INVITROGEN CORP
Form S-4/A
November 23, 2004
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As filed with the Securities and Exchange Commission on November 23, 2004

Registration No. 333-120330

UNITED STATES

SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

Amendment No. 1 to

Form S-4

REGISTRATION STATEMENT

UNDER

THE SECURITIES ACT OF 1933

INVITROGEN CORPORATION

(Exact name of registrant as specified in its charter)

Delaware	**2836**	**33-0373077**
(State or other jurisdiction of incorporation or organization)	**(Primary Standard Industrial Classification Code Number)**	**(I.R.S. Employer Identification No.)**

1600 Faraday Avenue

Carlsbad, California 92008

(760) 603-7200

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

GREGORY T. LUCIER

1600 Faraday Avenue

Carlsbad, California 92008

(760) 603-7200

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

Copies to:

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4365 Executive Drive, Suite 1100	**450 Lexington Avenue**
San Diego, CA 92121-2133	**New York, NY 10017**

Approximate date of commencement of proposed sale to the public: As soon as practicable after this registration statement becomes effective.

If the only securities being registered on this Form are being offered in connection with the formation of a holding company and there is compliance with General Instruction G, check the following box: ¨

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

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

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

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The information in this prospectus may change. We may not complete the exchange offers and issue these securities until the registration statement filed with the Securities and Exchange Commission is effective. This prospectus is not an offer to sell these securities, and it is not soliciting an offer to buy these securities, in any state where the offer is not permitted.

Prospectus

SUBJECT TO AMENDMENT, DATED NOVEMBER 23, 2004

Invitrogen Corporation

Offer to Exchange

2.0% Convertible Senior Notes due 2023

and an Exchange Fee

and

Offer to Exchange

1.5% Convertible Senior Notes due 2024

and an Exchange Fee

The Exchange Offer:

The expiration time of the exchange offers is midnight, New York City time, on December 8, 2004, unless extended.

We will issue up to $350,000,000 aggregate principal amount of 2.0% Convertible Senior Notes due 2023 (the New 2.0% Notes) in exchange for any and all outstanding 2.0% Convertible Senior Notes due 2023 (the Existing 2.0% Notes), that are validly tendered and not validly withdrawn prior to the expiration of the exchange offers.

We will issue up to $450,000,000 aggregate principal amount of 1.5% Convertible Senior Notes due 2024 (the New 1.5% Notes and, together with the New 2.0% Notes, the New Notes) in exchange for any and all outstanding 1.5% Convertible Senior Notes due 2024 (the Existing 1.5% Notes and, together with the Existing 2.0% Notes, the Existing Notes), that are validly tendered and not validly withdrawn prior to the expiration of the exchange offers.

Upon completion of the applicable exchange offer, each $1,000 principal amount of Existing 2.0% Notes that is validly tendered and not validly withdrawn will be exchanged for $1,000 principal amount of New 2.0% Notes and an exchange fee of $2.50 and each $1,000 principal amount of Existing 1.5% Notes that is validly tendered and not validly withdrawn will be exchanged for $1,000 principal amount of New 1.5% Notes and an exchange fee of $2.50.

Tenders of Existing Notes may be withdrawn at any time before midnight on the expiration date of the exchange offers.

As explained more fully in this prospectus, the exchange offers are subject to customary conditions, which we may waive.

The New Notes:

The terms of the New Notes are substantially identical to the Existing Notes, except for the following modifications:

Net Share Settlement. The New Notes will require us to settle all conversions for a combination of cash and shares, if any, in lieu of only shares. Cash paid will equal the lesser of the principal amount of the New Notes and their conversion value. Shares of our common stock will be issued to the extent that the conversion value exceeds the principal amount of the New Notes.

Repurchase at Option of Holders. The New Notes will require us to pay only cash (in lieu of shares or a combination of cash and shares) when we repurchase the New Notes at the option of the holder.

Our common stock is quoted on the Nasdaq National Market under the symbol IVGN.

See Risk Factors beginning on page 11 to read about factors you should consider before tendering your Existing Notes for exchange.

Neither the Securities and Exchange Commission nor any state securities commission has approved or disapproved of these securities or determined if this prospectus is truthful or complete. Any representation to the contrary is a criminal offense.

Exclusive Dealer Manager

Banc of America Securities LLC

The date of this exchange offer prospectus is , 2004.

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You should only rely on the information contained or incorporated by reference in this prospectus. Neither we nor the dealer manager has authorized any other person to provide you with different or additional information. If anyone provides you with different or additional information, you should not rely on it. We are not making an offer to sell these securities in any jurisdiction where the offer or sale is not permitted. You should assume that the information in this prospectus is accurate as of the date appearing on the front cover of this prospectus only and that information contained in any document incorporated by reference in this prospectus is only accurate as of the date of the document incorporated by reference. Our business, financial condition, results of operations and prospects may have changed since that date.

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THIS PROSPECTUS INCORPORATES IMPORTANT BUSINESS AND FINANCIAL INFORMATION ABOUT US THAT IS NOT INCLUDED NOR DELIVERED WITH THIS DOCUMENT. THIS INFORMATION IS AVAILABLE WITHOUT CHARGE UPON WRITTEN OR ORAL REQUEST TO INVITROGEN CORPORATION, 1600 FARADAY AVENUE, CARLSBAD, CALIFORNIA 92008, ATTENTION: INVESTOR RELATIONS, OR MADE BY TELEPHONE AT (760) 603-7200.

IN ORDER FOR YOUR TO RECEIVE TIMELY DELIVERY OF THE DOCUMENTS BEFORE THE EXPIRATION OF THE EXCHANGE OFFER, WE SHOULD RECEIVE YOUR REQUEST NO LATER THAN DECEMBER 1, 2004. SEE AVAILABLE INFORMATION.

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SUMMARY

This summary highlights certain important information regarding our business and this offering. We have incorporated certain financial and other information in this prospectus by reference. This summary may not contain all the information that may be important to you. You should carefully read this entire prospectus, especially the section entitled Risk Factors, as well as any supplemental material and any documents that are incorporated by reference. Unless the context requires otherwise, references to Invitrogen, we, our, us, and similar terms refer to Invitrogen Corporation and its consolidated subsidiaries.

Invitrogen Corporation

We are a leading supplier of kits, reagents, sera and cell media and informatics software for life sciences research, drug discovery, and the production of biopharmaceuticals with $649 million of sales in 2002 and $778 million of sales in 2003. We offer a full range of products that enable researchers to understand the molecular basis of life and potential mechanisms of disease, as well as identify attractive targets for drug development. Our products are also used to support the clinical development and commercial production of biopharmaceuticals. Our principal executive offices are located at 1600 Faraday Avenue, Carlsbad, California 92008. Our telephone number is (760) 603-7200.

Our target markets

The principal markets for our products include the life sciences research market and the biopharmaceutical production market. The life sciences research market consists of laboratories generally associated with universities, medical research centers, government institutions, and other research institutions as well as biotechnology, pharmaceutical, energy, agricultural and chemical companies. Life sciences researchers use our reagents and informatics to perform a broad range of experiments in the laboratory.

The biopharmaceutical production market consists of biotechnology and pharmaceutical companies that use sera and media for the production of clinical and commercial quantities of biopharmaceuticals. Biopharmaceuticals include interferons, interleukins, t-PA and monoclonal antibodies. The selection of sera and media generally occurs early in the clinical process and continues through commercialization. Other industries consume sera and media for the commercial production of genetically engineered products including food processing and agricultural industries.

Our strategy

Our objective is to provide essential life science technologies for disease research, drug discovery and commercial bioproduction. Our strategies to achieve this objective include:

New Product Innovation and Development

Developing innovative new products. We place a great emphasis on internally developing new technologies for the life sciences research and biopharmaceutical production markets. A significant portion of our growth and current revenue base has been created by the application of technology to accelerate the drug discovery process of our customers. We expect to increase research and development spending as a percentage of sales over the next several quarters and to focus new product development on three critical technology areas:

- Protein production, purification and characterization;
- Biochemical and cell based assays; and
- Labeling and detection, particularly in proteomics.

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In-licensing technologies. We actively and selectively in-license new technologies, which we modify to create high value kits, many of which address bottlenecks in the research or drug discovery laboratories. We have a dedicated group of individuals that is focused on in-licensing technologies from academic and government institutions, as well as biotechnology and pharmaceutical companies.

Acquisitions. We actively and selectively seek to acquire and integrate companies with complementary products and technologies, trusted brand names, strong market positions, and strong intellectual property positions. We have acquired several companies since we became a public company in 1999. Our most significant acquisitions include Life Technologies, BioReliance, Molecular Probes, PanVera, NOVEX and Research Genetics.

Our recent significant acquisitions include:

Our February 6, 2004, acquisition of all outstanding shares of common stock of BioReliance Corporation. BioReliance is a leading contract service organization providing testing, development and manufacturing services for biologic-based drugs to biotechnology and pharmaceutical companies worldwide. The results of operations of BioReliance are included in our consolidated financial statements in the BioProduction segment from the date of acquisition.

Our August 20, 2003, acquisition of all outstanding shares of common stock of Molecular Probes, Inc., a privately-held corporation based in Eugene, Oregon. Molecular Probes is a provider of fluorescence-based technologies for use in labeling molecules for biological research and drug discovery. The results of operations of Molecular Probes are included in our consolidated financial statements in the BioDiscovery segment from the date of acquisition.

Our March 28, 2003, acquisition of products and technology rights from PanVera LLC, a wholly-owned subsidiary of Vertex Pharmaceuticals, Inc. Based in Madison, Wisconsin, our PanVera business provides products and services that are designed to accelerate the discovery of new medicines by the pharmaceutical and biopharmaceutical industries. Through this transaction, we have acquired PanVera s biochemical and cellular assay capabilities and its commercial portfolio of proprietary reagents, probes and proteins. As part of the transaction, we have also acquired PanVera s research, development and manufacturing facility in Madison. We plan to expand the sale of Pan Vera products to target a broader market, including academic and government researchers. The results of operations of PanVera are included in our consolidated financial statements in the BioDiscovery segment from the date of acquisition.

Leverage of Existing Sales and Distribution Network

Multi-national sales footprint. We have developed what we consider to be a world-class sales and distribution network with sales in approximately seventy countries throughout the world. Our sales force is highly-trained, with many of our sales-people possessing degrees in molecular biology, biochemistry or related fields. We believe our sales force has a proven track record for selling and distributing our products, and we expect to leverage this capacity to increase sales of our existing, newly developed and acquired products.

High customer satisfaction. Our sales, marketing, customer service and technical support staffs work well together to provide our customers exceptional service for our products, and we have been highly rated in customer satisfaction surveys. We expect to take advantage of this strength to attract new customers.

Rapid product delivery. We have the ability to ship typical orders on a same-day or next-day basis. We intend to use this ability to provide convenient service to our customers to generate additional sales.

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Our products and services

Our biodiscovery product segment supplies a full range of reagents, kits and informatics to enable scientists to isolate, amplify, purify, identify, and characterize genes and their related proteins. Our kits comprise all the reagents necessary to perform a specific experiment and are optimized to simplify and improve the reliability and yield of such experiment. Scientists use our reagents and kits to elucidate the molecular basis of disease, identify disease targets for drug discovery, and understand the therapeutic mechanism of a drug.

Our bioproduction segments supply a full range of mammalian sera, cell and tissue culture media, and reagents. These products provide the physiological conditions and nutrients necessary for cells to grow outside their native environment. Pharmaceutical and biotechnology companies use our products to support cells and organisms utilized in the production of biopharmaceuticals. Scientists in academic, government, and industrial laboratories also use our products to support cells utilized in research. In addition, we offer bioproduction services that evaluate products to ensure that they are free of disease-causing agents or do not cause adverse effects, characterize products chemical structures, develop formulations for long-term stability and validate purification process under regulatory guidelines.

Sales and marketing

We sell most of our products through our own sales force, and the remaining products are sold through agents or distributors. We currently market our products directly in over 24 countries throughout the world and sell through distributors or agents in approximately 45 additional countries. These independent distributors may also market research products for other companies, including some products that are competitive with our offerings. As of December 31, 2003, we employed approximately 930 people in our sales and marketing group.

We were incorporated in 1989 under the laws of California and were reincorporated in 1997 under the laws of Delaware. Our principal executive offices are located at 1600 Faraday Avenue, Carlsbad, California 92008. Our telephone number is (760) 603-7200. Our website address is www.invitrogen.com. Our website is not part of this prospectus.

Recent Developments

On October 13, 2004, David Hoffmeister joined us as our Chief Financial Officer, Senior Vice President, Finance. The Company s prior Chief Financial Officer, C. Eric Winzer, resigned that position effective the same date. Mr. Hoffmeister has held various positions for the past 20 years with McKinsey & Company, most recently since 1997 as a Director. Prior to joining McKinsey, Mr. Hoffmeister held financial positions at GTE and W.R. Grace. Mr. Hoffmeister received a BS, economics and business, from the University of Minnesota, and an MBA from the University of Chicago. Mr. Hoffmeister is 50 years old.

On July 22, 2004, Ronald Matricaria joined our board of directors. Mr. Matricaria is the former Chairman and CEO of St. Jude Medical, Inc. Previously, Mr. Matricaria spent 23 years with Eli Lilly, including as the CEO of its subsidiary Cardiac Pacemakers, Inc. Mr. Matricaria received a bachelors degree from Massachusetts College of Pharmacy. Mr. Matricaria serves on the board of directors of Cyberonics, Inc., VistaCare, Inc., Cardio Dynamics, Inc. and is Chairman of the board of Haemonetics., Inc. Mr. Matricaria is 62 years old.

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The Exchange Offers

We have summarized the terms of the exchange offers in this section. Before you decide whether to tender your Existing Notes in these offers, you should read the detailed description of the offers under The Exchange Offers for further information.

Purpose of the exchange offers	The purpose of the exchange offers is to include a net share settlement feature in our convertible debt obligations. The net share settlement feature allows us to satisfy our obligation due upon conversion to holders of the New Notes in cash for a portion of the conversion obligation, reducing the share dilution associated with conversion of the New Notes. This feature also limits the dilutive impact of the New Notes on our diluted earnings per share. For a description of the change, see the section of this prospectus entitled Summary of Certain Differences between the Existing Notes and the New Notes.
	By committing to pay a portion of the consideration in cash upon conversion of the New Notes, we will account for the New Notes under the treasury stock equivalent method. Under this method in each reporting period, our diluted shares outstanding will reflect only the shares issuable to settle the notes assuming conversion at period-end. For a more detailed description of the net share settlement feature, see Description of the New 2.0% Notes Conversion Procedures Conversion consideration and Description of the New 1.5% Notes Conversion Procedures Conversion consideration.
Terms of the exchange offers	We are offering to exchange $1,000 principal amount of New 2.0% Notes and an exchange fee of $2.50 for each $1,000 principal amount of Existing 2.0% Notes accepted for exchange. We are also offering to exchange $1,000 principal amount of New 1.5% Notes and an exchange fee of $2.50 for each $1,000 principal amount of Existing 1.5% Notes accepted for exchange. You may tender all, some or none of your Existing Notes.
Deciding whether to participate in the exchange offers	Neither we nor our officers or directors make any recommendation as to whether you should tender or refrain from tendering all or any portion of your Existing Notes in the exchange offers. Further, no person has been authorized to give any information or make any representations other than those contained herein and, if given or made, such information or representations must not be relied upon as having been authorized. You must make your own decision whether to tender your Existing Notes in the exchange offers and, if so, the aggregate amount of Existing Notes to tender. You should read this prospectus and the letter of transmittal and consult with your advisers, if any, to make that decision based on your own financial position and requirements.

