9,998	7,664
Other, net	4,847	(1,855)	(402)
Change in assets and liabilities:			
(Increase) decrease in accounts receivable	13,214	26,187	(4,819)
Decrease in insurance receivable		281	
(Increase) decrease in income tax receivable	10,421	(7,746)	(5,014)
Increase in inventory	(6,249)	(3,736)	(12,910)
(Increase) decrease in prepaid expenses	845	(179)	(1,892)
Increase in deferred costs and other assets	(10,379)	(10,321)	(9,825)
Increase (decrease) in accounts payable	(1,173)	4,735	(11)
Increase (decrease) in accrued liabilities	4,440	(854)	(43)
Increase (decrease) in income tax payable	(17,906)	(2,700)	13,058
Increase (decrease) in deferred credits and other liabilities	14,777	(21,850)	51,262
 Net increase in Operating Capital	 68,114	 49,404	 54,157
 Net Cash Provided by Operating Activities	 339,788	 306,400	 304,902
Cash flows from investing activities:			
Capital expenditures	(514,858)	(187,094)	(430,470)
Collection of insurance receivable		3,607	1,822
Proceeds from sale of assets	218	1,504	330
 Net Cash Used by Investing Activities	 (514,640)	 (181,983)	 (428,318)
Cash flows from financing activities:			
Principal payments on bank credit facilities	(55,000)	(45,000)	(50,000)
Proceeds from bank credit facilities	345,000		155,000
Principal payments on notes payable	(3,631)		
Proceeds from notes payable	9,092		
Debt issuance costs paid	(12,322)		(2,611)
Proceeds from exercise of stock options	6,192	847	194
 Net Cash Provided (Used) by Financing Activities	 289,331	 (44,153)	 102,583
 Net increase (decrease) in cash and cash equivalents	 \$ 114,479	 \$ 80,264	 \$ (20,833)

Edgar Filing: ATWOOD OCEANICS INC - Form S-3ASR

Cash and cash equivalents, at beginning of period	\$ 180,523	\$ 100,259	\$ 121,092
Cash and cash equivalents, at end of period	\$ 295,002	\$ 180,523	\$ 100,259

The accompanying notes are an integral part of these consolidated financial statements.

F-5

Table of ContentsIndex to Financial Statements

Atwood Oceanics, Inc. and Subsidiaries

CONSOLIDATED STATEMENTS OF CHANGES IN

SHAREHOLDERS EQUITY

(In thousands)	Common Stock		Paid-in Capital	Retained Earnings	Accumulated Other Comprehensive Loss	Total Stockholders Equity
	Shares	Amount				
September 30, 2008	64,031	\$ 64,031	\$ 114,804	\$ 664,855	\$	\$ 843,690
Net income				250,745		250,745
Restricted stock awards	185	185	(185)			
Exercise of employee stock options	20	20	174			194
Stock option and restricted stock award compensation expense			7,664			7,664
September 30, 2009	64,236	64,236	122,457	915,600		1,102,293
Net income				256,996		256,996
Restricted stock awards	145	145	(145)			
Exercise of employee stock options	62	62	785			847
Stock option and restricted stock award compensation expense			9,998			9,998
September 30, 2010	64,443	64,443	133,095	1,172,596		1,370,134
Net income				271,674		271,674
Other comprehensive loss					(1,527)	(1,527)
Restricted stock awards	102	102	(102)			
Exercise of employee stock options	415	415	5,777			6,192
Stock option and restricted stock award compensation expense			6,314			6,314
September 30, 2011	64,960	\$ 64,960	\$ 145,084	\$ 1,444,270	\$ (1,527)	\$ 1,652,787

The accompanying notes are an integral part of these consolidated financial statements.

Table of Contents

Index to Financial Statements

Atwood Oceanics, Inc. and Subsidiaries

CONSOLIDATED STATEMENTS OF COMPREHENSIVE INCOME

(In thousands)	Years Ended September 30,		
	2011	2010	2009
Net income	\$ 271,674	\$ 256,996	\$ 250,745
Other comprehensive loss			
Loss on interest rate swaps	(1,527)		
Other comprehensive loss	(1,527)		
Total comprehensive income	\$ 270,147	\$ 256,996	\$ 250,745

The accompanying notes are an integral part of these consolidated financial statements.

Table of Contents

Index to Financial Statements

Atwood Oceanics, Inc. and Subsidiaries

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

NOTE 1 NATURE OF OPERATIONS

This Annual Report is for Atwood Oceanics, Inc. and its subsidiaries, which are collectively referred to herein as the Company, we, us or our except where stated or the context indicates otherwise. We are an international offshore drilling contractor engaged in the drilling and completion of exploratory and developmental oil and gas wells. We currently own a diversified fleet of 10 mobile offshore drilling units located in the U.S. Gulf of Mexico, South America, the Mediterranean Sea, West Africa, Southeast Asia and Australia and are constructing an ultra-deepwater semisubmersible rig, two ultra-deepwater drillships and three high specification jack-up rigs for delivery in 2012 through 2014. We were founded in 1968 and are headquartered in Houston, Texas with other offices in Australia, Egypt, South Korea, Malaysia, Singapore and the United Kingdom.

NOTE 2 SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

Consolidation

The consolidated financial statements include the accounts of Atwood Oceanics, Inc. and all of its domestic and foreign subsidiaries. All significant intercompany accounts and transactions have been eliminated in consolidation.

Cash and cash equivalents

Cash and cash equivalents consist of cash in banks and highly liquid debt instruments, which mature within three months of the date of purchase.

Foreign exchange

The U.S. Dollar is the functional currency for all areas of our operations. Accordingly, monetary assets and liabilities denominated in foreign currency are re-measured to U.S. Dollars at the rate of exchange in effect at the end of the fiscal year, items of income and expense are re-measured at average monthly rates, and property and equipment and other nonmonetary amounts are re-measured at historical rates. Gains and losses on foreign currency transactions and re-measurements are included in contract drilling costs in our consolidated statements of operations. We recorded foreign exchange losses of \$0.9 million, \$0.1 million and \$0.5 million, during fiscal years 2011, 2010 and 2009, respectively. We did not disclose the re-measurement losses on the statement of cash flows due to the immaterial nature of the amounts.

Accounts receivable

We record trade accounts receivable at the amount we invoice our customers. Our portfolio of accounts receivable is comprised of major international corporate entities and government organizations with stable payment experience. Included within accounts receivable at September 30, 2011, and 2010 are unbilled receivable balances totaling \$1.1 million and \$1.0 million, respectively, which represent amounts for which services have been performed, revenue has been recognized based on contractual provisions and for which collection is deemed probable. Such unbilled amounts were billed subsequent to their respective fiscal year end. Historically, our uncollectible accounts receivable have been immaterial, and typically, we do not require collateral for our receivables. We provide an allowance for uncollectible accounts, as necessary, on a specific identification basis. We have no allowance for doubtful accounts at September 30, 2011 or 2010.

Inventories of material and supplies

Inventories consist of spare parts, material and supplies held for consumption and are stated principally at the lower of average cost or market value, net of reserves for excess and obsolete inventory of \$2.5 million and \$2.0 million at September 30, 2011, and 2010, respectively.

Table of Contents

Index to Financial Statements

Income taxes

We account for income taxes in accordance with Financial Accounting Standards Board (FASB) Accounting Standards Codification (ASC) 740. Under ASC 740, deferred income taxes are recorded to reflect the tax consequences on future years of differences between the tax basis of assets and liabilities and their financial reporting amounts at each year-end given the provisions of enacted tax laws in each respective jurisdiction. Deferred tax assets are reduced by a valuation allowance when, based upon management's estimates, it is more likely than not that a portion of the deferred tax assets will not be realized in a future period. In addition, we accrue for income tax contingencies, or uncertain tax positions, that we believe are more likely than not exposures. See Note 7 for further discussion.