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Expiration date; extension; termination	The exchange offers and withdrawal rights will expire at midnight, New York City time, on December 8, 2004, or any subsequent time or date to which the exchange offers are extended. We may extend the expiration date or amend any of the terms or conditions of the exchange offers for any reason. In the case of an extension, we will issue a press release or other public announcement no later than 9:00 a.m., New York City time, on the next business day after the previously scheduled expiration date. If we extend the expiration date, you must tender your Existing Notes prior to the date identified in the press release or public announcement if you wish to participate in the exchange offers. In the case of an amendment, we will issue a press release or other public announcement. We have the right to: extend the expiration date of the exchange offers and retain all tendered Existing Notes, subject to your right to withdraw your tendered Existing Notes; and waive any condition or otherwise amend any of the terms or conditions of the exchange offers in any respect, other than the condition that the registration statement be declared effective.
Conditions to the exchange offers	The exchange offers are each subject to certain conditions, including that at least 75% of the aggregate principal amount of the Existing Notes subject to that exchange offer are validly tendered and not withdrawn and the registration statement and any post-effective amendment to the registration statement covering the New Notes be effective under the Securities Act. See The Exchange Offers Conditions for Completion of the Exchange Offers.
Withdrawal rights	You may withdraw a tender of your Existing Notes at any time before the exchange offers expire by delivering a written notice of withdrawal to U.S. Bank National Association, the exchange agent, before the expiration date. If you change your mind, you may retender your Existing Notes by again following the exchange offer procedures before the exchange offers expire. In addition, if we have not accepted your tendered Existing Notes for exchange, you may withdraw your Existing Notes at any time after December 8, 2004.
Procedures for tendering outstanding Existing Notes	If you hold Existing Notes through a broker, dealer, commercial bank, trust company or other nominee, you should contact that person promptly if you wish to tender your Existing Notes. Tenders of your Existing Notes will be effected by book-entry transfers through The Depository Trust Company. If you hold Existing Notes through a broker, dealer, commercial bank, trust company or other nominee, you may also comply with the procedures for guaranteed delivery. Please do not send letters of transmittal to us. You should send letters of transmittal to U.S. Bank National Association, the exchange agent, at one of its offices as indicated under The

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	Exchange Offers, at the end of this prospectus or in the letter of transmittal. The exchange agent can answer your questions regarding how to tender your Existing Notes.
Accrued interest on Existing Notes	Interest on the New Notes will accrue from the last interest payment date on which interest was paid on such Existing Notes. Holders whose Existing Notes are accepted for exchange will be deemed to have waived the right to receive any interest accrued on the Existing Notes.
Trading	Our common stock is traded on the NASDAQ National Market under the symbol IVGN.
Information agent	MacKenzie Partners, Inc.
Exchange agent	U.S. Bank National Association
Dealer manager	Banc of America Securities LLC
Risk factors	You should carefully consider the matters described under Risk Factors, as well as other information set forth or incorporated by reference in this prospectus and in the letter of transmittal.
Consequences of not exchanging Existing Notes	The liquidity and trading market for Existing Notes not tendered in the exchange offers could be adversely affected to the extent a significant number of the Existing Notes are tendered and accepted in the exchange offers.
Fees and expenses of the exchange offers	We estimate that the approximate total cost of the exchange offers, including the exchange fee, assuming all of the Existing Notes are exchanged for New Notes, will be $2,500,000.
Tax consequences	See Certain United States Federal Income Tax Considerations for a summary of certain U.S. federal income tax consequences or potential consequences that may result from: (i) the exchange of Existing Notes for New Notes, (ii) the payment of an exchange fee, and (iii) the ownership and disposition of the New Notes.
	The U.S. federal income tax consequences of the exchange of Existing Notes for New Notes are not entirely clear. We will take the position that the modifications to the Existing Notes resulting from the exchange of Existing Notes for New Notes and the payment of an exchange fee should not constitute a significant modification of the terms of the Existing Notes for U.S. federal income tax purposes.

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If the exchange of Existing Notes for New Notes does not constitute a significant modification of the terms of the Existing Notes for U.S. federal income tax purposes, the New Notes will be treated as a continuation of the Existing Notes with no U.S. federal income tax consequences to a holder who exchanges Existing Notes for New Notes pursuant to the exchange offers (other than with respect to the receipt of the exchange fee). By participating in the exchange offers, each holder will be deemed to have agreed pursuant to the indentures governing the New Notes to treat the exchange offers as not constituting a significant modification of the terms of the Existing Notes. If, contrary to our position, the exchange of the Existing Notes for the New Notes does constitute a significant modification to the terms of the Existing Notes, the U.S. federal income tax consequences to you could materially differ. The receipt of the exchange fee by Non-U.S. Holders (as defined below), may be subject to U.S. federal withholding tax.

CUSIP numbers Existing 2.0% Notes (46185RAF7, 46185RAE0)

Existing 1.5% Notes (46185RAH3, 46185RAG5)

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Summary of Certain Differences between the Existing Notes and the New Notes

A summary of certain differences between the Existing 2.0% Notes and New 2.0% Notes and between the Existing 1.5% Notes and New 1.5% Notes is set forth in the table below. The table below is qualified in its entirety by the information contained in this prospectus and the documents governing the Existing 2.0% Notes, the New 2.0% Notes, the Existing 1.5% Notes, and the New 1.5% Notes, copies of which have been filed as exhibits to the registration statement of which this prospectus forms a part. For a more detailed description of the New 2.0% Notes, see Description of the New 2.0% Notes. For a more detailed description of the New 1.5% Notes, see Description of the New 1.5% Notes.

	Existing 2.0% Notes	New 2.0% Notes
Notes offered	$350,000,000 aggregate principal amount of Existing 2.0% Notes.	Up to $350,000,000 aggregate principal amount of New 2.0% Notes.
Settlement upon conversion	Upon conversion of Existing 2.0% Notes, we will deliver a specified number of shares of our common stock (other than cash payments for fractional shares).	Upon conversion of the New 2.0% Notes, we will deliver, in respect of each $1,000 of principal amount of New 2.0% Notes: cash in an amount equal to the lesser of (1) $1,000 and (2) the conversion value, which is equal to (a) the applicable conversion rate, multiplied by (b) the average of the closing sale price of our common stock on each of the ten consecutive trading days in the applicable conversion reference period, calculated as described under Description of the New 2.0% Notes Conversion Procedures Conversion consideration; and if our sale price exceeds the conversion price during the applicable conversion reference period, a number of shares of our common stock (the net shares) equal to the sum of the daily share amounts, calculated as described under Description of the New 2.0% Notes Conversion Procedures Conversion consideration.
Repurchase at the option of holders on specified dates	We will pay the repurchase price for any Existing 2.0% Notes submitted for repurchase by us on August 1, 2010 in cash. We may elect to pay the repurchase price for any Existing 2.0% Notes submitted for repurchase by us on August 1, 2013 and August 1, 2018 in cash, in shares of our common stock or a combination of shares and cash.	We will only pay the repurchase price for any New 2.0% Notes submitted for repurchase by us on any of the three specified dates in cash.

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	Existing 1.5% Notes	New 1.5% Notes
Notes offered	$450,000,000 aggregate principal amount of Existing 1.5% Notes.	Up to $450,000,000 aggregate principal amount of New 1.5% Notes.
Settlement upon conversion	Upon conversion of Existing 1.5% Notes, we will deliver a specified number of shares of our common stock (other than cash payments for fractional shares).	Upon conversion of the New 1.5% Notes, we will deliver, in respect of each $1,000 of principal amount of New 1.5% Notes: cash in an amount equal to the lesser of (1) $1,000 and (2) the conversion value, which is equal to (a) the applicable conversion rate, multiplied by (b) the average of the closing sale price of our common stock on each of the ten consecutive trading days in the applicable conversion reference period, calculated as described under Description of the New 1.5% Notes Conversion Procedures Conversion consideration; and if our sale price exceeds the conversion price during the applicable conversion reference period, a number of shares of our common stock (the net shares) equal to the sum of the daily share amounts, calculated as described under Description of the New 1.5% Notes Conversion Procedures Conversion consideration.

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Summary Consolidated Financial Data

The following summary consolidated financial data should be read together with Management s Discussion and Analysis of Financial Condition and Results of Operations from our Annual Report on Form 10-K for 2003 filed on March 3, 2004, and in our Quarterly Report on Form 10-Q filed on November 5, 2004, as well as the notes to the financial statements presented in each, which are all incorporated by reference into this prospectus.

	Years ended December 31,					Nine months ended September 30,	
	2003(1)	2002(2)	2001	2000(3)	1999	2004	2003
	(In thousands, except per share data)						
Revenues	$ 777,738	$ 648,597	$ 629,290	$ 246,195	$ 92,945	$ 761,616	$ 569,968
Gross Profit	469,349	378,699	343,588	121,498	59,938	445,223	347,846
Net income (loss)	60,130	47,667	(147,666)	(54,326)	9,236	58,361	47,541
Earnings (loss) per common share:							
Basic	$ 1.19	$ 0.91	$ (2.81)	$ (1.80)	$ 0.52(4)	$ 1.13	$ 0.95
Diluted	$ 1.17	$ 0.90	$ (2.81)	$ (1.80)	$ 0.46(4)	$ 1.09	$ 0.94
Current Assets	1,287,344	968,451	1,204,469	671,749	130,397	1,290,776	1,185,048
Noncurrent Assets	1,878,345	1,646,515	1,462,743	1,697,466	26,379	2,255,947	1,943,425
Current Liabilities	125,693	140,955	126,582	153,028	18,348	183,251	139,043
Noncurrent Liabilities	1,233,149	827,898	867,145	432,851	7,763	1,513,115	1,235,493
Convertible debt	1,022,500	672,500	672,500	172,500		1,300,000	1,022,500
Long-term obligations, less current portion	15,471	2,033	3,530	6,703	7,324	20,904	15,404
Total stockholders equity	1,806,847	1,642,610	1,671,078	1,778,397	130,665	1,850,357	1,753,937
Ratio of earnings to fixed charges	3.8	3.7	(5)	(5)	14.5	3.5(6)	4.2
Book Value Per Share	$ 35.16	$ 32.87	$ 31.53	$ 34.26	$ 5.82	$ 36.19	$ 34.46

(1) 2003 includes the results of operations of the PanVera business and Molecular Probes, Inc. as of March 28, 2003 and August 20, 2003, the respective dates of the acquisitions, which affects the comparability of the presented financial data. During 2003, we also completed other acquisitions that were not material and their results of operations have been included in our consolidated financial statements from their respective dates of acquisition.

(2) 2002 includes the results of operations of InforMax, Inc. as of December 6, 2002, the date of the acquisition, which affects the comparability of the presented financial data. Includes the adoption of Statement of Financial Accounting Standard No. 142 which eliminates further amortization of goodwill.

(3) 2000 includes the results of operations of Life Technologies from September 14, 2000, the date of acquisition, which affects the comparability of the presented financial data.

(4) 1999 includes a $1.0 million adjustment for the beneficial conversion feature related to convertible preferred stock.

(5) For the years ended December 31, 2001 and 2000, earnings were insufficient to cover fixed charges by $138.0 million and $54.6 million, respectively. Earnings are defined as income (loss) before provision for income taxes and minority interest plus Fixed Charges less minority interest in pre-tax income of subsidiaries that have not incurred Fixed Charges. Fixed Charges are defined as the sum of interest expensed plus amortized capitalized expenses related to indebtedness plus an estimate of the interest within rental expense.

(6) Includes $6.8 million in fixed charges incurred during the three months ended March 31, 2004, on the early retirement of our $172.5 million in principal amount 5 $^{1}/2$% convertible notes. The $6.8 million amount is comprised of $4.1 million for the call premium and $2.7 million for the write-off of unamortized deferred financing costs.

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RISK FACTORS

An investment in the notes involves the following risks. You should carefully consider these risks, together with other matters described in this prospectus, or incorporated into this prospectus by reference, before you agree to the Exchange. If any of the following risks occurs, our business, financial condition or operating results could be harmed. In such case, the trading price of our securities could decline and you could lose all or part of your investment. The risks described below are not the only ones we face. Additional risks not presently known to us or that we currently deem immaterial may also impair our business operations. Certain statements in this prospectus (including certain of the following factors) constitute forward-looking statements. Please refer to the section entitled Forward-Looking Statements.

Risks Related to the Growth of Our Business

Failure to manage growth could impair our business.

Our business has grown rapidly. Our net revenues increased from $55.3 million in 1997 to $777.7 million in 2003. During that same period we significantly expanded our operations in the United States, Europe and Asia-Pacific. The number of our employees increased from 272 at December 31, 1996, to 3,765 at September 30, 2004.

It is difficult to manage this rapid growth, and our future success depends on our ability to implement:

- research and product development programs;
- sales and marketing programs;
- manufacturing operations at an appropriate capacity;
- customer support programs;
- operational and financial control systems; and
- recruiting and training programs.

Our ability to offer products and services successfully and to implement our business plan in a rapidly evolving market requires an effective planning, reporting and management process. We expect that we will need to continue to improve our financial and managerial controls, reporting systems and procedures, and to expand and train our workforce worldwide. We also need to continue to manufacture our products efficiently and to control or adjust the expenses related to research and development, marketing, sales and general and administrative activities in response to changes in revenues. If we are not successful in efficiently manufacturing our products or managing such expenses there could be an adverse impact on our earnings and the growth of our business.

Our acquisition strategy has required substantial investments in operations, product research and development, administration and sales and marketing. These are significant expenses. Our failure to manage successfully and coordinate the growth of the combined company could have an adverse impact on our revenues and profits. In addition, there is no guarantee that some of the businesses we have acquired will become profitable or remain so. Some of our acquisitions may not reach our initial expectations, which may require us to record impairment charges. These charges could result in earnings volatility.

Failure to integrate acquired businesses into our operations successfully could reduce our revenues and profits.

Since the beginning of 2000, we have made several acquisitions. Our integration of the operations of BioReliance and other acquired companies and businesses will continue to require significant efforts, including the coordination of information technologies, research and development, sales and marketing, manufacturing and finance. We may find it difficult to integrate fully the operations of these acquired companies and businesses.

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Our U.S. headquarters are located in Carlsbad, California. We also have significant operations in Frederick and Rockville, Maryland, Grand Island, New York, Madison, Wisconsin, Eugene, Oregon, and New Haven, Connecticut, as well as locations throughout Europe, Asia-Pacific and the Americas. Because our facilities are physically separated, it may be difficult for us to communicate effectively with, manage and integrate these employees and operations with the rest of Invitrogen. Such difficulties could seriously damage our operations and consequently our financial results. We may decide in the future that we can better manage our operations by combining some of our facilities. There are risks involved in combining facilities.

Management may have its attention diverted while trying to continue to integrate companies and businesses that we have acquired, including BioReliance. Such diversion of management s attention or difficulties in the transition process could have a harmful effect on our revenues and profits. If we are not able to integrate the operations of all these companies and businesses successfully, we may not be able to meet our expectations of future results of operations.

Factors that will affect the success of our acquisitions include:

- presence or absence of adequate internal controls and/or significant fraud in the financial systems of acquired companies;
- decrease in customer loyalty and product orders caused by dissatisfaction with the combined companies product lines and sales and marketing practices, including price increases;
- the ability to retain key employees;
- competitive factors, including technological advances attained by competitors and patents granted to, or contested by competitors, which would result in increased efficiency in their ability to compete against us;
- the ability of the combined company to increase sales of all such companies products;
- the ability of the combined company to operate efficiently and achieve cost savings; and
- the ability of the combined company to integrate acquired technologies to develop new products.

Even if we are able to integrate our acquired operations, we cannot assure you that we will achieve synergies. Our failure to achieve synergies could have a material adverse effect on the business, results of operations and financial condition of the combined company.

Industry consolidation may lead to increased competition and may harm our operating results.

There has been a trend toward industry consolidation in our markets for the past several quarters. We expect this trend toward industry consolidation to continue as companies attempt to strengthen or hold their market positions in an evolving industry and as companies are acquired or are unable to continue operations. We believe that industry consolidation may result in stronger competitors that are better able to compete as sole-source vendors for customers. This could lead to more variability in operating results and could have a material adverse effect on our business, operating results, and financial condition. Furthermore, particularly in the drug discovery market, consolidation could lead to fewer customers, with the effect that loss of a major customer could have a material impact on results not anticipated in a customer marketplace comprised of more numerous participants.

Risks Related to our Sales

Competition in the life sciences research market, and/or a reduction in demand for our products, could reduce sales.

The markets for our products are very competitive and price sensitive. Other life science research product suppliers, as well as certain customers, such as large pharmaceutical companies, have significant financial, operational, sales and marketing resources, and experience in research and development. These and other companies may have developed or could in the future develop new technologies that compete with our products or even render our products obsolete. If a competitor develops superior technology or cost-effective alternatives to our kits and other products, our business, operating results, and financial condition could be seriously harmed. In addition, demand for our products may weaken due to reduction in research and development budgets, loss of distributors and other factors identified in this prospectus, which would have an adverse effect on our financial condition.

The markets for certain of our products, such as electrophoresis products, custom primers, amplification products, and fetal bovine serum, are also subject to specific competitive risks. These markets are highly price competitive. Our competitors have competed in the past by lowering prices on certain products. Our competitors may lower prices on these or other products in the future and we may, in certain cases, respond by lowering our prices. This could reduce revenues and profits. Conversely, failure to anticipate and respond to price competition may hurt our market share.

We believe that customers in our markets display a significant amount of loyalty to their initial supplier of a particular product. Therefore, it may be difficult to generate sales to potential customers who have purchased products from competitors. Additionally, instead of using kits, there are numerous scientists making materials themselves. To the extent we are unable to be the first to develop and supply new products, our competitive position will suffer.

Reduction in research and development budgets and government funding may affect sales.

Our customers include researchers at pharmaceutical and biotechnology companies, academic institutions, government laboratories and private foundations. Fluctuations in the research and development budgets of these researchers and their organizations, or shifts in their research priorities into areas where we do not compete, could have a significant effect on the demand for our products. Research and development budgets fluctuate due to changes in available resources, mergers of pharmaceutical and biotechnology companies, spending priorities and institutional budgetary policies. Our business could be seriously damaged by any significant decrease in life sciences research and development expenditures by pharmaceutical and biotechnology companies, academic institutions, government laboratories or private foundations.

In recent years, the pharmaceutical industry has undergone consolidation. Additional mergers or corporate consolidations in the pharmaceutical industry could cause us to lose existing customers and potential future customers, which could have a harmful effect on our business, financial condition and results of operations.

A significant portion of our sales have been to researchers at academic institutions, government laboratories and private foundations whose funding is dependent upon grants from government agencies such as the U.S. National Institutes of Health (NIH) and similar domestic and international agencies. Although the level of research funding has increased during the past several years, we cannot assure you that this trend will continue. The NIH budget has increased on average in excess of 10% in each of the past five years through fiscal 2003. Increases for fiscal 2004 were significantly less than this amount, and proposed increases for fiscal 2005 are in line with the 2004 increase. It is expected that the 2006 budget will be cut by 2% from 2005 levels. Government funding of research and development is subject to the political process, which is inherently fluid and unpredictable. Additionally, as the U.S. government continues to address program funding requirements in the current period of global unrest, including homeland security, any shift away from the funding of life sciences research and development may cause our customers to delay or forego purchases of our products. Our revenues may be adversely affected if our customers delay or cancel purchases as a result of these and other uncertainties or delays surrounding the approval of government budget proposals. Also, government proposals to reduce or eliminate budgetary deficits have sometimes included reduced allocations to the NIH and other government agencies that fund research and development activities. A reduction in government funding for the NIH or other government research agencies could seriously damage our business.

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Our customers generally receive funds from approved grants at particular times of the year, for example as determined by the U.S. federal government. In the past, such grants have been frozen for extended periods or have otherwise become unavailable to various institutions without advance notice. The timing of the receipt of grant funds affects the timing of purchase decisions by our customers and, as a result, can cause fluctuations in our sales and operating results.

Loss of customers may hurt our sales, and customers may force us to use more expensive distribution channels.

Certain of our customers have developed purchasing initiatives to reduce the number of vendors from which they purchase in order to lower their supply costs. In some cases these accounts have established agreements with large distributors, which include discounts and the distributors direct involvement with the purchasing process. These activities may force us to supply the large distributors with our products at a discount to reach those customers. For similar reasons many larger customers, including the U.S. government, have requested and may in the future request, special pricing arrangements, including blanket purchase agreements. These agreements may limit our pricing flexibility, which could have an adverse impact on our business, financial condition and results of operations. Our pricing flexibility could particularly be affected with respect to electrophoresis products, custom oligonucleotides, amplification products, and fetal bovine serum. For a limited number of customers we have made sales, at the customer s request, through third-party Internet vendors. Although Internet sales through third parties have not had a significant impact to date, it is possible that this method of distribution could have a negative impact on our gross profits, because any commission paid on Internet sales would be an additional cost not incurred through the use of non-Internet vendors.

We have launched a biodefense initiative, which depends upon the acceptance of our products by the U.S. government and its defense contractors.

We have developed products for use in detecting exposure to biological pathogens, and have begun marketing those products to the U.S. government and several defense contractors. If our products do not perform well, or the U.S. government changes its priorities with respect to defense against biological and chemical weapons, our sales growth could be affected. In addition, some third parties could object to our development of biological defense products, which could have a negative impact on our company.

Risks Related to the Development and Manufacturing of Our Products

Our market share depends on new product introductions and acceptance.

Rapid technological change and frequent new product introductions are typical for the market for certain of our products and services. For example, prepackaged kits to perform research in particular cell lines and already-isolated genetic material only recently have come into widespread use among researchers. In addition, the market for the life science informatics products of our subsidiary, InforMax, is also in the midst of rapid technological change. Our future success will depend in part on continuous, timely development and introduction of new products that address evolving market requirements and are attractive to customers. We believe successful new product introductions provide a significant competitive advantage because customers make an investment of time in selecting and learning to use a new product, and are reluctant to switch thereafter. We spend significant resources on internal research and development as well as on technology developed elsewhere to support our effort to develop and introduce new products. To the extent that we fail to introduce new and innovative products, we could fail to obtain an adequate return on these investments and could lose market share to our competitors, which would be difficult or impossible to regain. An inability, for technological or other reasons, to develop successfully and introduce new products could reduce our growth rate or otherwise damage our business.

In the past we have experienced, and we are likely to experience in the future, delays in the development and introduction of products. We cannot assure you that we will keep pace with the rapid rate of change in life sciences research and life science informatics software development, or that our new products will adequately

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meet the requirements of the marketplace or achieve market acceptance. Some of the factors affecting market acceptance of our products include:

- availability, quality and price as compared to competitive products;
- the functionality of new and existing products;
- the timing of introduction of our products as compared to competitive products;
- scientists and customers opinions of the product s utility and our ability to incorporate their feedback into future products;
- citation of the products in published research; and
- general trends in life sciences research and life science informatics software development.

The expenses or losses associated with unsuccessful product development activities or lack of market acceptance of our new products could seriously harm our business, financial condition and results of operations.

Failure to license new technologies could impair our new product development.

Our business model of providing products to researchers working on a variety of genetic and related projects requires us to develop a wide spectrum of products. To generate broad product lines it is sometimes advantageous to license technologies from the scientific community at large rather than depending exclusively on the inventions of our own employees. As a result, we believe our ability to in-license new technologies from third parties is and will continue to be critical to our ability to offer new products. A significant portion of our current revenues are from products manufactured or sold under licenses from third parties.

From time to time we are notified or become aware of patents held by third parties which are related to technologies we are selling or may sell in the future. After a review of these patents, we may decide to obtain a license for these technologies from such third parties. We are currently in the process of negotiating several such licenses and expect that we will also negotiate these types of licenses in the future. We cannot assure you that we will be able to negotiate such licenses on favorable terms, or at all.

Our ability to gain access to technologies that we need for new products and services depends in part on our ability to convince inventors and their agents or assignees that we can successfully commercialize their inventions. We cannot assure you that we will be able to continue to identify new technologies of interest to our customers which are developed by others. Even if we are able to identify new technologies of interest, we may not be able to negotiate a license on acceptable terms, or at all.

Loss of licenses could hurt our performance.

A small number of our licenses do not run for the length of the underlying patent. We may not be able to renew our existing licenses on favorable terms, or at all. If we lose the rights to a patented technology, we may need to stop selling these products and possibly other products, redesign our products or lose a competitive advantage. Potential competitors could in-license technologies that we fail to license and potentially erode our market share for these and other products.

Our licenses typically subject us to various economic and commercialization obligations. If we fail to comply with these obligations we could lose important rights under a license, such as the right to exclusivity in a certain market. In some cases, we could lose all rights under a license. In addition, certain rights granted under the license could be lost for reasons out of our control. For example, the licensor could lose patent protection for a number of reasons, including invalidity of the licensed patent, or a third party could obtain a patent that curtails our freedom to operate under one or more licenses. We do not receive indemnification from a licensor against third-party claims of intellectual property infringement.

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Failure to obtain products and components from third-party manufacturers could affect our ability to manufacture and deliver our products.

We rely on third-party manufacturers to supply many of our raw materials, product components, and in some cases, entire products, none of which are material to our business. In addition, we have a single source for supplies of some raw materials and components to our products. Manufacturing problems may occur with these and other outside sources. If such problems occur, we cannot assure you that we will be able to manufacture our products profitably or on time.

Fluctuation in the price and supply of raw FBS could affect our business.

The supply of raw fetal bovine serum (FBS) is sometimes limited because serum collection tends to be cyclical. These factors can cause the price of raw FBS to fluctuate. The profit margins we achieve on finished FBS, one of our major products, have been unstable in the past because of the fluctuations in the price of raw FBS, and any increase in the price could adversely affect those profit margins. In addition, if we are unable to obtain an adequate supply of FBS, or if we are unable to meet demand for FBS from supplies outside the U.S., we may lose market share.

Violation of government regulations or voluntary quality programs could result in loss of sales and customers and additional expense to attain compliance.

Certain products and test services provided by our BioProduction segment and our BioReliance subsidiary are regulated by the U.S. Food and Drug Administration (FDA) as medical devices, pharmaceuticals, or biologics. Additionally, the FDA regulates test services provided by our BioReliance subsidiary. As such, we must register with the FDA as both a medical device manufacturer and a manufacturer of drug products and comply with all required regulations. Failure to comply with these regulations can lead to sanctions by the FDA such as written observations made following inspections, warning letters, product recalls, fines, product seizures and consent decrees. Test data for use in client submissions with the FDA could be disqualified. If the FDA were to take such actions, the FDA s observations, warnings, etc. would be available to the public. Such publicity could affect our ability to sell these regulated products.

Additionally, some of our customers use our products and services in the manufacturing process for their drug and medical device products, and such end products are regulated by the FDA under GMP. Although the customer is ultimately responsible for GMP compliance for their products, it is also the customer s expectation that the materials sold to them will meet GMP requirements. We could lose sales and customers, and incur products liability claims, if these products do not meet GMP requirements.

ISO is an internationally recognized voluntary quality standard that requires compliance with a variety of quality requirements somewhat similar to the GMP requirements. The operations of our BioProduction segments and Eugene, Oregon facilities are intended to comply with ISO 9001. Failure to comply with this voluntary standard can lead to observations of non-compliance or even suspension of ISO certification by the certifying unit. If we lose ISO certification, this loss could cause some customers to purchase products from other suppliers.

If we violate a government mandated or voluntary quality program, we may incur additional expense to comply with the government mandated or voluntary standards. That expense may be material, and we may not have anticipated that expense in our financial forecasts. Our financial results could suffer as a result of these increased expenses.

Risks Related to Our Intellectual Property

Inability to protect our technologies could affect our ability to compete.

Our success depends to a significant degree upon our ability to develop proprietary products and technologies. However, we cannot assure you that patents will be granted on any of our patent applications. We also cannot assure you that the scope of any of our issued patents will be sufficiently broad to offer meaningful protection. We only

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have patents issued in selected countries. Therefore, third parties can make, use, and sell products covered by our patents in any country in which we do not have patent protection. In addition, our issued patents or patents we license could be successfully challenged, invalidated or circumvented so that our patent rights would not create an effective competitive barrier. We provide our customers the right to use our products under label licenses that are for research purposes only. These licenses could be contested, and we cannot assure you that we would either be aware of an unauthorized use or be able to enforce the restrictions in a cost-effective manner.

If a third party claimed an intellectual property right to technology we use, we might need to discontinue an important product or product line, alter our products and processes, defend our right to use such technology in court or pay license fees. Although we might under these circumstances attempt to obtain a license to such intellectual property, we may not be able to do so on favorable terms, or at all. Additionally, if our products are found to infringe a third party s intellectual property, we may be required to pay damages for past infringement, and lose the ability to sell certain products or receive licensing revenues.

Disclosure of trade secrets could aid our competitors.

We attempt to protect our trade secrets by entering into confidentiality agreements with third parties, our employees and consultants. However, these agreements can be breached and, if they are, there may not be an adequate remedy available to us. If our trade secrets become known we may lose our competitive position.

Intellectual property litigation and other litigation could harm our business.

Litigation regarding patents and other intellectual property rights is extensive in the biotechnology industry. We are aware that patents have been applied for and, in some cases, issued to others claiming technologies that are closely related to ours. We are currently a defendant in several court actions involving our intellectual property. As a result, and in part due to the ambiguities and evolving nature of intellectual property law, we periodically receive notices of potential infringement of patents held by others. We may not be able to resolve these types of claims successfully in the future.

We are currently enforcing our intellectual property rights through patent litigation in several court actions. We have incurred substantial costs, and are currently incurring substantial costs, in enforcing our intellectual property rights, primarily relating to H minus reverse transcriptase, which is the basis for our Superscript and related product lines, and we expect to incur such costs in the future for Superscript and other technologies. In the event of additional intellectual property disputes, we may be involved in further litigation. In addition to court actions, patent litigation could involve proceedings before the U.S. Patent and Trademark Office or the International Trade Commission. Intellectual property litigation can be extremely expensive, and such expense, as well as the consequences should we not prevail, could seriously harm our business. If we do not prevail in our pending patent litigation relating to H minus reverse transcriptase, we may be unable to prevent third parties from using this technology in the commercial marketplace. This could have a seriously harmful effect on our business.

Risks Related to Our Operations

Litigation may harm our business or otherwise distract our management.

Substantial, complex or extended litigation could cause us to incur large expenditures and distract our management. For example, lawsuits by employees, stockholders, collaborators, distributors, customers, or end-users of our products or services could be very costly and substantially disrupt our business. Disputes from time to time with such companies or individuals are not uncommon, and we cannot assure you that we will always be able to resolve such disputes out of court or on terms favorable to us. Unexpected results could cause our financial exposure in these matters to exceed stated reserves and insurance, requiring us to allocate additional funds and other resources to address these liabilities.

In particular, in acquiring the Dexter Corporation and Life Technologies, Inc., we assumed certain of Dexter s and Life Technologies, Inc. s liabilities, ongoing disputes and litigation. These include environmental and warranty claims, among others.

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Loss of key personnel could hurt our business.

Our products and services are highly technical in nature. In general, only highly qualified and trained scientists have the necessary skills to develop and market our products and provide our services. In addition, some of our manufacturing positions are highly technical as well. We face intense competition for these professionals from our competitors, customers, marketing partners and other companies throughout our industry. We do not generally enter into employment agreements requiring these employees to continue in our employment for any period of time. Any failure on our part to hire, train, and retain a sufficient number of qualified professionals would seriously damage our business. Additionally, some measures that we implement during the course of integrating acquired companies and businesses into our operations may be disruptive to some of our key personnel and cause them to leave us. If we were to lose a sufficient number of our key employees, including research and development scientists, and were unable to replace them or satisfy our needs for research and development through outsourcing, it could seriously damage our business.

We have a significant amount of debt which could adversely affect our financial condition.

We have, and will continue to have after the exchange described in this prospectus, $500 million of subordinated convertible notes that are due in 2006, $350 million of the senior convertible notes that are due in 2023 and $450 million of senior convertible notes that are due in 2024, which is in aggregate a significant amount of debt and debt service obligations. If we are unable to generate sufficient cash flow or otherwise obtain funds necessary to make required payments on the remaining notes, we will be in default under the terms of the loan agreements, or indentures, which could, in turn, cause defaults under our other existing and future debt obligations. These notes also could have a negative effect on our earnings per share, depending on the rate of interest we earn on cash balances and our stock price, and on our ability to make favorable acquisitions using the proceeds from the notes.

Even if we are able to meet our debt service obligations, the amount of debt we have could adversely affect us in a number of ways, including by:

- limiting our ability to obtain any necessary financing in the future for working capital, capital expenditures, debt service requirements, or other purposes;
- limiting our flexibility in planning for, or reacting to, changes in our business;
- placing us at a competitive disadvantage relative to our competitors who have lower levels of debt;
- making us more vulnerable to a downturn in our business or the economy generally; and
- requiring us to use a substantial portion of our cash to pay principal and interest on our debt, instead of contributing those funds to other purposes such as working capital and capital expenditures.

We could lose the tax deduction on the Existing Notes or New Notes under certain circumstances.

We could lose some or all of the past, present, or future tax deductions for the contingent portion of the interest expense associated with the Existing Notes or New Notes if, under certain circumstances, the foregoing notes are not subject to the special Treasury Regulations governing contingent payment debt instruments or the exchange of the Existing Notes for New Notes is deemed to be a taxable exchange. We also could lose the tax deduction for interest expense associated with the foregoing notes if we were to invest in non-taxable investments.

Absence of dividends could reduce our attractiveness to investors.

Some investors favor companies that pay dividends, particularly in market downturns. We have never declared or paid any cash dividends on our common stock, although some of the companies that we have acquired, including Life Technologies and Dexter, declared and paid dividends prior to the acquisitions. We currently intend to retain any future earnings for funding growth and, therefore, we do not currently anticipate paying cash dividends on our common stock.

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Our anti-takeover defense provisions may deter potential acquirers and may depress our stock price.

Certain provisions of our certificate of incorporation, by-laws and Delaware law, as well as certain agreements we have with our executives, could be used by our incumbent management to make it substantially more difficult for a third party to acquire control of us. These provisions include the following;

- we may issue preferred stock with rights senior to those of our common stock;
- we have adopted a stock purchase rights plan;
- we have a classified board of directors;
- our by-laws prohibit action by written consent by stockholders;
- our board of directors has the exclusive right to fill vacancies and set the number of directors;
- cumulative voting is not allowed;
- we require advance notice for nomination of directors and for stockholder proposals; and
- a number of our executives have agreements with us that entitle them to payments in certain circumstances following a change in control.