Property and equipment

Property and equipment are recorded at historical cost. Interest costs related to property under construction are capitalized as a component of construction costs. Interest capitalized during fiscal years 2011, 2010 and 2009 was \$8.2 million, \$3.9 million and \$8.8 million, respectively.

Once rigs and related equipment are placed in service, they are depreciated on the straight-line method over their estimated useful lives, with depreciation discontinued only during the period when a drilling unit is out of service while undergoing a significant upgrade that extends its useful life. Our estimated useful lives of our various classifications of assets are as follows:

	Years
Drilling vessels and related equipment	5-35
Drill pipe	3
Furniture and other	3-10

Effective July 1, 2010, we extended the remaining depreciable life of the *Atwood Southern Cross* from one year to five years, based upon completion of a life enhancing upgrade, as the rig is technically capable of working over this revised period.

Effective October 1, 2008, we extended the remaining depreciable life of the *Seahawk* from one year to five years based upon the length of its then current contract commitment coupled with the fact that rig is technically capable of working over this revised period.

Maintenance, repairs and minor replacements are charged against income as incurred. Major replacements and upgrades are capitalized and depreciated over the remaining useful life of the asset, as determined upon completion of the work. The cost and related accumulated depreciation of assets sold, retired or otherwise disposed are removed from the accounts at the time of disposition, and any resulting gain or loss is reflected in the Consolidated Statements of Operations for the applicable periods.

Impairment of property and equipment

We periodically evaluate our property and equipment to determine whether their net carrying value is in excess of their net realizable value. These evaluations are performed when we have sustained significant declines in utilization and day rates, and recovery is not contemplated in the near future. We consider a number of factors such as estimated future cash flows, appraisals and current market value analysis in determining an asset's fair value. Assets are written down to their fair value if the carrying amount of the asset is not recoverable and exceeds its fair value.

We recorded an impairment charge of \$5.0 million during fiscal year 2011 related to certain idled equipment.

Table of Contents

Index to Financial Statements

Deferred drydocking costs

We defer the costs of scheduled drydocking and charge such costs to contract drilling expense over the period to the next scheduled drydocking (normally 30 months). At September 30, 2011, and 2010, deferred drydocking costs totaling \$2.2 million and \$1.5 million, respectively, were included in Deferred Costs and Other Assets in the accompanying Consolidated Balance Sheets.

Revenue recognition

We account for contract drilling revenue in accordance with the terms of the underlying drilling contract. These contracts generally provide that revenue is earned and recognized on a daily rate (i.e. day rate) basis, and day rates are typically earned for a particular level of service over the life of a contract. Day rate contracts can be performed for a specified period of time or the time required to drill a specified well or number of wells. Revenues from day rate drilling operations, which are classified under contract drilling services, are recognized on a per day basis as services are performed assuming collectability is reasonably assured.

Deferred fees and costs

Fees received prior to the commencement of the drilling contract as compensation for the cost of relocating drilling rigs from one major operating area to another, equipment and upgrade costs reimbursed by the customer, as well as receipt of advance billings of day rates are recognized as earned on a straight-line method over the expected term of the related drilling contract, as are the day rates associated with such contracts. However, fees received upon termination of a drilling contract are generally recognized as earned during the period termination occurs as the termination fee is usually conditional based on the occurrence of an event as defined in the drilling contract, such as obtaining follow on work to the contract in progress or relocation beyond a certain distance when the contract is completed. In addition, we defer the mobilization costs relating to moving a drilling rig to a new area which are incurred prior to the commencement of the drilling contract and customer requested equipment purchases that will revert to the customer at the end of the applicable drilling contract. We amortize such costs on a straight-line basis over the life of the applicable drilling contract. Contract revenues and drilling costs are reported in the Consolidated Statements of Operations at their gross amounts.

At September 30, 2011 and 2010, deferred fees associated with mobilization, related equipment purchases and upgrades and receipt of advance billings of day rates totaled \$9.6 million and \$7.5 million, respectively. At September 30, 2011 and 2010, deferred costs associated with mobilization and related equipment purchases and upgrades totaled \$2.8 million and \$1.7 million, respectively. Deferred fees and deferred costs are classified as current or long-term deferred credits and deferred costs, respectively, in the accompanying Consolidated Balance Sheets based on the expected term of the applicable drilling contracts.

Share-based compensation

We account for share-based compensation in accordance with ASC 718. Under ASC 718, share-based compensation cost is measured at the grant date, based on the calculated fair value of the award, and is recognized as an expense over the requisite service period (generally the vesting period of the equity grant). See Note 3 for additional information regarding share-based compensation.

Earnings per common share

Basic and diluted earnings per share, or EPS, have been computed in accordance with ASC 260. Basic EPS excludes dilution and is computed by dividing net income (loss) by the weighted-average number of common shares outstanding for the period. Diluted EPS reflects the assumed effect of the issuance of additional shares in connection with the exercise of stock options. In accordance with ASC 718, we have also included the impact of pro forma deferred tax assets in calculating the potential windfall and shortfall tax benefits to determine the amount of diluted shares using the treasury stock method.

Table of Contents**Index to Financial Statements**

The computation of basic and diluted earnings per share under ASC 260 for each of the past three fiscal years is as follows (in thousands, except per share amounts):

	Net Income	Shares	Per Share Amount
Fiscal 2011:			
Basic earnings per share	\$ 271,674	64,754	\$ 4.20
Effect of dilutive securities			
Stock options		649	(0.05)
Diluted earnings per share	\$ 271,674	65,403	\$ 4.15
Fiscal 2010:			
Basic earnings per share	\$ 256,996	64,391	\$ 3.99
Effect of dilutive securities			
Stock options		637	(0.04)
Diluted earnings per share	\$ 256,996	65,028	\$ 3.95
Fiscal 2009:			
Basic earnings per share	\$ 250,745	64,167	\$ 3.91
Effect of dilutive securities			
Stock options		326	(0.02)
Diluted earnings per share	\$ 250,745	64,493	\$ 3.89

The calculation of diluted earnings per share for fiscal years 2011, 2010 and 2009 exclude consideration of shares of common stock which may be issued in connection with outstanding stock options of 664,000, 500,000 and 316,000, respectively, because such options were anti-dilutive. These options could potentially dilute basic EPS in the future.

Use of estimates

The preparation of financial statements in conformity with generally accepted accounting principles in the United States (GAAP) requires management to make extensive use of estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from those estimates.

Reclassifications

Certain reclassifications have been made to the prior period financial statements to conform to the current year presentation. These reclassifications did not affect the Consolidated Financial Statements reported in prior fiscal years.

NOTE 3 SHARE-BASED COMPENSATION

We account for share-based compensation in accordance with ASC 718. Under ASC 718, share-based compensation cost is measured at the grant date, based on the calculated fair value of the award, and is recognized as an expense over the requisite service period, which is generally the vesting period of the equity award.

On December 7, 2006, our board of directors adopted, and our stockholders subsequently approved on February 8, 2007, the Atwood Oceanics, Inc. 2007 Long-Term Incentive Plan (as amended, the 2007 Plan). The effective date of the 2007 Plan was December 7, 2006, and awards may be made under the 2007 Plan through December 7, 2016. Under our 2007 Plan, up to 4,000,000 shares of common stock may be issued to

Table of Contents**Index to Financial Statements**

eligible participants in the form of restricted stock awards or upon exercise of stock options granted pursuant to the 2007 Plan. We also maintain two other stock incentive plans approved by our shareholders, the Atwood Oceanics, Inc. Amended and Restated 2001 Stock Incentive Plan (as amended, the 2001 Plan) and the Atwood Oceanics, Inc. 1996 Incentive Equity Plan (as amended, the 1996 Plan), under which we have outstanding stock options and restricted stock awards. However, no additional options or restricted stock have been awarded under the 2001 or 1996 plans since the implementation of the 2007 Plan. All stock incentive plans currently in effect have been approved by our shareholders.