These provisions may discourage certain types of transactions involving an actual or potential change in control. These provisions may also limit our stockholders ability to approve transactions that they may deem to be in their best interests and discourage transactions in which our stockholders might otherwise receive a premium for their shares over the then current market price.

Risks Related to Our International Operations

International unrest or foreign currency fluctuations could adversely affect our results.

Including subsidiaries and distributors, our products are currently marketed in approximately 70 countries throughout the world. Our international revenues, which include revenues from our non-U.S. subsidiaries and export sales from the U.S., represented 48% of our product revenues in 2003, 44% of our product revenues in 2002, and 45% of our product revenues in 2001. We expect that international revenues will continue to account for a significant percentage of our revenues for the foreseeable future.

There are a number of risks arising from our international business, including:

- foreign currencies we receive for sales outside the U.S. could be subject to unfavorable exchange rates with the U.S. dollar and reduce the amount of revenue and profits that we recognize;
- the possibility that unfriendly nations or groups could boycott our products;
- general economic and political conditions in the markets in which we operate;
- potential increased costs associated with overlapping tax structures;
- potential trade restrictions and exchange controls;
- more limited protection for intellectual property rights in some countries;
- difficulties and costs associated with staffing and managing foreign operations;
- unexpected changes in regulatory requirements;
- the difficulties of compliance with a wide variety of foreign laws and regulations;
- longer accounts receivable cycles in certain foreign countries;
- import and export licensing requirements; and
- changes to our distribution networks.

A significant portion of our business is conducted in currencies other than the U.S. dollar, which is our reporting currency. We recognize foreign currency gains or losses arising from our operations in the period

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incurred. As a result, fluctuations between the currencies in which we do business have caused and will continue to cause foreign currency transaction gains and losses. We cannot predict the effects of currency exchange rate fluctuations upon our future operating results because of the number of currencies involved, the variability of currency exposures, and the potential volatility of currency exchange rates.

Our foreign currency hedging program includes contracts to hedge future forecasted foreign currency cash flows. The goal of this program is to reduce the volatility of our earnings and cash flows from changes in foreign currency exchange rates, but we cannot assure you that this program will adequately protect our operating results from the full effects of exchange rate fluctuations. Failure to hedge effectively against exchange rate fluctuations may adversely affect our results of operations.

Several foreign countries in which we generate revenue have experienced somewhat unsteady economic conditions and significant devaluation in currencies. The economic situation in these regions may result in slower payments of outstanding receivable balances or even defaults. Our business could be damaged by weakness in the economies and currencies in these regions.

Risks Related to the Market for Our Securities

The market price of our stock and convertible notes could be volatile.

The market price of our common stock and convertible notes has been subject to volatility and, in the future, the market price of our common stock and convertible notes may fluctuate substantially due to a variety of factors, including:

- quarterly fluctuations in our operating income and earnings per share results;
- technological innovations or new product introductions by us or our competitors;
- economic conditions;
- disputes concerning patents or proprietary rights;
- changes in earnings estimates and market growth rate projections by market research analysts;
- sales of common stock by existing holders;
- loss of key personnel;
- securities class actions or other litigation; and.

changes to the NIH budget, and the research and development budgets of our customers.

The market price for our common stock and the convertible notes may also be affected by our ability to meet analysts expectations. Any failure to meet such expectations, even slightly, could have an adverse effect on the market price of our common stock and the convertible notes. In addition, the stock market is subject to extreme price and volume fluctuations. This volatility has had a significant effect on the market prices of securities issued by many companies for reasons unrelated to the operating performance of these companies. In the past, following periods of volatility in the market price of a company s securities, securities class action litigation has often been instituted against that company. If similar litigation were instituted against us, it could result in substantial costs and a diversion of our management s attention and resources, which could have an adverse effect on our business, results of operations and financial condition.

Our operating results may fluctuate in future periods.

The results of operations for any quarter are not necessarily indicative of results to be expected in future periods. Our operating results have in the past been, and will continue to be, subject to quarterly fluctuations as a result of a number of factors. These factors include, but are not limited to:

the integration of people, operations and products from acquired businesses and technologies;

our ability to introduce new products successfully;

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- market acceptance of existing or new products and prices;
- competitive product introductions;
- customer working days within the reporting period;
- currency exchange rate fluctuations;
- changes in customer research budgets which are influenced by the timing of their research and commercialization efforts and their receipt of government grants;
- our ability to manufacture our products efficiently;
- our ability to control or adjust research and development, marketing, sales and general and administrative expenses in response to changes in revenues; and
- the timing of orders from distributors and mix of sales among distributors and our direct sales force.

Risks Related to Environmental Issues

Incidents related to hazardous materials could adversely affect our business.

Portions of our operations require the controlled use of hazardous and radioactive materials. Although we are diligent in designing and implementing safety procedures to comply with the standards prescribed by federal, state, and local regulations, the risk of accidental contamination of property or injury to individuals from these materials cannot be completely eliminated. In the event of such an incident, we could be liable for any damages that result, which could adversely affect our business.

Additionally, although unlikely, a catastrophic incident could partially or completely shut down our research and manufacturing facilities and operations.

We generate waste that must be transported to approved treatment, storage and disposal facilities. The transportation and disposal of such waste are required to meet applicable state and federal statutes and regulations. The storage, treatment and disposal of such waste potentially exposes us to environmental liability if, in the future, such transportation and disposal is deemed to have violated such statutes and/or regulations or if the storage, treatment and disposal facilities are inadequate and are proved to have damaged the environment.

Furthermore, in acquiring Dexter, we assumed certain of Dexter s environmental liabilities, including clean-up of several hazardous waste sites listed on the National Priority List under federal Superfund law. Unexpected results related to the investigation and clean-up of these sites could cause our financial exposure in these matters to exceed stated reserves and insurance, requiring us to allocate additional funds and other resources to address our environmental liabilities, which could cause a material adverse effect on our business.

Environmental, health and safety regulation by the government could adversely affect our operations.

Our operations are subject to complex and stringent environmental, health, safety and other governmental laws and regulations. While we believe that we have obtained the requisite approvals and permits for our existing operations, and that our business is operated in accordance with applicable laws in all material respects, we remain subject to a varied and complex body of laws and regulations that both public officials and private individuals may seek to enforce. Existing laws and regulations may be revised or reinterpreted, or new laws and regulations may become applicable to us that may have a negative effect on our business and results of operations.

Potential product liability claims could affect our earnings and financial condition.

We face a potential risk of liability claims based on our products or services. We carry product liability insurance coverage which is limited in scope and amount. We cannot assure you, however, that we will be able to maintain this insurance at a reasonable cost and on reasonable terms. We also cannot assure you that this insurance will be adequate to protect us against a product liability claim, should one arise.

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BioReliance s services include the manufacture of biologic products to be tested in human clinical trials. BioReliance could be held liable for errors and omissions in connection with the services it performs. In addition, our BioReliance subsidiary formulates, tests and manufactures products intended for use by the public. These activities could expose BioReliance to risk of liability for personal injury or death to persons using such products, although neither Invitrogen nor BioReliance commercially markets or sells the products to end users. We seek to reduce our potential liability through measures such as contractual indemnification provisions with clients (the scope of which may vary from client-to-client, and the performances of which are not secured) and insurance maintained by clients. BioReliance and Invitrogen could be materially and adversely affected if BioReliance or Invitrogen were required to pay damages or incur defense costs in connection with a claim that is outside the scope of the indemnification agreements, if the indemnity, although applicable, is not performed in accordance with its terms or if our liability exceeds the amount of applicable insurance or indemnity. We currently maintain product liability and errors and omissions insurance with respect to these risks. There can be no assurance that our insurance coverage will be adequate or that insurance coverage will continue to be available on terms acceptable to us.

Risks Relating to the Exchange Offers

After the consummation of the exchange offers there will likely be a limited trading market for the Existing Notes which could affect the market price of the Existing Notes.

To the extent that Existing Notes are tendered and accepted for exchange pursuant to the exchange offers, the trading market for Existing Notes that are not tendered and remain outstanding after the exchange offers is likely to be significantly more limited than at present. A debt security with a smaller outstanding principal amount available for trading (a smaller float) may command a lower price than would a comparable debt security with a larger float. Therefore, the market price for Existing Notes that are not tendered and accepted for exchange pursuant to the exchange offers may be affected adversely to the extent that the principal amount of the Existing Notes exchanged pursuant to the exchange offers reduces the float. A reduced float may also make the trading price of Existing Notes that are not exchanged in the exchange offers more volatile.

The U.S. federal income tax consequences of the exchange of the Existing Notes for the New Notes are unclear.

The U.S. federal income tax consequences of the exchange offers are not entirely clear. We will take the position that the exchange of Existing Notes for New Notes will not constitute a significant modification of the terms of the Existing Notes for U.S. federal income tax purposes. The indentures governing the New Notes will contain provisions stating that by acceptance of a beneficial interest in a New Note each holder thereof will be deemed to have agreed that the exchange of Existing Notes for New Notes does not constitute a significant modification of the terms of the Existing Notes for U.S. federal income tax purposes. That position, however, could be challenged by the Internal Revenue Service. Assuming the exchange of the Existing Notes for the New Notes does not result in a significant modification of the terms of the Existing Notes, the New Notes will be treated as a continuation of the Existing Notes and there should be no U.S. federal income tax consequences to a holder who exchanges Existing Notes for New Notes pursuant to the exchange offers (other than with respect to the receipt of the exchange fee). If, contrary to our position, the exchange of the Existing Notes for the New Notes does constitute a significant modification of the terms of the Existing Notes, the U.S. federal income tax consequences to you could materially differ. See Certain United States Federal Income Tax Considerations of the exchange offers for more information. The receipt of the exchange fee by Non-U.S. Holders (as defined below) may be subject to U.S. federal withholding tax.

Our board of directors has not made a recommendation with regard to whether or not you should tender your Existing Notes in the exchange offers and we have not obtained a third-party determination that the exchange offers are fair to holders of the Existing Notes.

We are not making a recommendation as to whether holders of the Existing Notes should exchange them. We have not retained and do not intend to retain any unaffiliated representative to act solely on behalf of the holders of the Existing Notes for purposes of negotiating the terms of the exchange offers or preparing a report

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concerning the fairness of the exchange offers. We cannot assure holders of the Existing Notes that the value of the New Notes received in the exchange offers will in the future equal or exceed the value of the Existing Notes tendered and we do not take a position as to whether you ought to participate in the exchange offers.

Risks Related to the New Notes

The New Notes will effectively be subordinated to the debt of our subsidiaries and are not secured by any of our assets.

The New Notes offered hereby will be general unsecured obligations. In addition, the New Notes will be effectively junior to all our existing and future secured indebtedness to the extent of the value of the assets securing that indebtedness. As a result of such subordination, in the event of our bankruptcy, liquidation or reorganization or certain other events, our assets will be available to pay obligations on the New Notes only after all of our secured debt, to the extent of the value of the assets securing that debt, has been paid in full. Consequently, there may not be sufficient assets remaining to pay amounts due on any or all of the New Notes then outstanding. In addition, to the extent our assets cannot satisfy in full the secured indebtedness, the holders of the secured indebtedness would have a claim for any shortfall that would rank equally in right of payment with the notes. The indentures governing the New Notes do not prohibit or limit our or our subsidiaries incurrence of additional debt, including senior indebtedness or secured debt, and the incurrence of any such additional indebtedness could adversely affect our ability to pay our obligations on the New Notes. As of September 30, 2004, we had no secured indebtedness while our subsidiaries had approximately $54.9 million of outstanding indebtedness and trade payables (excluding intercompany liabilities and liabilities of the type not required to be reflected on a balance sheet in accordance with U.S. generally accepted accounting principles), all of which would have been structurally senior to the New Notes. The $54.9 million includes approximately $18.5 million in aggregate indebtedness from our acquisition of BioReliance, that we carried as of September 30, 2004.

We may be unable to repay or repurchase the New Notes at maturity, upon a conversion, repurchase event or exercise of your put option.

There is no sinking fund with respect to the New Notes, and the entire outstanding principal amount of the New Notes will become due and payable at maturity. The New Notes are convertible into cash equal to the lesser of the principal amount and the conversion value and the net shares, if any. If we experience a repurchase event, as defined in the indenture, or if you exercise your put option, you may require us to repurchase all or a portion of your New Notes prior to maturity. See Repurchase of Notes at the Option of Holders in Description of the New 2.0% Notes and Description of the New 1.5% Notes. We will be required to repurchase all or a portion of the New 2.0% Notes then outstanding at the option of the holders on August 1, 2010, 2013 and 2018, and the New 1.5% Notes then outstanding at the option of the holders on February 15, 2012, 2017, and 2022, in each case at a purchase price equal to one hundred percent of the outstanding principal amount plus accrued and unpaid interest, including any contingent interest. While we currently are able to generate positive cash flow from operations, we cannot guarantee we will have sufficient funds or be able to arrange for additional financing to pay the interest or principal on the New Notes as they come due or to repurchase New Notes tendered to us following a repurchase event or upon exercise of your put option.

Borrowing arrangements or agreements relating to other indebtedness to which we may become a party may contain restrictions on or prohibitions against our repurchase of the New Notes. If we cannot obtain the necessary waivers or refinance the applicable borrowings, we would be unable to repurchase the New Notes. Our failure to repurchase any tendered New Notes or convertible New Notes due upon maturity would constitute an event of default of the New Notes.

We have made only limited covenants in the indentures for the New Notes, which may not protect your investment if we experience significant adverse changes in our financial condition or results of operations.

The indentures governing the New Notes do not:

- require us to maintain any financial ratios or specified levels of net worth, revenues, income, cash flow or liquidity, and therefore, do not protect holders of the New Notes in the event that we experience significant adverse changes in our financial condition or results of operations;

- limit our ability or the ability of any of our subsidiaries to incur additional indebtedness that is senior to or equal in right of payment to the New Notes;

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restrict our ability or that of our subsidiaries to issue securities that would be senior to the common stock of the subsidiary held by us; or

restrict our ability to pledge our assets or those of our subsidiaries.

Therefore, you should not consider the provisions of these governing instruments as a significant factor in evaluating whether we will be able to comply with our obligations under the New Notes.

Securities we issue to fund our operations could dilute your ownership.

We may decide to raise additional funds through public or private debt or equity financing to fund our operations. If we raise funds by issuing equity securities, the percentage ownership of our current stockholders will be reduced and the new equity securities may have rights prior to those of the common stock issuable upon conversion of the New Notes. We may not obtain sufficient financing on terms that are favorable to you or us. We may delay, limit or eliminate some or all of our proposed operations if adequate funds are not available.

You may not be able to successfully make or collect on a claim against Arthur Andersen LLP with respect to certain of our financial statements.

Our consolidated financial statements as of December 31, 2001 and for the year then ended, which are incorporated by reference in this prospectus, were audited by Arthur Andersen LLP, which issued a publicly available audit report expressing its unqualified opinion with respect thereto. We dismissed Arthur Andersen LLP in April 2002, and we have not obtained the consent of Arthur Andersen LLP to our naming it in this prospectus as having certified the referenced financial statements. Additionally, we have not requested our current auditors to re-audit these financial statements. Since we have not obtained the consent of Arthur Andersen LLP, you may not be able to recover against Arthur Andersen LLP under United States securities laws for any misstatements of a material fact contained in the financial statements audited by Arthur Andersen LLP, or any omissions to state a material fact contained in the financial statements audited by Arthur Andersen LLP, or any omissions to state a material fact required to be stated therein. To the extent that a purchaser of New Notes or shares under this prospectus could make a successful claim against Arthur Andersen LLP for any matter related to these financial statements, due to Arthur Andersen LLP s current financial and legal circumstances, the ability of Arthur Andersen LLP to satisfy these claims may be limited as a practical matter.

An active trading market may not develop for the New Notes.

While the New Notes are expected to be eligible for trading in PORTAL, the Private Offering, Resale and Trading through Automated Linkages Market of the National Association of Securities Dealers, Inc., a screen-based automated market for trading securities for qualified institutional buyers, there is currently no public market for the New Notes.

We do not intend to apply for a listing of any of the New Notes on any securities exchange. We do not know if an active public market will develop for the New Notes or, if developed, will continue. If an active market is not developed or maintained, the market price and the liquidity of the New Notes may be adversely affected.

In addition, the liquidity and the market price of the New Notes may be adversely affected by changes in the overall market for convertible securities and by changes in our financial performance or prospects, or in the prospects of companies in our industry. As a result, you cannot be sure that an active trading market will develop for the New Notes.

We are subject to a new accounting rule that, when it takes effect, will result in lower earnings per share on a diluted basis.