A summary of shares available for issuance and outstanding stock option and restricted stock awards for our three stock incentive plans as of September 30, 2011 is as follows:

	2007 Plan	2001 Plan	1996 Plan
Shares available for future awards or grants	1,895,274		
Outstanding stock option grants	860,744	594,725	24,000
Outstanding unvested restricted stock awards	559,712		

Awards of restricted stock and stock options have both been granted under our stock incentive plans as of September 30, 2011. We deliver newly issued shares of common stock for restricted stock awards upon vesting and upon exercise of stock options.

We recognize compensation expense on grants of share-based compensation awards on a straight-line basis over the required service period for each award. Unrecognized compensation cost, net of estimated forfeitures, related to awards of stock options and restricted stock and the related remaining weighted-average service period is as follows (in thousands, except average service periods):

	September 30,	
	2011	2010
Unrecognized Compensation Cost		
Stock options	\$ 4,964	\$ 4,471
Restricted stock awards	6,575	8,714
Total	\$ 11,539	\$ 13,185
Remaining weighted average service period (Years)	2.3	2.2

Stock Options

Under our stock incentive plans, the exercise price of each stock option must be equal to or greater than the fair market value of one share of our common stock on the date of grant, with all outstanding options having a maximum term of 10 years. Options vest ratably over a period ranging from the end of the first to the fourth year from the date of grant for stock options under the 2007 and 2001 Plans and from the end of the second to the fifth year from the grant date under for stock options under the 1996 Plan. Each option is for the purchase of one share of our common stock.

The total fair value of stock options vested during fiscal years 2011, 2010 and 2009 was \$2.7 million, \$3.0 million and \$2.7 million, respectively. The per share weighted-average fair value of stock options granted during fiscal years 2011, 2010 and 2009 was \$15.72, \$14.69 and \$5.75, respectively. We estimate the fair value of each stock option on the date of grant using the Black-Scholes pricing model and the following assumptions:

	Fiscal 2011	Fiscal 2010	Fiscal 2009
Risk-Free Interest Rate	1.9%	2.1%	1.5%
Expected Volatility	44%	43%	42%

Edgar Filing: ATWOOD OCEANICS INC - Form S-3ASR

Expected Life (Years)	5.2	5.3	5.2
Dividend Yield	None	None	None

F-12

Table of Contents**Index to Financial Statements**

The average risk-free interest rate is based on the five-year U.S. treasury security rate in effect as of the grant date. We determined expected volatility using a six-year historical volatility figure and determined the expected term of the stock options using 10 years of historical data. The expected dividend yield is based on the expected annual dividend as a percentage of the market value of our common stock as of the grant date.

A summary of stock option activity for fiscal year 2011 is as follows:

	Number of Options (000s)	Weighted Average Exercise Price	Weighted Average Remaining Contractual Life (Years)	Aggregate Intrinsic Value (000s)
Outstanding at October 1, 2010	1,720	\$ 21.58		
Granted	291	\$ 37.41		
Exercised	(391)	\$ 15.04		\$ 10,933
Forfeited	(140)	\$ 31.90		
Outstanding at September 30, 2011	1,480	\$ 25.44	6.1	\$ 13,198
Exercisable at September 30, 2011	971	\$ 21.01	4.8	\$ 12,971

Restricted Stock

We have awarded restricted stock under the 2007 Plan to certain employees and to our non-employee directors. All current awards of restricted stock to employees are subject to a vesting and restriction period ranging from three to four years, subject to early termination as provided in the 2007 Plan. All awards of restricted stock to non-employee directors are subject to a vesting and restriction period of a minimum of 13 months, subject to early termination as provided in the 2007 Plan. We value restricted stock awards based on the fair market value of our common stock on the date of grant.

A summary of restricted stock activity for fiscal year 2011 is as follows:

	Number of Shares (000s)	Weighted Average Fair Value
Unvested at October 1, 2010	623	\$ 34.27
Granted	172	\$ 37.73
Vested	(102)	\$ 39.53
Forfeited	(133)	\$ 33.56
Unvested at September 30, 2011	560	\$ 34.54

Table of Contents**Index to Financial Statements****NOTE 4 PROPERTY AND EQUIPMENT**

A summary of property and equipment by classification is as follows (in thousands):

	September 30,	
	2011	2010
Drilling vessels and related equipment		
Cost	\$ 2,315,419	\$ 1,733,298
Accumulated depreciation	(435,577)	(392,808)
Net book value	1,879,842	1,340,490
Drill pipe		
Cost	18,182	15,468
Accumulated depreciation	(13,885)	(13,563)
Net book value	4,297	1,905
Furniture and other		
Cost	8,800	7,115
Accumulated depreciation	(5,618)	(5,549)
Net book value	3,182	1,566
Property and equipment, net	\$ 1,887,321	\$ 1,343,961

New Construction Projects

During fiscal year 2008, we entered into construction contracts with Jurong Shipyard Pte. Ltd. to construct two Friede & Goldman ExD Millennium semisubmersible drilling units (the *Atwood Osprey* and the *Atwood Condor*). The *Atwood Osprey* was delivered in April 2011, and the *Atwood Condor* is scheduled for delivery in the third quarter of fiscal year 2012.

In October 2010, we entered into turnkey construction agreements with PPL Shipyard PTE LTD in Singapore (PPL) to construct two Pacific Class 400 jack-up drilling units (the *Atwood Mako* and the *Atwood Manta*). The *Atwood Mako* and the *Atwood Manta* are scheduled for delivery in the fourth quarter of fiscal year 2012 and the first quarter of fiscal year 2013, respectively.

In January 2011, we exercised the first of three option agreements and entered into a turnkey construction agreement with PPL to construct a third Pacific Class 400 jack-up drilling unit (the *Atwood Orca*). The *Atwood Orca* is scheduled for delivery in the third quarter of fiscal year 2013.

In January 2011, we entered into a turnkey construction contract with Daewoo Shipbuilding and Marine Engineering Co., Ltd (DSME) to construct an ultra-deepwater drillship, the *Atwood Advantage*, at the DSME yard in South Korea. The *Atwood Advantage* is scheduled for delivery in the fourth quarter of fiscal year 2013.

As of September 30, 2011, we had expended approximately \$650 million towards the construction of our five drilling units under construction. Total remaining firm commitments for our five drilling units under construction were approximately \$1.2 billion at September 30, 2011.

On October 15, 2011, we entered into a turnkey construction contract with DSME to construct an ultra-deepwater drillship, the *Atwood Achiever*, at the DSME yard in South Korea. The *Atwood Achiever* is expected to be delivered by June 30, 2014.

Warehouse Fire

On October 25, 2008, a fire occurred in a third party warehouse facility in Houston, Texas that we use to store fleet wide spare capital equipment. In addition, this third party provides international freight forwarding

F-14

Table of Contents**Index to Financial Statements**

services, and thus, the location was also used as a staging area for equipment shipments to our international fleet. Although the fire was contained primarily to one area of the facility, we did incur significant damage to our fleet spares and other equipment in-transit. At the time of the incident we had insurance to cover the cost of replacing and repairing damaged equipment in excess of a \$1,000 deductible.

As of September 30, 2010, our claim was fully processed and deemed closed by the insurance company. We collected all insurance proceeds equal to our \$6.2 million property loss claim and costs incurred to inspect and evaluate damaged equipment.

NOTE 5 LONG-TERM DEBT

A summary of long-term debt is as follows (in thousands):

	September 30, 2011	September 30, 2010
2007 credit facility, bearing interest (market adjustable) at approximately 1.1% per annum at September 30, 2010	\$	\$ 180,000
2008 credit facility, bearing interest (market adjustable) at approximately 1.8% per annum at September 30, 2010	\$	\$ 50,000
2011 credit facility bearing interest (market adjustable) at approximately 3.1% per annum at September 30, 2011	\$ 520,000	\$
	\$ 520,000	\$ 230,000

In May 2011, we entered into a \$750 million secured revolving credit agreement with Nordea Bank Finland plc, New York Branch, as Administrative Agent and several lenders (the 2011 Credit Agreement). The 2011 Credit Agreement includes provisions for incremental commitments up to \$350 million, bringing the total commitment to \$1.1 billion, if exercised. The maturity of the 2011 Credit Agreement is May 2016, subject to acceleration upon certain specified events of default, including but not limited to delinquent payments, bankruptcy filings, material adverse judgments, guarantees or security documents not being in full effect, non-compliance with the Employee Retirement Income Security Act of 1974, cross-defaults under other debt agreements, or a change of control. The 2011 Credit Agreement contains limitations on our ability to incur liens; merge, consolidate or sell substantially all assets; pay cash dividends; incur additional indebtedness; make advances, investments or loans; and transact with affiliates. The 2011 Credit Agreement is secured primarily by first preferred mortgages on six of our active drilling units (the *Atwood Aurora*, the *Atwood Beacon*, the *Atwood Eagle*, the *Atwood Falcon*, the *Atwood Hunter*, and the *Atwood Osprey*).

Borrowings under the 2011 Credit Agreement bear interest of the Eurodollar rate plus a margin of 2.50%. Certain borrowings effectively bear interest at a fixed rate due to our interest rate swaps. See Note 6. The 2011 Credit Agreement also provides for the issuance, when required, of standby letters of credit. Under the 2011 Credit Agreement, we will pay a commitment fee of 1.0% per annum on the unused portion of the underlying commitment. As of September 30, 2011, we have \$227 million of funds available to borrow under this credit facility, with standby letters of credit issued in the aggregate amount of \$3.4 million.

The 2011 Credit Agreement contains various financial covenants that impose a maximum leverage ratio of 4.0 to 1.0, a debt to capitalization ratio of 0.5 to 1.0, a minimum interest expense coverage ratio of 3.0 to 1.0 and a minimum collateral maintenance of 150% of the aggregate amount outstanding under the facility. We were in compliance with all financial covenants under the 2011 Credit Agreement at September 30, 2011. No additional funds have been borrowed under the 2011 Credit Agreement subsequent to September 30, 2011.

We have entered into four \$50.0 million notional interest rate swap agreements to fix the variable interest rate on borrowings under the 2011 Credit Agreement through September 2014. The first three interest rate swap

Table of Contents**Index to Financial Statements**

agreements serve to fix the annual rate at approximately 3.6% from July 2011 to September 2014. The fourth interest rate swap agreement serves to fix the annual rate at approximately 3.4% from September 2011 to September 2014.

Prior to the execution of the 2011 Credit Agreement, we had a five-year \$300 million credit facility executed in October 2007 and a five-year \$280 million credit facility executed in November 2008, both of which were retired during May 2011 with funding from the 2011 Credit Agreement.

NOTE 6 INTEREST RATE SWAPS

We are exposed to interest rate risk on borrowings under the 2011 Credit Agreement. Our variable rate debt exposes us to short-term changes in market interest rates as our interest obligations on these instruments are periodically re-determined based on the prevailing Eurodollar rate. We enter into interest rate swaps to limit our exposure to fluctuations and volatility in interest rates. We do not engage in derivative transactions for speculative or trading purposes and we are not a party to leveraged derivatives.

In the fourth quarter of fiscal year 2011, we entered into four \$50.0 million notional interest rate swaps to fix the variable interest rate on borrowings under the 2011 Credit Agreement through September 2014. Three of these interest rate swap agreements serve to fix the annual rate at approximately 3.6% from July 2011 to September 2014. A fourth interest rate swap agreement serves to fix the annual rate at approximately 3.4% from September 2011 to September 2014.

Fair Value of Derivatives

In accordance with ASC 815, Derivatives and Hedging, the following table presents the fair value of our cash flow hedge derivative contracts included in the Consolidated Balance Sheets as of September 31, 2011 and 2010 (See Note 10 for additional information regarding Fair Value Measurements):

Type of Contract	Balance Sheet Classification	September 30,	
		2011	2010
Short term interest rate swaps	Accrued liabilities	\$ 988	\$
Long term interest rate swaps	Other long-term liabilities	631	
Total derivative contracts, net		\$ 1,619	\$

We recognized an unrealized loss of approximately \$1.6 million in Other Comprehensive Income (OCI) as a result of changes in fair value of our interest rate derivatives during fiscal year 2011. No gain or loss was recognized in OCI during fiscal year 2010.

NOTE 7 INCOME TAXES

Domestic and foreign income before income taxes for the three-year period ended September 30, 2011, is as follows (in thousands):

	Fiscal 2011	Fiscal 2010	Fiscal 2009
Domestic loss	\$ (22,954)	\$ (24,550)	\$ (9,492)
Foreign income	347,801	344,529	305,923
	\$ 324,847	\$ 319,979	\$ 296,431

Table of Contents**Index to Financial Statements**

The provision (benefit) for domestic and foreign taxes on income consists of the following (in thousands):

	Fiscal 2011	Fiscal 2010	Fiscal 2009
Current domestic	\$ 29	\$ (34)	\$ 160
Deferred domestic	(980)	6,813	(4,335)
Current foreign	54,209	58,218	50,052
Deferred foreign	(85)	(2,014)	(191)
	\$ 53,173	\$ 62,983	\$ 45,686

Deferred Taxes

The components of the deferred income tax assets (liabilities) as of September 30, 2011 and 2010 are as follows (in thousands):

	September 30,	
	2011	2010
Deferred tax assets		
Net operating loss carryforwards	\$ 16,014	\$ 10,089
Tax credit carryforwards	1,618	730
Stock option compensation expense	7,105	6,298
Book accruals	3,273	3,157
	28,010	20,274
Deferred tax liabilities		
Difference in book and tax basis of equipment	(12,222)	(13,935)
	(12,222)	(13,935)
Net deferred tax assets (liabilities) before valuation allowance	15,788	6,339
Valuation allowance	(25,568)	(17,184)
	\$ (9,780)	\$ (10,845)
Net current deferred tax assets	\$	\$
Net noncurrent deferred tax liabilities	(9,780)	(10,845)
	\$ (9,780)	\$ (10,845)

For fiscal year 2011, we recorded a valuation allowance of \$8.4 million on net deferred tax assets primarily related to our United States net operating loss carry forward. The gross amount of federal net operating loss carry forwards as of September 30, 2011 is estimated to be \$83.2 million, which will begin to expire in 2025. Management does not expect that our tax credit carry forward of \$1.6 million will be utilized to offset future tax obligations before the credits begin to expire in 2012. Thus, a corresponding valuation allowance of \$1.6 million is recorded as of September 30, 2011.