At its September 2004 meeting, the Emerging Issues Task Force (EITF) of the Financial Accounting Standards Board (FASB) reached a conclusion on EITF Issue No. 04-8, The Effect of Contingently Convertible

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Debt on Diluted Earnings Per Share, that will require the contingent shares issuable under our Existing Notes to be included in our diluted earnings per share calculation retroactive to the date of issuance by applying the if converted method under FASB Statement No. 128, Earnings per Share (FAS 128). We have followed the existing interpretation of FAS 128, which requires inclusion of the impact of the conversion of our Existing Notes only when and if the conversion thresholds are reached. As the conversion thresholds have not been reached, we have not included the impact of the conversion of our Existing Notes in our computation for diluted earnings per share through the periods ended September 30, 2004.

The new rule will require us to restate previously reported diluted earnings per share and will result in lower diluted earnings per share than previously reported for periods subsequent to the issuance of the Existing Notes. If the exchange offers are completed prior to the effective date of the new rule, the restated diluted earnings per share will be calculated under the terms of the New Notes and will result in lower diluted earnings per share once our stock price meets the conversion price. For the three month periods ended September 30, 2003, December 31, 2003, March 31, 2004, June 30, 2004 and September 30, 2004, assuming exchange of substantially all of the Existing Notes, our diluted earnings per share would not have been materially different than the reported amount. If the exchange offers are not completed prior to the effective date of the new rule, our restated diluted earnings per share will be calculated under the terms of the Existing Notes, which will result in lower diluted earnings per share of approximately 8% for the three months ended September 30, 2004 and 1% for our fiscal year 2003.

Upon conversion of the New Notes, you may receive less proceeds than expected because the value of our common stock may decline between the day that you exercise your conversion right and the day the conversion value of your New Notes is determined.

The conversion value that you will receive upon conversion of your New Notes is determined by the average of the closing sale prices of our common stock for 10 consecutive trading days. If we have issued a notice of redemption, this 10-trading day period will begin on the third trading day following the redemption date. Accordingly, if you exercise your conversion right soon after our issuance of a notice of redemption, the 10 consecutive trading days may not begin for several weeks thereafter. If you exercise your conversion right prior to our having issued a notice of redemption, the 10-trading day period will begin on the third trading day immediately following the day you deliver your conversion notice to the conversion agent. If the price of our common stock decreases after we receive your notice of conversion and prior to the end of the applicable 10-trading day period, the conversion value you receive will be adversely affected.

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RATIO OF EARNINGS TO FIXED CHARGES

The following table sets forth the ratio of earnings to fixed charges for our company and our subsidiaries for each of the periods indicated. We calculated the ratio of earnings to fixed charges by dividing earnings by total fixed charges. Earnings are defined as income (loss) before provision for income taxes and minority interest plus Fixed Charges less minority interest in pre-tax income of subsidiaries that have not incurred Fixed Charges. Fixed Charges are defined as the sum of interest expensed plus amortized capitalized expenses related to indebtedness plus an estimate of the interest within rental expense.

	Nine Months Ended September 30,		Years Ended December 31,				
	2004(2)	2003	2003	2002	2001	2000	1999
Ratio of earnings to fixed charges(1)	3.5	4.2	3.8	3.7			14.5

(1) For the years ended December 31, 2001 and 2000, earnings were insufficient to cover fixed charges by $138.0 million and $54.6 million, respectively.

(2) Includes $6.8 million in fixed charges incurred during the three months ended March 31, 2004, on the early retirement of our $172.5 million in principal amount 5 1/2% convertible notes. The $6.8 million amount is comprised of $4.1 million for the call premium and $2.7 million for the write-off of unamortized deferred financing costs.

USE OF PROCEEDS

Invitrogen will not receive any proceeds from the exchange of the Existing Notes for the New Notes or the sale of the shares of common stock on conversion of the New Notes. Existing Notes that are properly tendered and exchanged pursuant to the exchange offer will be retired and cancelled.

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THE EXCHANGE OFFERS

Purpose of the Exchange Offer

The purpose of the exchange offer is to include a net share settlement feature in our convertible debt obligations. The net share settlement feature allows us to satisfy our obligation due upon conversion to holders of the New Notes in cash for a portion of the conversion obligation, reducing the share dilution associated with conversion of the New Notes. This feature also limits the dilutive impact of the New Notes on our diluted earnings per share. For a description of the change, see the section of this prospectus entitled Summary Summary of Certain Differences Between the Existing Notes and the New Notes.

Terms of the Exchange Offers; Period for Tendering Existing Notes

We are offering, upon the terms and subject to the conditions set forth in this prospectus and the accompanying letter of transmittal, to exchange $1,000 principal amount of New 2.0% Notes and an exchange fee of $2.50 for each $1,000 principal amount of validly tendered and accepted Existing 2.0% Notes. We are also offering, upon the terms and subject to the conditions set forth in this prospectus and the accompanying letter of transmittal, to exchange $1,000 principal amount of New 1.5% Notes and an exchange fee of $2.50 for each $1,000 principal amount of validly tendered and accepted Existing 1.5% Notes. We are offering to exchange all of the Existing Notes. However, the exchange offers are subject to the conditions described in this prospectus.

You may tender all, some or none of your Existing Notes, subject to the terms and conditions of the exchange offers. Holders of Existing Notes must tender their Existing Notes in a minimum $1,000 principal amount and multiples thereof.

The exchange offers are not being made to, and we will not accept tenders for exchange from, holders of Existing Notes in any jurisdiction in which the exchange offers or the acceptance of the offers would not be in compliance with the securities or blue sky laws of that jurisdiction.

Our board of directors and officers do not make any recommendation to the holders of Existing Notes as to whether or not to exchange all or any portion of their Existing Notes. Further, no person has been authorized to give any information or make any representations other than those contained herein and, if given or made, such information or representations must not be relied upon as having been authorized. You must make your own decision whether to tender your Existing Notes for exchange and, if so, the amount of Existing Notes to tender.

Expiration Date

The expiration date for the exchange offers is midnight, New York City time, on December 8, 2004, unless we extend the exchange offers. We may extend this expiration date for any reason. The last date on which tenders will be accepted, whether on December 8, 2004 or any later date to which the exchange offers may be extended, is referred to as the expiration date.

Extensions; Amendments

2,320

6,361

Purchase of property and equipment
(15,043
)

(7,234
)
Contributions to CSV life insurance
(424
)

(430
)
Acquisition of TBC
—

(6,000
)
TBC acquisition adjustment
—

(557
)
Proceeds from return of investment
94

—

Insurance claim proceeds related to property and equipment
1,346

—

Net cash used in investing activities
(11,707
)

(7,860
)

Cash flows from financing activities:

Borrowings from Credit Facility	29,861	52,000
Payments made on borrowings from Credit Facility	(21,361)	(74,438)
Loan costs from Credit Facility	(861)	(210)
Exercise of stock options	2,815	1,007
Net cash provided by (used in) financing activities	10,454	(21,641)
Net change in cash and cash equivalents	(6,492)	2,354
Cash and cash equivalents at beginning of period	9,086	305
Cash and cash equivalents at end of period	$ 2,594	

$
2,659

Supplemental disclosures of cash flow information:

Cash paid during the period for:

Interest
$
2,994

$
3,232

Taxes, net of refunds
$
472

$
1,067

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

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Orion Group Holdings, Inc. and Subsidiaries
Notes to Consolidated Financial Statements
(Tabular Amounts in thousands, Except for Share and per Share Amounts)
(Unaudited)

1. Description of Business and Basis of Presentation
Description of Business

Orion Group Holdings, Inc., its subsidiaries and affiliates (hereafter collectively referred to as the "Company"), provide a broad range of specialty construction services in the infrastructure, industrial, and building sectors of the continental United States, Alaska, Canada and the Caribbean Basin. The Company's marine segment services the infrastructure sector through marine transportation facility construction, marine pipeline construction, marine environmental structures, dredging of waterways, channels and ports, environmental dredging, design, and specialty services. Its concrete segment services the building sector by providing turnkey concrete construction services including pour and finish, dirt work, layout, forming, rebar, and mesh across the light commercial, structural and other associated business areas. The Company is headquartered in Houston, Texas with offices throughout its operating areas.

The tools used by the chief operating decision maker ("CODM") to allocate resources and assess performance are based on two reportable and operating segments: marine, which operates under the Orion Marine Group brand and logo, and concrete, which operates under the TAS Commercial Concrete brand and logo.
Although we describe the business in this report in terms of the services the Company provides, its base of customers and the areas in which it operates, the Company has determined that its operations currently comprise two reportable segments pursuant to Financial Accounting Standards Board ("FASB") Accounting Standards Codification ("ASC") Topic 280, Segment Reporting.
In making this determination, the Company considered the similar economic characteristics of its operations that comprise its marine segment. For the marine segment, the methods used, and the internal processes employed, to deliver marine construction services are similar throughout the segment, including standardized estimating, project controls and project management. This segment has the same customers with similar funding drivers, and it complies with regulatory environments driven through Federal agencies such as the U.S. Army Corps of Engineers, U.S. Fish and Wildlife Service, U.S. Environmental Protection Agency and U.S. Occupational Safety and Health Administration ("OSHA"), among others. Additionally, the segment is driven by macro-economic considerations including the level of import/export seaborne transportation, development of energy-related infrastructure, cruise line expansion and operations, marine bridge infrastructure development, waterway pipeline crossings and the maintenance of waterways. These considerations, and others, are key catalysts for future prospects and are similar across the segment.

For the concrete segment, the Company also considered the similar economic characteristics of these operations. The methods used, and the internal processes employed, to deliver concrete construction services are similar throughout the segment, including standardized estimating, project controls and project management. This segment complies with regulatory environments such as OSHA. Additionally, this segment is driven by macro-economic considerations, including movements in population, commercial real estate development, institutional funding and expansion, and recreational development, specifically in metropolitan areas of Texas. These considerations, and others, are key catalysts for future prospects and are similar across the segment.
Basis of Presentation
The accompanying consolidated financial statements and financial information included herein have been prepared pursuant to the interim period reporting requirements of Form 10-Q. Consequently, certain information and note disclosures normally included in financial statements prepared in accordance with accounting principles generally accepted in the United States ("U.S. GAAP") have been condensed or omitted. Readers of this report should also read the Company's consolidated financial statements and the notes thereto included in our Annual Report on Form 10-K

for the fiscal year ended December 31, 2017 (“2017 Form 10-K”) as well as Item 7 – Management’s Discussion and Analysis of Financial Condition and Results of Operations also included in its 2017 Form 10-K.

In the opinion of management, the accompanying unaudited consolidated financial statements contain all adjustments considered necessary for a fair presentation of the Company’s financial position, results of operations and cash flows for the periods presented. Such adjustments are of a normal recurring nature. Interim results of operations for the nine months ended September 30, 2018 are not necessarily indicative of the results that may be expected for the year ending December 31, 2018.

2. Summary of Significant Accounting Principles

The preparation of consolidated financial statements in conformity with U.S. GAAP requires management to make 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. Management's estimates, judgments and assumptions are continually evaluated based on available information and experience; however, actual amounts could differ from those estimates. Please refer to Note 2 of the Notes to Consolidated Financial Statements included in the Company's 2017 Form 10-K for a discussion of other significant estimates and assumptions affecting our consolidated financial statements which are not discussed below.

On an ongoing basis, the Company evaluates the significant accounting policies used to prepare its consolidated financial statements, including, but not limited to, those related to:

- Revenue recognition from construction contracts;
- Accounts receivable and allowance for doubtful accounts;
- Goodwill and other long-lived assets, testing for indicators of impairment;
- Income taxes;
- Self-insurance; and
- Stock-based compensation

Revenue Recognition

The Company adopted ASU 2014-09, Revenue from Contracts with Customers (Topic 606), on January 1, 2018, using the modified retrospective method. The Company recognized the cumulative effect of initially adopting Topic 606 guidance as an adjustment to the beginning balance of retained earnings. Contracts with customers that were not substantially complete in both the Company’s marine and concrete segments were evaluated in order to determine the impact as of the date of adoption. The comparative information has not been restated and continues to be reported under the accounting standards in effect for those periods.

The Company’s revenue is derived from contracts to provide marine construction, dredging, turnkey concrete services, and other specialty services. The Company’s projects are typically short in duration and usually span a period of less than one year. The Company determines the appropriate accounting treatment for each contract before work begins and generally records revenue on contracts over time.

Performance obligations are promises in a contract to transfer distinct goods or services to the customer and are the unit of account under Topic 606. The Company's contracts and related change orders typically represent a single performance obligation because individual goods and services are not separately identifiable and the Company provides a significant integrated service. Revenue is recognized over time because control is continuously transferred to the customer. For contracts with multiple performance obligations, the Company allocates the contract's transaction price to each performance obligation using its best estimate of the stand-alone selling price of each distinct good or service. Progress is measured by the percentage of actual contract costs incurred to date to total estimated costs for each contract. This method is used because management considers contract costs incurred to be the best available measure of progress on these contracts. Contract costs include all direct costs, such as material and labor, and those indirect costs incurred that are related to contract performance such as payroll taxes and insurance. General and administrative costs are charged to expense as incurred. Upfront costs, such as incurring costs to mobilize personnel and equipment prior to satisfying a performance obligation are capitalized and amortized over the contract performance period.

Changes in job performance, job conditions and estimated profitability, including those arising from final contract settlements, may result in revisions to costs and reported revenue and are recognized in the period in which the revisions are determined. The effect of changes in estimates of contract revenue or contract costs is recognized as an adjustment to recognized revenue on a cumulative catch-up basis. When losses on uncompleted contracts are anticipated, the entire loss is recognized in the period in which such losses are determined. Revenue is recorded net of any sales taxes collected and paid on behalf of the customer, if applicable.

Contract revenue is derived from the original contract price as modified by agreed-upon change orders and estimates of variable consideration related to incentive fees and change orders or claims for which price has not yet been agreed by the customer. The Company estimates variable consideration based on the most likely amount to which it expects to be entitled. Variable consideration is included in the estimated transaction price to the extent it is probable that a significant reversal of cumulative recognized revenue will not occur. As of September 30, 2018, approximately $15.5 million of claims against customers has been recognized and is reflected on the Company's Consolidated Balance Sheet under "Costs and estimated earnings in excess of billings on uncompleted contracts." The Company believes collection of these claims is probable, although the full amount of the recorded claims may not be collected.

Contract assets and liabilities include the following:

- Accounts Receivable: Trade, net of allowance - Represent amounts billed and currently due from customers and are stated at their net estimated realizable value.
- Accounts Receivable: Retainage - Represent amounts which have not been billed to customers or paid pursuant to retainage provisions in construction contracts, which generally become payable upon contract completion and acceptance by the customer.
- Costs and Estimated Earnings in Excess of Billings on Uncompleted Contracts - Represent revenues recognized in excess of amounts billed, which management believes will be billed and collected within one year of the completion of the contract (i.e. Contract Assets) and are recorded as a current asset.
- Billings in Excess of Costs and Estimated Earnings on Uncompleted Contracts - Represent billings in excess of revenues recognized (i.e. Contract Liabilities) and are recorded as a current liability.

The Company’s evaluation of its construction contracts under the new standard focused on the following areas which have the most significant impact on the amount and timing of revenue recognized:

- Performance Obligations - Construction contracts with customers, including those related to contract modifications, were reviewed to determine if there were any multiple performance obligations. Based on our review, a limited number of contracts in the marine segment and no contracts in the concrete segment were identified as having multiple performance obligations. The net impact on retained earnings as of January 1, 2018 and gross profit for the nine months ended September 30, 2018 were not material.
- Upfront Costs - These costs were required to be capitalized as assets and were recorded as part of "Costs and estimated earnings in excess of billings on uncompleted contracts" in the Company’s Consolidated Balance Sheets and amortized over the expected duration of the contract as part of "Costs of contract revenues" in the Company’s Consolidated Statements of Operations. If the expected completion date of the contract changes, the amortization period will be recalculated and adjusted prospectively. The amortization of such costs for the Company are generally comprised of initial costs incurred to mobilize equipment and labor to a job site or other upfront costs such as bonds or insurance prior to the "notice-to-proceed" date, which had been expensed as incurred in prior periods. Based on the Company's review, certain contracts in the marine segment were identified as having material upfront costs. The Company also reviewed contracts for the concrete segment and while certain contracts within the segment were identified as having upfront costs, they were not considered material.

The following table summarizes the cumulative effect of the changes made to the Company’s unaudited Consolidated Balance Sheet as of January 1, 2018 from the adoption of Topic 606:

	Balance at December 31, 2017	Adjustments Due to Topic 606	Balance at January 1, 2018
Assets			

Costs and estimated earnings in excess of billings on uncompleted contracts	$ 46,006	$ 1,383	$ 47,389
Liabilities			
Billings in excess of costs and estimated earnings on uncompleted contracts	$ 33,923	$ 1,745	$ 35,668
Deferred income taxes	13,243	(76)	13,167
Equity			
Retained earnings	$ 62,847	$ (286)	$ 62,561

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Remaining performance obligations represent the transaction price of firm orders or other written contractual commitments from customers for which work has not been performed, or is partially completed and excludes unexercised contract options and potential orders. As of September 30, 2018, the aggregate amount of the remaining performance obligations was approximately $426.0 million. Of this amount, the Company expects to recognize $352.3 million, or 83%, in the next 12 months and the remaining balance thereafter.