We have approximately \$12.9 million of windfall tax benefits from previous stock option exercises that have not been recognized as of September, 30, 2011. Pursuant to ASC 718, this amount will not be recognized until the deduction would reduce our United States income taxes payable. At such time, the amount will be recorded as an increase to paid-in-capital. We apply the with-and-without approach when utilizing

Edgar Filing: ATWOOD OCEANICS INC - Form S-3ASR

certain tax attributes whereby windfall tax benefits are used last to offset taxable income.

We do not record federal income taxes on the undistributed earnings of our foreign subsidiaries that we consider to be permanently reinvested in foreign operations. The cumulative amount of such undistributed earnings was approximately \$1.3 billion at September 30, 2011. It is not practicable to estimate the amount of any deferred tax liability associated with the undistributed earnings.

F-17

Table of Contents**Index to Financial Statements**

We record estimated accrued interest and penalties related to uncertain tax positions in income tax expense. At September 30, 2011, we had approximately \$16.8 million of reserves for uncertain tax positions, including estimated accrued interest and penalties of \$4.9 million, which are included in Other Long Term Liabilities in the Consolidated Balance Sheet. All \$16.8 million of the net uncertain tax liabilities would affect the effective tax rate if recognized. A summary of activity related to the net uncertain tax positions including penalties and interest for fiscal year 2011 is as follows:

	Liability for Uncertain Tax Positions
Balance at October 1, 2010	\$ 9,968
Increases based on tax positions related to prior fiscal years	5,959
Increases based on tax positions related to current fiscal year	877
 Balance at September 30, 2011	 \$ 16,804

Our United States tax returns for fiscal year 2008 and subsequent years remain subject to examination by tax authorities. As we conduct business globally, we have various tax years remaining open to examination in our international tax jurisdictions, including tax returns in Australia for fiscal years 2006 through 2011, as well as returns in Equatorial Guinea for calendar years 2006 through 2010. Although we cannot predict the outcome of ongoing or future tax examinations, we do not anticipate that the ultimate resolution of these examinations will have a material impact on our consolidated financial position, results of operations or cash flows.

As a result of working in foreign jurisdictions, we earned a high level of operating income in certain nontaxable and deemed profit tax jurisdictions, which significantly reduced our effective tax rate for fiscal years 2011, 2010 and 2009 when compared to the United States statutory rate. There were no significant transactions that materially impacted our effective tax for fiscal years 2011, 2010 or 2009. The differences between the United States statutory and our effective income tax rate are as follows:

	Fiscal 2011	Fiscal 2010	Fiscal 2009
Statutory income tax rate	35%	35%	35%
Resolution of prior period tax items		1	(1)
Increase in tax rate resulting from Valuation allowance	2	2	
Increases to the reserve for uncertain tax positions	2	1	1
Decrease in tax rate resulting from Foreign tax rate differentials, net of foreign tax credit utilization	(23)	(19)	(20)
 Effective income tax rate	 16%	 20%	 15%

NOTE 8 CAPITAL STOCK***Preferred Stock***

We are authorized to issue 1.0 million shares of preferred stock with no par value. In October 2002, we designated Series A Junior Participating Preferred Stock in connection with the Rights Agreement described below. No preferred shares have been issued.

Rights Agreement

In September 2002, we authorized and declared a dividend of one Right (as defined in the Rights Agreement effective October 18, 2002, which governs the Rights) for each outstanding share of common stock as of November 5, 2002, subject to lender approval and consent, which was obtained. One Right is also associated with each share of common stock that becomes outstanding after November 5, 2002, but before the earliest of the

Table of Contents

Index to Financial Statements

date on which (i) the Rights become exercisable, (ii) the Rights are redeemed by us or (iii) the Rights expire, which is November 5, 2012. The Rights are not exercisable until a person or group of affiliated or associated persons begin to acquire or acquires beneficial ownership of 15% or more of our outstanding common stock. This provision does not apply to shareholders already holding 15% or more of our outstanding common stock as of November 5, 2002, until they acquire an additional 5%.

When exercisable, each Right entitles the registered holder to purchase from us one four-thousandth of a share of our Series A Junior Participating Preferred Stock, no par value, at a price of \$150 upon the exercise of each Right. The redemption price of each Right is \$0.0025. The Rights are subject to adjustment for certain future events including any future stock splits. At September 30, 2011, 500,000 preferred shares have been reserved for issuance in the event that Rights are exercised.

NOTE 9 RETIREMENT PLANS

We have two qualified defined contribution retirement plans (the Retirement Plans) under which qualified participants may make contributions, which together with our contributions, can be up to 100% of their compensation, as defined, to a maximum of \$49,000. In the first month following the date of hire, an employee can elect to become a participant in a Retirement Plan. Under the Plans, participant contributions of 1% to 5% matched on a 2 to 1 basis. Our contributions vest 100% to each participant after three years of service with us including any period of ineligibility mandated by the Plans. If a participant terminates employment before becoming fully vested, the unvested portion is credited to our account and can be used only to offset our future contribution requirements.

During fiscal years 2011 and 2010, forfeitures of \$0.3 million and \$0.3 million, respectively, were used to reduce our cash contribution requirements while no forfeitures were used in fiscal year 2009. In fiscal years 2011, 2010 and 2009, our actual cash contributions totaled approximately \$4.3 million, \$5.2 million and \$4.9 million, respectively. As of September 30, 2011, there were approximately \$0.2 million of contribution forfeitures, which can be used to reduce our future cash contribution requirements.

NOTE 10 FAIR VALUE OF FINANCIAL INSTRUMENTS

On October 1, 2008, we adopted, without any impact to our financial position, operating results or cash flows, the provisions of ASC 820, for our financial assets and liabilities with respect to which we have recognized or disclosed at fair value on a recurring basis. We apply the guidance provided under ASC 820 to our financial assets and liabilities and nonfinancial liabilities that are measured and reported at fair value on a recurring basis.

The carrying amounts of our cash and cash equivalents, accounts receivables and payables are based on fair value due to the short-term maturity thereof. The carrying amount of our floating rate debt is based on the fair value because such debt bears short-term, market-based interest rates. In addition, we record our interest rate swaps at their fair value. See Note 6.

Fair Value Measurements

We have certain liabilities that we have classified and disclosed fair value measurements using the following levels of the fair value hierarchy:

- Level 1: Unadjusted quoted prices in active markets that are accessible at the measurement date for identical, unrestricted assets or liabilities.

- Level 2: Quoted prices in markets that are not active, or inputs which are observable, either directly or indirectly, for substantially the full term of the asset or liability.

Table of Contents**Index to Financial Statements**

Level 3: Measurement based on prices or valuation models that require inputs that are both significant to the fair value measurement and less observable for objective sources (*i.e.*, supported by little or no market activity).

Assets and liabilities measured at fair value are classified based on the lowest level of input that is significant to the fair value measurement. Our assessment of the significance of a particular input to the fair value measurement requires judgment, which may affect the valuation of the fair value of assets and liabilities and their placement within the fair value hierarchy levels as described in ASC 820. The determination of the fair values, stated below, takes into account the market for our financial assets and liabilities, the associated credit risk and other factors as required by ASC 820. We consider active markets as those in which transactions for the assets or liabilities occur in sufficient frequency and volume to provide pricing information on an ongoing basis.

The fair values of our interest rate swaps are based upon quotes obtained from counterparties to the derivative contracts. We review other readily available market prices for our derivative contracts as there is an active market for these contracts. We have access to documented valuation models used by our counterparties or other market participants. Included in these models are discount factors that are used to estimate values in the derivative transaction calculations. Based on the inputs for the fair value measurement, we have classified our derivative contract liabilities as Level 2.