The following tables summarize the impact of adopting Topic 606 on the Company's unaudited Consolidated Balance Sheet as of September 30, 2018 and Statement of Operations for the nine months ended September 30, 2018:

	As Reported	Balances Without Adoption of Topic 606	Effect of Change Higher (Lower)
Assets			
Costs and estimated earnings in excess of billings on uncompleted contracts	$ 57,411	$ 58,232	$ (821)
Liabilities			
Billings in excess of costs and estimated earnings on uncompleted contracts	$ 24,528	$ 25,731	$ (1,203)
Deferred income taxes	12,682	12,545	137
Equity			
Retained earnings	$ 62,555	$ 62,310	$ 245

	As Reported	Balances Without Adoption of Topic 606	Effect of Change Higher (Lower)
Contract revenues	$ 421,682	$ 420,479	$ 1,203
Cost of contract revenues	379,154	378,333	821
Gross profit	42,528	42,146	382
Income tax expense	78	(59)	137
Net loss	$ (6)	$ (251)	$ 245
Basic loss per share	$ —	$ (0.01)	$ 0.01
Diluted loss per share	$ —	$ (0.01)	$ 0.01

Classification of Current Assets and Liabilities

The Company includes in current assets and liabilities amounts realizable and payable in the normal course of contract completion.

Cash and Cash Equivalents

The Company considers all highly liquid investments with a maturity of three months or less when purchased to be cash equivalents. At times, cash held by financial institutions may exceed federally insured limits. The Company has not historically sustained losses on its cash balances in excess of federally insured limits. Cash equivalents at September 30, 2018 and December 31, 2017 consisted primarily of overnight bank deposits.

Risk Concentrations

Financial instruments that potentially subject the Company to concentrations of credit risk principally consist of accounts receivable.

The Company depends on its ability to continue to obtain federal, state and local governmental contracts, and indirectly on the amount of funding available to these agencies for new and current governmental projects. Therefore, a portion of the Company's operations is dependent upon the level and timing of government funding. Statutory mechanics liens provide the Company high priority in the event of lien foreclosures following financial difficulties of private owners, thus minimizing credit risk with private customers.

Accounts Receivable

Accounts receivable are stated at the historical carrying value, less allowances for doubtful accounts. The Company has significant investments in billed and unbilled receivables as of September 30, 2018 and December 31, 2017. Billed receivables represent amounts billed upon the completion of small contracts and progress billings on large contracts in accordance with contract terms and milestone achievements. Unbilled receivables on contracts, which are included in costs in excess of billings, arise as revenues are recognized over time. Unbilled amounts on contracts represent recoverable costs and accrued profits not yet billed. Revenue associated with these billings is recorded net of any sales tax, if applicable. Past due balances over 90 days and other higher risk amounts are reviewed individually for collectability. In establishing an allowance for doubtful accounts, the Company evaluates its contract receivables and costs in excess of billings and thoroughly reviews historical collection experience, the financial condition of its customers, billing disputes and other factors. The Company writes off uncollectible accounts receivable against the allowance for doubtful accounts if it is determined that the amounts will not be collected or if a settlement is reached for an amount that is less than the carrying value. As of September 30, 2018 and December 31, 2017, the Company had not recorded an allowance for doubtful accounts.

Balances billed to customers but not paid pursuant to retainage provisions in construction contracts generally become payable upon contract completion and acceptance by the owner. Retainage at September 30, 2018 totaled $30.2 million, of which $5.9 million is expected to be collected beyond September 30, 2019. Retainage at December 31, 2017 totaled $39.2 million.

The Company negotiates change orders and claims with its customers. Unsuccessful negotiations of claims could result in a change to contract revenue that is less than amounts recorded, which could result in the recording of a loss. Successful claims negotiations could result in the recovery of previously recorded losses. Significant losses on receivables could adversely affect the Company's financial position, results of operations and overall liquidity.

Advertising Costs

The Company primarily obtains contracts through an open bid process, and therefore advertising costs are not a significant component of expense. Advertising costs are expensed as incurred.

Environmental Costs

Costs related to environmental remediation are charged to expense. Other environmental costs are also charged to expense unless they increase the value of the property and/or provide future economic benefits, in which event the costs are capitalized. Environmental liabilities, if any, are recognized when the expenditure is considered probable and the amount can be reasonably estimated. The Company did not recognize any environmental liabilities as of September 30, 2018 or December 31, 2017.

Fair Value Measurements

The Company evaluates and presents certain amounts included in the accompanying consolidated financial statements at “fair value” in accordance with U.S. GAAP, which requires the Company to base its estimates on assumptions that market participants, in an orderly transaction, would use to price an asset or liability, and to establish a hierarchy that prioritizes the information used to determine fair value. Refer to Note 8 for more information regarding fair value determination.

The Company generally applies fair value valuation techniques on a non-recurring basis associated with (1) valuing assets and liabilities acquired in connection with business combinations and other transactions; (2) valuing potential impairment loss related to long-lived assets; and (3) valuing potential impairment loss related to goodwill and indefinite-lived intangible assets.

Inventory

Current inventory consists of parts and small equipment held for use in the ordinary course of business and is valued at the lower of cost (using historical average cost) or net realizable value. Where shipping and handling costs are incurred by the Company, these charges are included in inventory and charged to cost of contract revenue upon use. Non-current inventory consists of spare parts (including engines, cutters and gears) that require special order or long-lead times for manufacture or fabrication, but must be kept on hand to reduce downtime. Refer to Note 7 for more information regarding inventory.

Property and Equipment

Property and equipment are recorded at cost. Ordinary maintenance and repairs that do not improve or extend the useful life of the asset are expensed as incurred. Major renewals and betterments of equipment are capitalized and depreciated generally over three to seven years until the next scheduled maintenance.

When property and equipment are retired or otherwise disposed of, the cost and accumulated depreciation are removed from the accounts and any resulting gain or loss is included in results of operations for the respective period. Depreciation is computed using the straight-line method over the estimated useful lives of the related assets for financial statement purposes, as follows:

Automobiles and trucks	3 to 5 years
Buildings and improvements	5 to 30 years
Construction equipment	3 to 15 years
Vessels and other equipment	1 to 15 years
Office equipment	1 to 5 years

The Company generally uses accelerated depreciation methods for tax purposes where appropriate.

Dry-docking costs are capitalized and amortized using the straight-line method over a period ranging from three to 15 years. Dry-docking costs include, but are not limited to, the inspection, refurbishment and replacement of steel, engine components, tailshafts, mooring equipment and other parts of the vessel. Amortization related to dry-docking activities is included as a component of depreciation. These costs and the related amortization periods are periodically reviewed to determine if the estimates are accurate. If warranted, a significant upgrade of equipment may result in a revision to the useful life of the asset, in which case the change is accounted for prospectively.

Property and equipment are reviewed for impairment whenever events or changes in circumstances indicate the carrying amount of an asset or asset group may not be recoverable. Recoverability of assets to be held and used is measured by a comparison of the carrying amount of an asset to estimated undiscounted future cash flows expected to be generated by the asset. If the carrying amount of an asset exceeds its estimated future cash flows, an impairment charge is recognized in the amount by which the carrying amount of the asset exceeds the fair value of the asset. Assets to be disposed of are separately presented in the balance sheet and reported at the lower of the carrying amount or the fair value, less the costs to sell, and are no longer depreciated. There were no assets classified as held for sale as of September 30, 2018 or December 31, 2017.

Goodwill and Other Intangible Assets

Goodwill

The Company has acquired businesses and assets in purchase transactions that resulted in the recognition of goodwill. Goodwill represents the costs in excess of fair values assigned to the identifiable assets acquired and liabilities assumed in the acquisition. In accordance with U.S. GAAP, acquired goodwill is not amortized, but is subject to impairment testing at least annually at a reporting unit level (as of October 31 of each year) or more frequently if events or circumstances indicate the asset may be impaired. The Company determined its operations comprise two reporting units for goodwill impairment testing, which match its two operating segments for financial reporting. Tests of impairment require a two-step process to be performed to analyze whether or not goodwill has been impaired. The first step of this test used to identify potential impairment, compares the estimated fair value of a reporting unit with its carrying amount. The second step, if necessary, quantifies the impairment.

The Company assesses the fair value of its reporting units based on a weighted average of valuations based on market multiples, discounted cash flows and consideration of its market capitalization. The key assumptions used in the discounted cash flow valuations are discount rates, weighted average cost of capital and perpetual growth rates applied to cash flow projections. Also inherent in the discounted cash flow valuation models are past performance, projections and assumptions in current operating

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plans and revenue growth rates over the next five years. These assumptions contemplate business, market and overall economic conditions. Other considerations are assumptions that market participants may use in analysis of comparable companies. The underlying assumptions used for determining fair value, as discussed above, require significant judgment and are susceptible to change from period to period and could potentially cause a material impact to the income statement. In the future, the Company's estimated fair value could be negatively impacted by extended declines in its stock price, changes in macroeconomic indicators, sustained operating losses and other factors which may affect its assessment of fair value.

See Note 9 for additional discussion of goodwill and related goodwill impairment testing.

Intangible Assets

Intangible assets that have finite lives are amortized. In addition, the Company evaluates the remaining useful life of intangible assets in each reporting period to determine whether events and circumstances warrant a revision of the remaining period of amortization. If the estimate of an intangible asset's remaining life is changed, the remaining carrying value of such asset is amortized prospectively over that revised remaining useful life. Intangible assets that have indefinite lives are not amortized, but are subject to impairment testing at least annually or more frequently if events or circumstances indicate the asset may be impaired.

The Company has one indefinite-lived intangible asset, a trade name, which is tested for impairment annually on October 31, or whenever events or circumstances indicate the carrying amount of the trade name may not be recoverable. Impairment is calculated as the excess of the trade name's carrying value over its fair value. The fair value of the trade name is determined using the relief from royalty method, a variation of the income approach. This method assumes that if a company owns intellectual property, it does not have to "rent" the asset and is, therefore, "relieved" from paying a royalty. Once a supportable royalty rate is determined, the rate is then applied to the projected revenues over the expected remaining life of the intangible asset to estimate the royalty savings. This approach is dependent on a number of factors, including estimates of future growth and trends, royalty rates, discount rates and other variables.

See Note 9 for additional discussion of intangible assets and trade name impairment testing.

Stock-Based Compensation

The Company recognizes compensation expense for equity awards over the vesting period based on the fair value of these awards at the date of grant. The computed fair value of these awards is recognized as a non-cash cost over the period the employee provides services, which is typically the vesting period of the award. The fair value of options granted is estimated on the date of grant using the Black-Scholes option-pricing model. The Black-Scholes option-pricing model requires the use of subjective assumptions in the computation. Changes in these assumptions can cause significant fluctuations in the fair value of the option award. The fair value of restricted stock grants is equivalent to the fair value of the stock issued on the date of grant and is measured as the closing price of the stock on the date of grant.

Compensation expense is recognized only for share-based payments expected to vest. The Company estimates forfeitures at the date of grant based on historical experience and future expectations. This assessment is updated on a periodic basis. See Note 14 for further discussion of the Company's stock-based compensation plan.

Income Taxes

The Company determines its consolidated income tax provision using the asset and liability method prescribed by U.S. GAAP, which requires the recognition of income tax expense for the amount of taxes payable or refundable for the current period and for deferred tax assets and liabilities for the future tax consequences of events that have been recognized in an entity’s financial statements or tax returns. The Company must make significant assumptions, judgments and estimates to determine its current provision for income taxes, its deferred tax assets and liabilities and any valuation allowance to be recorded against any deferred tax asset. The current provision for income tax is based upon the current tax laws and the Company’s interpretation of these laws as well as the probable outcomes of any tax audits. The value of any net deferred tax asset depends upon estimates of the amount and category of future taxable income reduced by the amount of any tax benefits the Company does not expect to realize. Actual operating results and the underlying amount and category of income in future years could render current assumptions, judgments and estimates of recoverable net deferred taxes inaccurate, thus impacting the Company’s financial position and results of operations. The Company computes deferred income taxes using the liability method. Under the liability method, deferred tax assets and liabilities are recognized for the future tax consequences attributable to differences between the financial statement carrying amounts of existing assets and liabilities and their respective tax bases. Deferred tax assets and liabilities are measured using enacted tax rates expected to apply to taxable income in the years in which those temporary differences are expected to be recovered or settled. Under the liability method, the effect on deferred tax assets and liabilities of a change in tax rates is recognized in income in the period of the enactment date.

The Company accounts for uncertain tax positions in accordance with the provisions of ASC 740-10 which prescribes a recognition threshold and measurement attribute for financial statement disclosure of tax positions taken, or expected to be taken, on its consolidated tax return. The Company evaluates and records any uncertain tax positions based on the amount that management deems is more likely than not to be sustained upon examination and ultimate settlement with the tax authorities in the tax jurisdictions in which it operates.

See Note 12 for additional discussion of income taxes and the Tax Cuts and Jobs Act (the "Act"), which was enacted and signed into law on December 22, 2017.

Insurance Coverage

The Company maintains insurance coverage for its business and operations. Insurance related to property, equipment, automobile, general liability and a portion of workers' compensation is provided through traditional policies, subject to a deductible or deductibles. A portion of the Company's workers' compensation exposure is covered through a mutual association, which is subject to supplemental calls.

The marine segment maintains five levels of excess loss insurance coverage, totaling $200 million in excess of primary coverage. The marine segment's excess loss coverage responds to most of its policies when a primary limit of $1 million has been exhausted; provided that the primary limit for Contingent Maritime Employer's Liability is $10 million and the Watercraft Pollution Policy primary limit is $5 million. The concrete segment maintains five levels of excess loss insurance coverage, totaling $200 million in excess of primary coverage. The concrete segment's excess loss coverage responds to most of its policies when a primary limit of $1 million has been exhausted.

If a claim arises and a potential insurance recovery is probable, the impending gain is recognized separately from the related loss. The recovery will only be recognized up to the amount of the loss once the recovery of the claim is deemed probable and any excess gain will fall under contingency accounting and will only be recognized once it is realized. The Company does not net insurance recoveries against the related claim liability as the amount of the claim liability is determined without consideration of the anticipated insurance recoveries from third parties.

Separately, the Company's marine segment employee health care is paid for by general assets of the Company and currently administered by a third party. The administrator has purchased appropriate stop-loss coverage. Losses on these policies up to the deductible amounts are accrued based upon known claims incurred and an estimate of claims incurred but not reported. The accruals are derived from known facts, historical trends and industry averages to determine the best estimate of the ultimate expected loss. Actual claims may vary from estimates. Any adjustments to such reserves are included in the Consolidated Results of Operations in the period in which they become known. The Company's concrete segment employee health care is provided through two policies. A fully-funded policy is offered primarily to salaried employees and their dependents while a partially self-funded plan with an appropriate stop-loss is offered primarily to hourly employees and their dependents. The self-funded plan is funded to the maximum exposure and, as a result, is expected to receive a partial refund after the policy expiration.

The accrued liability for insurance includes incurred but not reported claims of $5.5 million and $5.2 million at September 30, 2018 and December 31, 2017, respectively.

Recent Accounting Pronouncements

The FASB issues accounting standards and updates (each, an "ASU") from time to time to its ASC, which is the primary source of U.S. GAAP. The Company regularly monitors ASUs as they are issued and considers applicability to its business. All ASUs are adopted by their respective due dates and in the manner prescribed by the FASB. The following are those recently issued ASUs most likely to affect the presentation of the Company's consolidated financial statements:

In February 2016, the FASB issued ASU 2016-02, Leases (Topic 842), which requires lessees to recognize lease assets (i.e. right-to-use assets) on the balance sheet. These are assets that represent the lessee's right to use or control the use of specified assets for the lease terms and lease liabilities, which are lessee's obligations to make lease payments arising from leases measured on a discounted basis, for all leases with terms longer than 12 months. Leases with terms of 12 months or less will be accounted for similar to existing guidance for operating leases. Recognition, measurement and presentation of expenses will depend on classification as a finance or operating lease. The guidance is effective for fiscal years beginning after December 15, 2018, including interim periods within those annual periods. The Company will adopt the new standard on January 1, 2019 using the

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optional transition method under ASU 2018-11 and elect the available practical expedients. This method allows the Company an option to allow transition of the new lease guidance at the effective date and recognize a cumulative-effect adjustment to the opening balance of retained earnings at the effective date. The Company has developed a detailed plan to implement the new standard and, through a cross-functional steering committee, is assessing the impact of the new standard for all contractual arrangements that may qualify as leases. The Company expects the adoption of the new standard to have a material and equal increase to assets and liabilities on its Consolidated Balance Sheets, primarily as a result of operating leases currently not recognized on its balance sheet.