The following table sets forth the estimated fair value of our financial instruments recognized at fair value as of September 30, 2011:

Liabilities	Fair Value Measurements			Liabilities
	Level 1	Level 2	Level 3	at Fair Value
Interest Rate Swaps	\$	\$ 1,619	\$	\$ 1,619

We record the interest rate derivative contracts at fair value on our consolidated balance sheets. Hedging effectiveness is evaluated at each quarter end using the Dollar Off-Set Method. Each quarter changes in the fair values will be recorded on balance sheet prospectively, with an offset to Other Comprehensive Income (OCI).

For interest rate swaps, we evaluate all material terms between the swap and the underlying debt obligation. Any change in fair value resulting from ineffectiveness is recognized immediately in earnings. The amount of the gain or loss recorded in the income statement will be equal to the amount of ineffectiveness, if any. No income or loss was recognized during fiscal years 2011, 2010 or 2009 due to hedge ineffectiveness.

NOTE 11 CONCENTRATION OF MARKET AND CREDIT RISK

All of our customers are in the oil and gas offshore exploration and production industry. This industry concentration has the potential to impact our overall exposure to market and credit risks, either positively or negatively, in that our customers could be affected by similar changes in economic, industry or other conditions. However, we believe that the credit risk posed by this industry concentration is offset by the creditworthiness of our customer base.

Revenues from significant customers are as follows (in thousands):

	Fiscal 2011	Fiscal 2010	Fiscal 2009
Chevron Australia	\$ 199,685	81,577	
Sarawak Shell Bhd.	138,836	84,617	81,538
Kosmos Energy Ghana Inc.	136,205	90,936	
Noble Energy Mediterranean, Ltd.			149,603
Woodside Energy Ltd.			114,637

Table of Contents**Index to Financial Statements****NOTE 12 COMMITMENTS AND CONTINGENCIES*****Operating Leases***

Future minimum lease payments for operating leases for fiscal years ending September 30 are as follows (in thousands):

2012	\$ 1,484
2013	\$ 1,280
2014	\$ 1,258
2015	\$ 290
2016	\$ 0

Total rent expense under operating leases was approximately \$4.4 million, \$4.8 million and \$4.1 million for fiscal years ended September 30, 2011, 2010, and 2009, respectively.

Litigation

We are party to a number of lawsuits which are ordinary, routine litigation incidental to our business, the outcome of which is not expected to have, either individually or in the aggregate, a material adverse effect on our financial position, results of operations or cash flows.

Other Matters

The *Atwood Beacon* operated in India from early December 2006 to the end of July 2008. A service tax in India was enacted in 2004 on revenues derived from seismic and exploration activities. This service tax law was subsequently amended in June 2007 and again in May 2008 to state that revenues derived from mining services and drilling services were specifically subject to this service tax. The contract terms with our customer in India provided that any liability incurred by us related to any taxes pursuant to laws not in effect at the time the contract was executed in 2005 was to be reimbursed by our customer. We believe any service taxes assessed by the Indian tax authorities under the 2007 or 2008 amendments are an obligation of our customer. Our customer is disputing this obligation on the basis that revenues derived from drilling services were taxable under the initial 2004 law and are, therefore, our obligation.

After reviewing the status of the drilling service we provided to our customer, the Indian tax authorities assessed service tax obligations on revenues derived from the *Atwood Beacon* commencing on June 1, 2007. The relevant Indian tax authority issued an extensive written ruling setting forth the application of the June 1, 2007 service tax regulation and confirming the position that drilling services, including the services performed under our contract with our customer prior to June 1, 2007, were not covered by the 2004 service tax law. The ruling of the Indian tax authority is currently subject to the review of the Tax Appeal Tribunal.

As of September 30, 2011, we have paid to the Indian government \$10.1 million in service taxes and have accrued \$1.8 million of additional service tax obligations in accrued liabilities on our consolidated balance sheets, for a total of \$11.9 million relating to service taxes. We have recorded a corresponding \$11.8 million long-term other receivable due from our customer relating to service taxes due under the contract. We intend to pursue collection of such amounts from our customer.

Table of Contents**Index to Financial Statements****NOTE 13 SUPPLEMENTAL CASH FLOW INFORMATION**

	Years Ended September 30,		
	2011	2010	2009
Cash paid during the period for:			
Domestic and foreign income taxes	\$ 55,062	\$ 65,024	\$ 40,713
Interest, net of amounts capitalized	\$ 3,703	\$ 1,656	\$ 2,144
Non-cash activities:			
Increase in insurance receivable related to reduction in value of spare capital equipment and inventory	\$	\$	\$ 2,518
Increase in accounts payable and accrued liabilities related to capital expenditures	\$ 77,164	\$ 10,616	\$ 7,579

NOTE 14 RECENTLY ISSUED ACCOUNTING PRONOUNCEMENTS

In June 2011, the Financial Accounting Standards Board (FASB), issued Accounting Standards Update (ASU) 2011-05, *Comprehensive Income (Topic 220): Presentation of Comprehensive Income*, which amends the presentation requirements for comprehensive income and requires that all non-owner changes in stockholders' equity be presented either as a single continuous statement of comprehensive income or in two separate but consecutive statements. Additionally, the update requires presentation of reclassification adjustments on the face of the financial statement. The update is effective for interim and annual periods beginning after December 15, 2011, with early adoption permitted. We adopted the amendments in this update on June 30 with no material impact on our consolidated financial statements or disclosures in our financial statements.

In May 2011, the FASB issued ASU 2011-04, *Fair Value Measurement (Topic 820): Amendments to Achieve Common Fair Value Measurement and Disclosure Requirements in U.S. GAAP and IFRS*. The amendment clarifies existing fair value measurement and disclosure requirements, amends certain fair value measurement principles and requires additional disclosures about fair value measurements. ASU 2011-04 is effective for interim and annual periods beginning after December 15, 2011. We will adopt the accounting standards effective January 1, 2012. We do not expect that our adoption will have a material effect on our financial statements or disclosures in our financial statements.

In April 2010, the FASB issued ASU 2010-13, *Compensation - Stock Compensation (Topic 718)*. The amendment provides updated guidance on the classification of a share-based payment award as either equity or a liability. The objective of this update is to address the classification of an employee share-based payment award with an exercise price denominated in the currency of a market in which the underlying equity security trades. A share-based payment award that contains a condition that is not a market, performance, or service condition is required to be classified as a liability. We adopted the amendments in this update on October 1, 2010, with no material impact on our financial statements or disclosures in our financial statements.

NOTE 15 OPERATIONS BY GEOGRAPHIC AREAS

We report our offshore contract drilling operation as a single reportable segment: Offshore Contract Drilling Services. The consolidation of our offshore contract drilling operations into one reportable segment is attributable to how we manage our business, including the nature of services provided and the type of customers of such services and the fact that all of our drilling fleet are dependent upon and able to service the worldwide oil industry. The mobile offshore drilling units and related equipment comprising our offshore rig fleet operate in a single, global market for contract drilling services and are often redeployed globally due to changing demands of our customers, which consist largely of major integrated oil and natural gas companies and independent oil and natural gas companies. Our offshore contract drilling services segment currently conducts offshore contract drilling operations located in the U.S. Gulf of Mexico, South America, the Mediterranean Sea, West Africa, Southeast Asia and Australia.

Table of Contents**Index to Financial Statements**

The accounting policies of our reportable segment are the same as those described in the summary of significant accounting policies (see Note 2). We evaluate the performance of our operating segment based on revenues from external customers and segment profit. A summary of revenues and operating margin for the fiscal years ended September 30, 2011, 2010 and 2009 and identifiable assets by geographic areas as of September 30, 2011, 2010 and 2009 is as follows (in thousands):

	Fiscal 2011	Fiscal 2010	Fiscal 2009
REVENUES:			
North & South America	\$ 45,242	\$ 10,065	\$ 19,055
Southeast Asia & India	187,717	188,180	162,888
Mediterranean & Black Sea	28,486	46,622	169,828
Africa	183,946	271,583	89,601
Australia	199,685	134,112	145,135
TOTAL REVENUES	\$ 645,076	\$ 650,562	\$ 586,507
OPERATING INCOME (EXPENSE):			
North & South America	\$ (30,392)	\$ (12,204)	\$ 48,535
Southeast Asia & India	129,799	132,192	42,025
Mediterranean & Black Sea	15,385	15,931	141,133
Africa	116,581	154,298	14,301
Australia	96,724	72,743	84,087
Corporate general and administrative expenses	563	(40,620)	(31,639)
TOTAL OPERATING INCOME (EXPENSE)	\$ 328,660	\$ 322,340	\$ 298,442
TOTAL ASSETS:			
North & South America	\$ 292,808	\$ 90,496	\$ 61,982
Southeast Asia & India	904,581	974,050	750,141
Mediterranean & Black Sea	12,114	239,017	225,332
Africa	303,595	230,677	238,700
Australia	813,554	154,055	192,330
Other	48,739	36,145	40,917
TOTAL ASSETS	\$ 2,375,391	\$ 1,724,440	\$ 1,509,402

Table of Contents**Index to Financial Statements****NOTE 16 QUARTERLY FINANCIAL DATA (UNAUDITED)**

Summarized quarterly results for fiscal years 2011 and 2010 are as follows (in thousands, except per share amounts):

	December 31	Quarters ended(1)		September 30
		March 31	June 30	
Fiscal 2011				
Revenues	\$ 146,286	\$ 159,085	\$ 162,147	\$ 177,558
Income before income taxes	63,240	90,485	87,203	83,919
Net income	52,850	70,611	75,285	72,928
Earnings per common share				
Basic	0.82	1.09	1.16	1.13
Diluted	0.81	1.08	1.15	1.12
Fiscal 2010				
Revenues	\$ 164,243	\$ 159,069	\$ 166,637	\$ 160,613
Income before income taxes	81,255	77,018	84,847	76,859
Net income	66,984	66,755	58,994	64,229
Earnings per common share				
Basic	1.04	1.04	0.92	1.00
Diluted	1.03	1.03	0.91	0.99

- (1) The sum of the individual quarterly net income per common share amounts may not agree with year-to-date net income per common share as each quarterly computation is based on the weighted average number of common shares outstanding during that period.

[Table of Contents](#)

[Index to Financial Statements](#)

Atwood Oceanics, Inc.

\$

% Senior Notes due 2020

PROSPECTUS

Joint Book-Running Managers

Credit Suisse

Barclays Capital

Wells Fargo Securities

Senior Co-Managers

DNB Markets

Credit Agricole CIB

BNP PARIBAS

Natixis

Nordea

UniCredit Capital Markets

Co-Managers

HSBC

ING

Morgan Keegan

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

The following table sets forth the estimated expenses payable by Atwood Oceanics, Inc., a Texas corporation (Atwood), in connection with the offering described in this Registration Statement.

Registration fee	\$ 57,300
FINRA fee	50,500
Printing expenses	125,000
Accounting fees and expenses	175,000
Legal fees and expenses	300,000
Trustee fees and expenses	20,000
Rating agency fees	600,000
Miscellaneous	72,200
Total	1,400,000

* Applicable SEC registration fees have been deferred in accordance with Rules 456(b) and 457(r) of the Securities Act and are not estimable at this time.

Item 15. Indemnification of Directors and Officers.

Article IV, Section 3 of our second amended and restated by-laws provides that we shall indemnify and advance expenses to directors, officers, employees and agents to the maximum extent permissible under the Texas Business Organization Code (the TBOC).

Article VII of our amended and restated certificate of formation precludes any personal liability by a director to us or our shareholders for monetary damages for an act or omission in the director's capacity as a director, except for liability for (i) any breach of the director's duty of loyalty to us or our shareholders, (ii) acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law, (iii) a transaction from which the director received an improper personal benefit, whether or not the benefit resulted from an action taken within the scope of the director's office, or (iv) an act or omission for which the liability of a director is expressly provided for by statute. Article VII also provides that, if the TBOC is later amended to authorize corporate action further eliminating or limiting personal liability of directors, the liability of directors shall be further eliminated or limited to the fullest extent permitted by TBOC.

While Article VII of our certificate of formation provides directors with protection from awards of monetary damages for breaches of the duty of care, it does not eliminate each director's duty of care. Accordingly, Article VII has no effect on the availability of an equitable remedy such as an injunction or rescission based upon a director's breach of the duty of care. In addition, Article VII applies only to claims against the director arising out of his or her role as a director, and does not apply to the director's role as an officer or in any capacity other than that of a director or to the director's responsibilities under other law, such as the federal securities laws. Article VII relates only to liabilities of directors to us and our shareholders, and does not affect liability to third parties.

Title 1, Chapter 8 of the TBOC and Article IV, Section 7 of our bylaws provide us with broad powers and authority to indemnify our directors and officers and to purchase and maintain insurance for such purposes. Pursuant to such statutory and bylaw provisions, we have purchased insurance against certain costs of indemnification that may be incurred by us and by our officers and directors.

Table of Contents

Index to Financial Statements

Any underwriting agreements to be filed or incorporated by reference with this registration statement may contain reciprocal agreements of indemnity between us and the underwriters as to certain liabilities, including liabilities under the Securities Act, and may provide for indemnification of our directors and officers in certain circumstances.

Item 16. Exhibits.

Exhibit No.	Description of Exhibit
4.1	Form of Indenture between Atwood and Wells Fargo Bank, National Association relating to the debt securities.
5.1	Opinion of Baker Botts L.L.P. as to the legality of the securities.
8.1	Opinion of Baker Botts L.L.P. relating to tax matters.
12.1	Statement of computation of ratio of earnings to fixed charges for each of the years in the five-year period ended September 30, 2011.
23.1	Consent of PricewaterhouseCoopers LLP.
23.2	Consent of Baker Botts L.L.P. (included in Exhibits 5.1 and 8.1).
24.1	Powers of Attorney (included on the signature page herein).
25.1	Statement of Eligibility and Qualification under the Trust Indenture Act of 1939, as amended, of the Trustee on Form T-1.
101	Interactive Data File.

The Registrant will file as an exhibit to a Current Report on Form 8-K (i) any underwriting or similar agreement relating to the debt securities, (ii) the instruments setting forth the terms of the debt securities and (iii) any additional required opinions of counsel as to legality of the debt securities and as to certain tax matters relative to debt securities offered hereby.

Item 17. Undertakings.

(a) The undersigned Registrant hereby undertakes:

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

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

(ii) To reflect in the prospectus any facts or events arising after the effective date of the Registration Statement (or the most recent post-effective amendment thereof) which, individually or in the aggregate, represent a fundamental change in the information set forth in the Registration Statement. Notwithstanding the foregoing, any increase or decrease in volume of securities offered (if the total dollar value of securities offered would not exceed that which was registered) and any deviation from the low or high end of the estimated maximum offering range may be reflected in the form of prospectus filed with the

Edgar Filing: ATWOOD OCEANICS INC - Form S-3ASR

Commission pursuant to Rule 424(b) of the Securities Act if, in the aggregate, the changes in volume and price represent no more than a 20% change in the maximum aggregate offering price set forth in the Calculation of Registration Fee table in the effective Registration Statement; and

(iii) To include any material information with respect to the plan of distribution not previously disclosed in the Registration Statement or any material change to such information in the Registration Statement; *provided, however*, that paragraphs (a)(1)(i), (a)(1)(ii) and (a)(1)(iii) do not apply if the information required to be included in a post-effective amendment by those paragraphs is contained in reports filed

II-2

Table of Contents

Index to Financial Statements

with or furnished to the Commission by the Registrant pursuant to section 13 or section 15(d) of the Securities Exchange Act of 1934, that are incorporated by reference in the Registration Statement, or is contained in a form of prospectus filed pursuant to Rule 424(b) that is part of the Registration Statement.