In January 2017, the FASB issued ASU 2017-04, Simplifying the Test for Goodwill Impairment (Topic 350). The FASB issued this update to simplify how an entity is required to test goodwill for impairment by eliminating Step 2 from the goodwill impairment test. Step 2 measures a goodwill impairment loss by comparing the implied fair value of a reporting unit's goodwill with the carrying amount of that goodwill. The amendments in this update modify the concept of impairment from the condition that exists when the carrying amount of goodwill exceeds its implied fair value to the condition that exists when the carrying amount of a reporting unit exceeds its fair value. The guidance should be applied on a prospective basis and is effective for annual or interim goodwill impairment tests in fiscal years beginning after December 15, 2019. Early adoption is permitted, but the Company does not anticipate the new standard will materially impact the financial statements unless goodwill impairment is recognized in the future.

In January 2018, the FASB issued ASU 2018-01, Land Easement Practical Expedient for Transition to Topic 842. The FASB issued this update to provide an optional transition on practical expedient that, if elected, would not require companies to reconsider its accounting for existing or expired land easements before the adoption of Topic 842 and that were not previously accounted for as leases under Topic 840. The guidance is effective for fiscal years beginning after December 15, 2018, including interim periods within those annual periods. The Company is currently in the process of assessing the effects of adoption on its financial statements, but it does not anticipate the new standard will materially impact the financial statements.

During the periods presented in these financial statements, the Company implemented other new accounting pronouncements other than those noted above that are discussed in the notes where applicable.

3. Revenue

Contract revenues are recognized when control of the promised goods or services is transferred to the customer in an amount that reflects the consideration the Company expects to be entitled to in exchange for those goods or services. The following table represents a disaggregation of the Company’s contract revenues by service line for the marine and concrete segments:

	Three Months Ended September 30, 2018	Nine Months Ended September 30, 2018
Marine Segment		
Construction	$ 46,113	$ 141,348
Dredging	13,053	53,536
Specialty Services	4,313	12,083
Marine segment contract revenues	$ 63,479	$ 206,967
Concrete Segment		
Light Commercial	$ 48,458	$ 167,140

Structural	13,054	47,166
Other	82	409
Concrete segment contract revenues	$ 61,594	$ 214,715
Total contract revenues	$ 125,073	$ 421,682

Although the Company has disaggregated its contract revenues in terms of services provided, it believes its operations comprise two reportable segments pursuant to FASB ASC Topic 280, Segment Reporting. In making this determination, the Company considered the similar characteristics of its operations as discussed in Note 1. Additionally, as discussed, both the marine and concrete segments have limited contracts with multiple performance obligations. The Company's contracts often combine multiple

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services, such as engineering, dredging, diving and construction, into one distinct finished product which is transferred to the customer. These contracts are often estimated and bid as one project and evaluated on performance as one project, not by individual services performed by each. Both the marine and concrete segments have a single CODM for the entire segment, not by service lines of the segments. Resources are allocated by segment, and financial and budgetary information is compiled and reviewed by segment, not service line.

Marine Segment
Construction services include construction, restoration, maintenance, dredging and repair of marine transportation facilities, marine pipelines, bridges and causeways and marine environmental structures. Dredging services generally enhance or preserve the navigability of waterways or the protection of shorelines through the removal or replenishment of soil, sand or rock. Specialty services include design, salvage, demolition, surveying, towing, diving and underwater inspection, excavation and repair.

Concrete Segment
Structural services include elevated concrete pouring for products such as columns, elevated beams and structural walls. Light commercial services include horizontally poured concrete for products such as sidewalks, ramps, tilt walls and trenches. Other services comprise labor related to concrete pouring such as rebar installation and pumping services and typically support the segment's structural and light commercial services.

4. Concentration of Risk and Enterprise-Wide Disclosures

Accounts receivable include amounts billed to governmental agencies and private customers and do not bear interest. Balances billed to customers but not paid pursuant to retainage provisions generally become payable upon contract completion and acceptance by the owner. The table below presents the concentrations of current receivables (trade and retainage) at September 30, 2018 and December 31, 2017, respectively:

	September 30, 2018		December 31, 2017	
Federal Government	$6,168	5 %	$3,509	3 %
State Governments	2,740	2 %	4,503	3 %
Local Governments	13,781	12 %	18,256	15 %
Private Companies	88,708	81 %	97,874	79 %
Total current receivables	$111,397	100 %	$124,142	100 %

At September 30, 2018 and December 31, 2017, no single customer accounted for more than 10% of total current receivables.

Additionally, the table below represents concentrations of contract revenue by type of customer for the three and nine months ended September 30, 2018 and 2017, respectively:

	Three months ended September 30,				Nine months ended September 30,			
	2018	%	2017	%	2018	%	2017	%
Federal Government	$18,072	15 %	$14,464	10 %	$47,170	11 %	$52,556	13 %
State Governments	7,674	6 %	9,185	7 %	25,947	6 %	33,910	8 %
Local Governments	25,546	20 %	28,246	20 %	69,298	17 %	72,802	17 %
Private Companies	73,781	59 %	88,267	63 %	279,267	66 %	257,071	62 %
Total contract revenues	$125,073	100 %	$140,162	100 %	$421,682	100 %	$416,339	100 %

For the three months ended September 30, 2018 and September 30, 2017, no single customer accounted for more than 10% of total contract revenues. Additionally, for the nine months ended September 30, 2018 and September 30, 2017, no single customer accounted for more than 10% of total contract revenues.

The Company does not believe that the loss of any one of its customers would have a material adverse effect on the Company or its subsidiaries and affiliates since no single specific customer sustains such a large portion of receivables or contract revenue over time.

In addition, the concrete segment primarily purchases concrete from select suppliers. The loss of one of these suppliers could adversely impact short-term operations.

5. Contracts in Progress

Contracts in progress are as follows at September 30, 2018 and December 31, 2017:

	September 30, 2018	December 31, 2017
Costs incurred on uncompleted contracts	$ 742,836	$ 668,848
Estimated earnings	130,965	120,751
	873,801	789,599
Less: Billings-to-date	(840,918)	(777,516)
	$ 32,883	$ 12,083
Included in the accompanying Consolidated Balance Sheet under the following captions:		
Costs and estimated earnings in excess of billings on uncompleted contracts	$ 57,411	$ 46,006
Billings in excess of costs and estimated earnings on uncompleted contracts	(24,528)	(33,923)
	$ 32,883	$ 12,083

As of September 30, 2018 and December 31, 2017, included in cost and estimated earnings in excess of billings on uncompleted projects is approximately $15.5 million related to claims and unapproved change orders. Revenue recognized for the three and nine months ended September 30, 2018 that was included in "Billings in excess of costs and estimated earnings on uncompleted contracts" (i.e. Contract Liabilities) as of December 31, 2017 was approximately $4.7 million and $24.3 million, respectively.

6. Property and Equipment

The following is a summary of property and equipment at September 30, 2018 and December 31, 2017:

	September 30, 2018	December 31, 2017
Automobiles and trucks	$ 1,802	$ 1,940
Building and improvements	43,247	38,062
Construction equipment	156,611	166,203
Vessels and other equipment	95,525	85,113
Office equipment	7,839	8,039
	305,024	299,357
Less: Accumulated depreciation	(199,198)	(191,407)
Net book value of depreciable assets	105,826	107,950
Construction -in- progress	2,698	245
Land	35,863	38,083
	$ 144,387	$ 146,278

For the three months ended September 30, 2018 and 2017, depreciation expense was $6.1 million and $6.2 million, respectively. For the nine months ended September 30, 2018 and 2017, depreciation expense was $18.6 million and $18.7 million, respectively. Substantially all depreciation expense is included in the cost of contract revenue in the Company's Consolidated Statements of Operations. Substantially all of the assets of the Company are pledged as collateral under the Company's Credit Agreement (as defined in Note 11).

Substantially all of the Company's long-lived assets are located in the United States.

See Note 2 to the Company's consolidated financial statements for further discussion of property and equipment.

7. Inventory

Current inventory at September 30, 2018 and December 31, 2017, of $3.8 million and $4.4 million, respectively, consisted primarily of spare parts and small equipment held for use in the ordinary course of business.

Non-current inventory at September 30, 2018 and December 31, 2017 of $4.8 million and $4.9 million, respectively, consisted primarily of spare engine components or items which require longer lead times for sourcing or fabrication for certain of the Company's assets to reduce equipment downtime.

8. Fair Value

Recurring Fair Value Measurements

The fair value of financial instruments is the amount at which the instrument could be exchanged in a current transaction between willing parties. Due to their short-term nature, the Company believes the carrying value of its accounts receivable, other current assets, accounts payable and other current liabilities approximate their fair values.

The Company classifies financial assets and liabilities into the following three levels based on the inputs used to measure fair value in the order of priority indicated:

- Level 1- fair values are based on observable inputs such as quoted prices in active markets for identical assets or liabilities;
- Level 2 - fair values are based on pricing inputs other than quoted prices in active markets for identical assets and liabilities and are either directly or indirectly observable as of the measurement date; and
- Level 3- fair values are based on unobservable inputs in which little or no market data exists

Financial assets and liabilities are classified in their entirety based on the lowest level of input that is significant to the fair value measurement. The Company's assessment of the significance of a particular input to the fair value requires judgment and may affect the placement of assets and liabilities within the fair value hierarchy levels.

The following table sets forth by level within the fair value hierarchy the Company's recurring financial assets and liabilities that were accounted for at fair value on a recurring basis as of September 30, 2018 and December 31, 2017:

		Fair Value Measurements		
	Carrying Value	Level 1	Level 2	Level 3
September 30, 2018				
Assets:				
Cash surrender value of life insurance policy	$ 2,158	$ —	$ 2,158	$ —
Derivatives	$ 483	$ —	$ 483	$ —
December 31, 2017				
Assets:				
Cash surrender value of life insurance policy	$ 1,712	$ —	$ 1,712	$ —
Liabilities:				
Derivatives	$ 38	$ —	$ 38	$ —

Our concrete segment has life insurance policies with a combined face value of $11.1 million as of September 30, 2018. The policies are invested in mutual funds and the fair value measurement of the cash surrender balance associated with these policies is determined using Level 2 inputs within the fair value hierarchy and will vary with investment performance. These assets are included in the "Other non-current" asset section in the Consolidated Balance Sheets.

The Company's derivatives, which are comprised of interest rate swaps, are valued using a discounted cash flow analysis that incorporates observable market parameters, such as interest rate yield curves and credit risk adjustments that are necessary to reflect the probability of default by us or the counterparty. These derivatives are classified as a Level 2 measurement within the fair value hierarchy. See Note 11 for additional information on the Company's derivative instrument.

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Non-Recurring Fair Value Measurements

The Company generally applies fair value valuation techniques on a non-recurring basis associated with (1) valuing assets and liabilities acquired in connection with business combinations and other transactions; (2) valuing potential impairment loss related to long-lived assets; and (3) valuing potential impairment loss related to goodwill and indefinite-lived intangible assets.

Other Fair Value Measurements

The fair value of the Company's debt at September 30, 2018 and December 31, 2017 approximated its carrying value of $97.3 million and $88.8 million, respectively, as interest is based on current market interest rates for debt with similar risk and maturity. If the Company's debt was measured at fair value, it would have been classified as a Level 2 measurement in the fair value hierarchy.

9. Goodwill and Intangible Assets

Goodwill

The table below summarizes changes in goodwill recorded by the Company during the periods ended September 30, 2018 and December 31, 2017, respectively:

	September 30, 2018	December 31, 2017
Beginning balance, January 1	$ 69,483	$ 66,351
Additions	—	3,132
Ending balance	$ 69,483	$ 69,483

At September 30, 2018, goodwill totaled $69.5 million, of which $33.8 million relates to the marine segment and $35.7 million relates to the concrete segment.

As discussed previously in Note 2, goodwill is reviewed at a reporting unit level for impairment annually as of October 31 or whenever circumstances arise that indicate a possible impairment might exist. Test of impairment requires a two-step process to be performed to analyze whether or not goodwill has been impaired. The first step of this test used to identify potential impairment, compares the estimated fair value of a reporting unit with its carrying amount. The second step, if necessary, quantifies the impairment.

During the three months ended September 30, 2018, the Company identified potential indicators of impairment to goodwill for both its marine and concrete reporting units, including operating losses within each segment and adjusted forecasted earnings for the full fiscal year. As such, the Company performed a qualitative assessment and certain sensitivity analysis to determine whether it was more likely than not that goodwill was impaired. After evaluating all events, circumstances and factors which could affect the significant inputs used to determine fair value, the Company determined it was not more likely than not that an impairment existed at either reporting unit. The Company did not progress to subsequent steps of impairment testing and plans to perform its annual impairment testing as of October 31.

Intangible assets

The tables below present the activity and amortization of finite-lived intangible assets:

	Nine months ended September 30,	
	2018	2017
Intangible assets, January 1	$35,240	$34,362
Additions	—	878
Total intangible assets, end of period	35,240	35,240
Accumulated amortization, January 1	$(23,955)	$(19,220)
Current year amortization	(2,541)	(3,745)
Total accumulated amortization	(26,496)	(22,965)
Net intangible assets, end of period	$8,744	$12,275

Finite-lived intangible assets were acquired as part of the purchases of TAS and Tony Bagliore Concrete, Inc. (TBC), which includes customer relationships. Customer relationships for TAS were valued at approximately $18.1 million and are currently being amortized over eight years. Customer relationships for TBC were valued at approximately $0.7 million and are currently being amortized over seven years. Both of these assets are amortized using an accelerated method based on the pattern in which the economic benefits of the assets are consumed. For the nine months ended September 30, 2018, $2.5 million of amortization expense was recognized for these assets. Future expense remaining of approximately $8.7 million will be amortized as follows:

2018	847
2019	2,642
2020	2,071
2021	1,520
Thereafter	1,664
	$8,744

Additionally, the Company has one indefinite-lived intangible asset, a trade name, as described in Note 2. During the three months ended September 30, 2018, the Company identified potential indicators of impairment at its concrete reporting unit, including operating losses and adjusted forecasted earnings for the full fiscal year. As such, the Company performed a qualitative assessment and certain sensitivity analysis to determine whether it was more likely than not that the indefinite-lived intangible asset was impaired. After evaluating all events, circumstances and factors which could affect the significant inputs used to determine fair value, the Company determined it was not more likely than not that an impairment existed. The Company did not progress to subsequent steps of impairment testing and plans to perform its annual impairment testing as of October 31.

At September 30, 2018, the trade name was valued at approximately $6.9 million.

10. Accrued Liabilities

Accrued liabilities at September 30, 2018 and December 31, 2017 consisted of the following:

	September 30, 2018	December 31, 2017
Accrued salaries, wages and benefits	$ 6,898	$ 9,632
Accrual for insurance liabilities	5,492	5,233
Property taxes	1,747	513
Capital lease liability	1,310	—
Sales taxes	1,881	1,836
Interest	34	46
Other accrued expenses	337	613
Total accrued liabilities	$ 17,699	$ 17,873

11. Long-term Debt, Line of Credit and Derivatives

The Company entered into an amended syndicated credit agreement (the "Credit Agreement" also known as the “Fourth Amendment”) on July 31, 2018 with Regions Bank, as administrative agent and collateral agent, and the following co-syndication agents: Bank of America, N.A., BOKF, NA dba Bank of Texas, KeyBank National Association, NBH Bank, IBERIABANK, Trustmark National Bank, First Tennessee Bank NA, and Branch Banking and Trust Company. With the execution of the Credit Agreement (known to Regions Bank and co-syndication agents as the Fourth Amendment), the prior indebtedness was treated as an extinguishment of debt and accounted for under the guidelines of ASC 470-05, Debt, Modifications and Extinguishments. The primary purpose of the Credit Agreement was to provide the Company with greater financing flexibility by providing a new amortization schedule, an extended maturity date, increased availability under the revolving line of credit, and a reduction in overall costs.

The Credit Agreement, which may be amended from time to time, provides for borrowings under a revolving line of credit and swingline loans with a commitment amount of $100 million and a term loan with a commitment amount of $60 million (together, the “Credit Facility”). The Credit Facility is guaranteed by the subsidiaries of the Company, secured by the assets of the Company, including stock held in its subsidiaries, and may be used to finance general corporate and working capital purposes, to finance capital expenditures, to refinance existing indebtedness, to finance permitted acquisitions and associated fees and to pay for all related expenses to the Credit Facility. Interest is due and is computed based on the designation of the loan, with the option of a Base Rate Loan (the base rate plus the Applicable Margin) or an Adjusted LIBOR Rate Loan (the adjusted LIBOR rate plus the Applicable Margin). Interest is due on the last day of each quarter end for Base Rate Loans and at the end of the LIBOR rate period for Adjusted LIBOR Rate Loans. Principal balances drawn under the Credit Facility may be prepaid at any time, in whole or in part, without premium or penalty. Amounts repaid under the revolving line of credit may be re-borrowed. The Credit Facility matures on July 31, 2023.