- (2) That, for the purpose of determining any liability under the Securities Act, each such post-effective amendment shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.
- (3) To remove from registration by means of a post-effective amendment any of the securities being registered which remain unsold at the termination of the offering.
- (4) That, for the purpose of determining liability under the Securities Act to any purchaser:
 - (i) Each prospectus filed by the Registrant pursuant to Rule 424(b)(3) shall be deemed to be part of the Registration Statement as of the date the filed prospectus was deemed part of and included in the Registration Statement; and
 - (ii) Each prospectus required to be filed pursuant to Rule 424(b)(2), (b)(5), or (b)(7) as part of a registration statement in reliance on Rule 430B relating to an offering made pursuant to Rule 415(a)(1)(i), (vii) or (x) for the purpose of providing the information required by Section 10(a) of the Securities Act shall be deemed to be part of and included in the Registration Statement as of the earlier of the date such form of prospectus is first used after effectiveness or the date of the first contract of sale of securities in the offering described in the prospectus. As provided in Rule 430B, for liability purposes of the issuer and any person that is at that date an underwriter, such date shall be deemed to be a new effective date of the Registration Statement relating to the securities in the Registration Statement to which that prospectus relates, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof. Provided, however, that no statement made in a registration statement or prospectus that is part of the Registration Statement or made in a document incorporated or deemed incorporated by reference into the Registration Statement or prospectus that is part of the Registration Statement will, as to a purchaser with a time of contract of sale prior to such effective date, supersede or modify any statement that was made in the Registration Statement or prospectus that was part of the Registration Statement or made in any such document immediately prior to such effective date.
- (5) That, for the purpose of determining liability of the Registrant under the Securities Act to any purchaser in the initial distribution of the securities: The undersigned Registrant undertakes that in a primary offering of securities of the undersigned Registrant pursuant to the Registration Statement, regardless of the underwriting method used to sell the securities to the purchaser, if the securities are offered or sold to such purchaser by means of any of the following communications, the undersigned Registrant will be a seller to the purchaser and will be considered to offer or sell such securities to such purchaser:
 - (i) Any preliminary prospectus or prospectus of the undersigned Registrant relating to the offering required to be filed pursuant to Rule 424;
 - (ii) Any free writing prospectus relating to the offering prepared by or on behalf of the undersigned Registrant or used or referred to by the undersigned Registrant;

Edgar Filing: ATWOOD OCEANICS INC - Form S-3ASR

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

- (iv) Any other communication that is an offer in the offering made by the undersigned Registrant to the purchaser.

II-3

Table of Contents

Index to Financial Statements

- (b) The undersigned Registrant hereby further undertakes that, for purposes of determining any liability under the Securities Act, each filing of the Registrant's annual report pursuant to Section 13(a) or Section 15(d) of the Exchange Act (and, where applicable, each filing of an employee benefit plan's annual report pursuant to Section 15(d) of the Exchange Act) that is incorporated by reference in the Registration Statement shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.
- (c) Insofar as indemnification for liabilities arising under the Securities Act may be permitted to directors, officers and controlling persons of the Registrant pursuant to the foregoing provisions, or otherwise, the Registrant has been advised that in the opinion of the Securities and Exchange Commission such indemnification is against public policy as expressed in the Securities Act and is, therefore, unenforceable. In the event that a claim for indemnification against such liabilities (other than the payment by the Registrant of expenses incurred or paid by a director, officer or controlling person of the Registrant in the successful defense of any action, suit or proceeding) is asserted by such director, officer or controlling person in connection with the securities being registered, the Registrant will, unless in the opinion of its counsel the matter has been settled by controlling precedent, submit to a court of appropriate jurisdiction the question whether such indemnification by it is against public policy as expressed in the Securities Act and will be governed by the final adjudication of such issue.

Table of Contents

Index to Financial Statements

SIGNATURES

Pursuant to the requirements of the Securities Act, the Company certifies that it has reasonable grounds to believe that it meets all of the requirements for filing on Form S-3 and has duly caused this Registration Statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Houston, State of Texas, on January 9, 2012.

ATWOOD OCEANICS, INC.

By: */s/ ROBERT J. SALTIEL*
President and Chief Executive Officer

POWER OF ATTORNEY

Each person whose signature appears below appoints Robert J. Saltiel, Mark L. Mey and Walter A. Baker, and each of them severally, each of whom may act without the joinder of the others, as his true and lawful attorneys-in-fact and agents, with full power of substitution and resubstitution, for him and in his name, place and stead, in any and all capacities to sign any and all amendments (including post-effective amendments) to this Registration Statement and to file the same, with all exhibits thereto and all other documents in connection therewith, with the Securities and Exchange Commission, granting unto said attorneys-in-fact and agents full power and authority to do and perform each and every act and thing requisite and necessary to be done, as fully and for all intents and purposes as he might or could do in person, hereby ratifying and confirming all that said attorneys-in-fact and agents or any of them or their substitutes, may lawfully do or cause to be done by virtue hereof.

Pursuant to the requirements of the Securities Act, this Registration Statement has been signed by the following persons in the capacities indicated and on January 9, 2012.

<i>/s/ ROBERT J. SALTIEL</i>	President, Chief Executive Officer and Director
Robert J. Saltiel	(Principal Executive Officer)
<i>/s/ MARK L. MEY</i>	Senior Vice President and Chief Financial Officer
Mark L. Mey	(Principal Financial and Accounting Officer)
<i>/s/ GEORGE S. DOTSON</i>	Chairman of the Board
George S. Dotson	
<i>/s/ DEBORAH A. BECK</i>	Director
Deborah A. Beck	
<i>/s/ JACK E. GOLDEN</i>	Director
Jack E. Golden	
Hans Helmerich	Director

Edgar Filing: ATWOOD OCEANICS INC - Form S-3ASR

Director

James R. Montague

/s/ ROBERT J. SALTIEL

Director

Robert J. Saltiel

/s/ PHIL D. WEDEMEYER

Director

Phil D. Wedemeyer

II-5

Table of Contents

Index to Financial Statements

INDEX TO EXHIBITS

Exhibit No.	Description of Exhibit
4.1	Form of Indenture between Atwood and Wells Fargo Bank, National Association relating to the debt securities.
5.1	Opinion of Baker Botts L.L.P. as to the legality of the securities.
8.1	Opinion of Baker Botts L.L.P. relating to tax matters.
12.1	Statement of computation of ratio of earnings to fixed charges for each of the years in the five-year period ended September 30, 2011.
23.1	Consent of PricewaterhouseCoopers LLP.
23.2	Consent of Baker Botts L.L.P. (included in Exhibits 5.1 and 8.1).
24.1	Powers of Attorney (included on the signature page herein).
25.1	Statement of Eligibility and Qualification under the Trust Indenture Act of 1939, as amended, of the Trustee on Form T-1.
101	Interactive Data File.

The Registrant will file as an exhibit to a Current Report on Form 8-K (i) any underwriting or similar agreement relating to the debt securities, (ii) the instruments setting forth the terms of the debt securities and (iii) any additional required opinions of counsel as to legality of the debt securities and as to certain tax matters relative to debt securities offered hereby.