Total debt issuance costs, which included underwriter fees, legal fees and syndication fees, were approximately $0.9 million and have been capitalized as non-current deferred charges and amortized using the effective interest rate method over the duration of the loan. Prior unamortized debt issuance costs of $2.2 million for the extinguishment of debt were recognized as interest expense as of July 31, 2018. The quarterly weighted average interest rate for the Credit Facility as of September 30, 2018 was 3.69%.

The Company's obligations under debt arrangements consisted of the following:

	September 30, 2018			December 31, 2017		
	Principal	Debt Issuance Costs[1]	Total	Principal	Debt Issuance Costs[1]	Total
Revolving line of credit	$38,000	$ (324)	$37,676	$10,000	$(317)	$9,683
Term loan - current	3,000	(26)	2,974	13,500	(427)	13,073
Total current debt	41,000	(350)	40,650	23,500	(744)	22,756
Term loan - long-term	56,250	(480)	55,770	65,250	(2,065)	63,185
Total debt	$97,250	$ (830)	$96,420	$88,750	$(2,809)	$85,941

(1) Total debt issuance costs, include underwriter fees, legal fees, syndication fees, and any other fees related to the execution of the Credit Agreement and/or prior indebtedness at September 30, 2018 and December 31, 2017 respectively.

Provisions of the revolving line of credit and accordion

The Company has a maximum borrowing availability under the revolving line of credit and swingline loans (as defined in the Credit Agreement) of $100.0 million. The letter of credit sublimit is equal to the lesser of $20.0 million and the aggregate unused amount of the revolving commitments then in effect. The swingline sublimit is equal to the lesser of $5.0 million and the aggregate unused amount of the revolving commitments then in effect.

Revolving loans may be designated as Base Rate Loans or Adjusted LIBOR Rate Loans, at the Company’s request, and must be made in an aggregate minimum amount of $1.0 million and integral multiples of $250,000 in excess of that amount. Swingline loans must be made in an aggregate minimum amount of $250,000 and integral multiples of $50,000 in excess of that amount. The Company may convert, change or modify such designations from time to time.

The Company is subject to a Commitment Fee for the unused portion of the maximum available to borrow under the revolving line of credit. The Commitment Fee, which is due quarterly in arrears, is equal to the Applicable Margin of the actual daily amount by which the Aggregate Revolving Commitments exceed the Total Revolving Outstanding. The revolving line of credit termination date is the earlier of the Credit Facility termination date, July 31, 2023, or the date the outstanding balance is permanently reduced to zero. The Company has the intent and ability to repay the amounts outstanding on the revolving line of credit within one year, therefore, any outstanding balance is classified as current.

As of September 30, 2018, the outstanding balance for all borrowings under the revolving line of credit was $38.0 million and was designated as an adjusted LIBOR Rate Loan at an average rate of 3.98%. There was also $0.7 million in outstanding letters of credit as of September 30, 2018, which reduced the maximum borrowing availability on the revolving line of credit to $61.3 million.

Provisions of the term loan

The original principal amount of $60.0 million for the term loan commitment is paid off in quarterly installment payments (as stated in the Credit Agreement). At September 30, 2018, the outstanding term loan component of the Credit Facility totaled $59.3 million and was secured by specific assets of the Company. The table below outlines the total remaining payment amounts annually for the term loan through maturity of the Credit Facility:

2018	$750

2019	3,000
2020	3,750
2021	4,500
2022	5,250
2023	42,000
	$59,250

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During the three months ended September 30, 2018, the Company made the scheduled quarterly principal payment of $0.7 million, which reduced the outstanding principal balance to $59.3 million as of September 30, 2018. The current portion of debt is $3.0 million and the non-current portion is $56.3 million. As of September 30, 2018, the term loan was designated as an Adjusted LIBOR Rate Loan with an interest rate of 4.00%.

Financial covenants

Restrictive financial covenants under the Credit Facility include:
- A consolidated Fixed Charge Coverage Ratio as of the end of any fiscal quarter to not be less than 1.25 to 1.00.
- A consolidated Leverage Ratio as of the end of any fiscal quarter to not exceed 3.00 to 1.00.

As of September 30, 2018, the Company was in compliance with all financial covenants.

In addition, the Credit Facility contains events of default that are usual and customary for similar arrangements, including non-payment of principal, interest or fees; breaches of representations and warranties that are not timely cured; violation of covenants; bankruptcy and insolvency events; and events constituting a change of control.

The Company expects to meet its future internal liquidity and working capital needs, and maintain or replace its equipment fleet through capital expenditure purchases and major repairs, from funds generated by its operating activities for at least the next 12
months. The Company believes that its cash position and available borrowings together with cash flow from its operations is
adequate for general business requirements and to service its debt.

Derivative Financial Instruments

On September 16, 2015, the Company entered into a series of receive-variable, pay-fixed interest rate swaps to hedge the variability in the interest payments on 50% of the aggregate principal amount of the Regions Term Loan outstanding, beginning with a notional amount of $67.5 million. There are a total of five sequential interest rate swaps to achieve the hedged position and each year on August 31, with the exception of the final swap, the existing interest rate swap is scheduled to expire and will be immediately replaced with a new interest rate swap until the expiration of the final swap on July 31, 2020. At inception, these interest rate swaps were designated as a cash flow hedge for hedge accounting, and as such, the effective portion of unrealized changes in market value are recorded in accumulated other comprehensive income (loss) and reclassified into earnings during the period in which the hedged forecasted transaction affects earnings. Gains and losses from hedge ineffectiveness are recognized in current earnings. The change in fair market value of the swaps for the nine months ended September 30, 2018 was $0.4 million, net of tax. The fair market value of the swaps as of September 30, 2018 was $0.5 million and net of tax was $0.4 million, which is reflected as an asset included in the balance of "Other non-current assets" on the Consolidated Balance Sheets. See Note 8 for more information regarding the fair value of the Company's derivative instruments.

12. Income Taxes

The Company's effective tax rate is based on expected income, statutory rates and tax planning opportunities available to it. For interim financial reporting, the Company estimates its annual tax rate based on projected taxable income (or loss) for the full year and records a quarterly tax provision in accordance with the anticipated annual rate. Income tax expense included in the Company’s Consolidated Statements of Operations were as follows (in thousands, except percentages):

	Three months ended September 30,	Nine months ended

			September 30,	
	2018	2017	2018	2017
Income tax (benefit) expense	$(3,071)	$(1,666)	$78	$(4,309)
Effective tax rate	32.6 %	24.9 %	108.9 %	32.1 %

The effective rate for the three and nine months ended September 30, 2018 differed from the Company's statutory federal rate of 21% driven by the non-deductibility of certain permanent items, such as incentive stock compensation expense, return to provision adjustment and the $2.2 million of unamortized debt issuance costs for the extinguishment of debt, which was treated as a discrete item and tax effected at a rate of 23%. For the nine months ended September 30, 2018, the Company recorded a $5.4 million gain related to the settlement of a legal matter. The gain was also treated as a discrete item and tax effected at a rate of 23%.

The effective tax rate for the three and nine months ended September 30, 2017 differed from the Company’s statutory federal rate of 35% primarily due to state income taxes, the non-deductibility of certain permanent items, and stock compensation expense items treated as discrete.

The Company assessed the realizability of its deferred tax assets at September 30, 2018, and considered whether it was more likely than not that some portion or all of the deferred tax assets will not be realized. The realization of deferred tax assets depends upon the generation of future taxable income, which includes the reversal of deferred tax liabilities related to depreciation, during the periods in which these temporary differences become deductible.

The Company does not expect that unrecognized tax benefits as of September 30, 2018 for certain federal income tax matters will significantly change due to any settlement and/or expiration of statutes of limitations over the next 12 months. The final outcome of these uncertain tax positions is not yet determinable. The Company's uncertain tax benefits, if recognized, would affect its effective tax rate.

Enactment of Tax Reform

The Act made broad and complex changes to the U.S. tax code that significantly affected the Company's income tax rate. The Act, among other things, reduced the U.S. federal corporate income tax rate from 35% to 21%; limited the use of foreign tax credits to reduce U.S. income tax liability; repealed the corporate alternative minimum tax ("AMT") and changed how existing AMT credits can be realized; allowed immediate expensing for qualified assets; created a new limitation on deductible interest expense; repealed the domestic production activities deduction; and limited the deductibility of certain executive compensation and other deductions.

In accordance with Staff Accounting Bulletin 118 (“SAB 118”), the Company recognized provisional tax impacts related to the re-measurement of its net deferred tax liabilities and the addition of a partial valuation allowance recorded against existing foreign tax credit carryforwards not expected to be utilized in future tax years during the year ended December 31, 2017. As of September 30, 2018, the Company has not made any measurement-period adjustments that materially impacted its 2018 effective tax rate. Such adjustments may be necessary in future periods due to additional guidance that may be issued, changes in assumptions made and the finalization of U.S. income tax positions with the filing of the Company's 2017 U.S. income tax return which will allow for the ability to conclude whether any further adjustments are necessary to its deferred tax assets and liabilities. Any adjustments to these provisional amounts will be reported as a component of income tax expense (benefit) in the reporting period in which any such adjustments are identified but no later than the fourth quarter of 2018. The Company will continue to analyze the Act in order to finalize any related impacts within the measurement period.

13. Earnings (Loss) Per Share

Basic (loss) earnings per share are based on the weighted average number of common shares outstanding during each period. Diluted (loss) earnings per share are based on the weighted average number of common shares outstanding and the effect of all dilutive common stock equivalents during each period. For the three months ended September 30, 2018 and September 30, 2017, the Company had 1,981,879 and 2,364,018 securities, respectively, that were potentially dilutive in future earnings per share calculations. For the nine months ended September 30, 2018 and September 30, 2017, the Company had 1,973,753 and 2,281,805 securities, respectively, that were potentially dilutive in future earnings per share calculations. Such dilution will be dependent on the excess of the market price of the Company's stock over the exercise price and other components of the treasury stock method.

The exercise price for certain stock options awarded by the Company exceeds the average market price of the Company's common stock. Such stock options are antidilutive and are not included in the computation of (loss) earnings per share. The following table reconciles the denominators used in the computations of both basic and diluted (loss) earnings per share:

	Three months ended September 30,		Nine months ended September 30,	
	2018	2017	2018	2017
Basic:				
Weighted average shares outstanding	28,490,530	27,950,829	28,421,850	27,980,074
Diluted:				
Total basic weighted average shares outstanding	28,490,530	27,950,829	28,421,850	27,980,074
Effect of dilutive securities:				
Common stock options	—	—	—	—
Total weighted average shares outstanding assuming dilution	28,490,530	27,950,829	28,421,850	27,980,074
Shares of common stock issued from the exercise of stock options	256,833	13,710	488,303	173,518

14. Stock-Based Compensation

The Compensation Committee of the Company's Board of Directors is responsible for the administration of the Company's stock incentive plans, which include the 2017 Long Term Incentive Plan, or the "2017 LTIP", which was approved by shareholders in May 2017 and authorized the maximum aggregate number of shares of common stock to be issued at 2,400,000. In general, the Company's 2017 LTIP provides for grants of restricted stock and stock options to be issued with a per-share price equal to the fair market value of a share of common stock on the date of grant. Option terms are specified at each grant date, but are generally 10 years from the date of issuance. Options generally vest over a three to five year period.

The Company applies a 3.2% and a 5.5% forfeiture rate, which gets compounded over the vesting terms of the individual award, to its restricted stock and option grants, respectively, based on historical analysis.

In the three months ended September 30, 2018 and 2017, compensation expense related to stock-based awards outstanding was $0.6 million, respectively. In the nine months ended September 30, 2018 and 2017, compensation expense related to stock-based awards outstanding was $1.7 million and $1.8 million, respectively.

In May 2018, the Company granted certain executives options to purchase 366,905 shares of common stock and used the Black Scholes option pricing model to estimate the fair value of these options using the following assumptions:

Grant-date fair value	$2.78	
Risk-free interest rate	2.65	%
Expected volatility	51.8	%
Expected term of options (in years)	3.0	
Dividend yield	—	%

The risk-free interest rate is based on interest rates on U.S. Treasury zero-coupon issues that match the contractual terms of the stock option grants. The expected term represents the period in which the Company's equity awards are expected to be outstanding.

Also, in May 2018, independent directors as well as certain officers and executives of the Company were awarded 331,095 shares of restricted common stock. This total number of shares included 60,320 shares, which were awarded to the independent directors and vested immediately on the date of grant, as well as 67,023 shares of performance-based stock awarded to certain executives. The performance-based stock will potentially vest at the end of fiscal year 2021, with 100% of the shares to be earned based on the achievement of an objective, tiered return on invested capital measured over a three-year performance period. The Company evaluates the probability of achieving this each reporting period. The fair value of all shares awarded on the date of the grant was $7.46 per share.

In July 2018, the Company granted an executive of the Company options to purchase 7,310 of shares of common stock and used the Black Scholes option pricing model to estimate the fair value of these options, which was calculated to be $3.42 per share. The assumptions utilized in the Black Scholes option pricing model were not materially different from the assumptions utilized for options granted in May 2018. Also, in July 2018, this executive was awarded 2,769 shares of restricted common stock. The fair value of all shares awarded on the date of the grant was $9.03 per share.

In the three months ended September 30, 2018, 256,833 options were exercised, generating proceeds to the Company of $1.5 million. In the three months ended September 30, 2017, 13,710 options were exercised, generating proceeds to the Company of approximately $0.1 million. In the nine months ended September 30, 2018, 488,303 options were exercised, generating proceeds to the Company of $2.8 million. In the nine months ended September 30, 2017, 173,518 options were exercised, generating proceeds to the Company of $1.0 million.

At September 30, 2018, total unrecognized compensation expense related to unvested stock and options was approximately $4.6 million, which is expected to be recognized over a period of approximately two years.

15. Commitments and Contingencies

From time to time, the Company is a party to various lawsuits, claims and other legal proceedings that arise in the ordinary course of business. These actions typically seek, among other things, compensation for alleged personal injury, breach of contract, property damage, punitive damages, civil penalties or other losses, or injunctive or declaratory relief. With respect to such lawsuits, the Company accrues reserves when it is probable a liability has been incurred and the amount of loss can be reasonably estimated. The Company does not believe any other proceedings, individually or in the aggregate, would be expected to have a material adverse effect on results of operations, cash flows or financial condition.

A pending legal matter was settled for a $5.5 million and $0.5 million, respectively, during the first quarter of 2018. Settlement amounts were recorded in "Other gain from continuing operations" in the Consolidated Statements of Operations, "Prepaid expenses and other" (current portion of the notes receivable) and "Other non-current assets" (non-current portion of the notes receivable) in the Consolidated Balance Sheets. As of September 30, 2018, the current portion of the note receivable was $0.8 million and the non-current portion was $3.8 million. Legal fees related to this matter were expensed as incurred during the respective reporting period.

As a result of charges brought in September 2015 and October 2016 by the Houston Police Department, Environmental Enforcement, two subsidiaries of the Company were recently indicted by a duly organized Grand Jury of Harris County, Texas for separate but related violations of the Texas Water Code, allegedly arising from the handling of construction concrete at certain work sites. Specifically, both were charged with unlawfully, intentionally or knowingly discharging a waste or pollutant. The Company is subject to a maximum fine in each case of $250,000, but has already declined a $7,500 plea bargain in the first case. In the second case, a project supervisor was also indicted. None of these allegations nor the costs of defense, taken separately or as a whole, is expected to be material to the Company. The Company considers all of these allegations without merit and it will vigorously defend itself and its employee.

16. Segment Information

The Company currently operates in two reportable segments: marine and concrete. The Company's financial reporting systems present various data for management to run the business, including profit and loss statements prepared according to the segments presented. Management uses operating income to evaluate performance between the two segments. Segment information for the periods presented is provided as follows:

	Three months ended September 30, 2018	Three months ended September 30, 2017	Nine months ended September 30, 2018	Nine months ended September 30, 2017
Marine				
Contract revenues	$ 63,479	$ 68,383	$ 206,967	$ 197,566
Operating (loss) income	(5,559)	(9,837)	4,348	(26,160)
Depreciation and amortization expense	(4,746)	(5,075)	(14,772)	(15,417)
Total Assets	$ 269,501	$ 248,960	$ 269,501	$ 248,960
Property, Plant and Equipment, net	125,231	131,630	125,231	$ 131,630
Concrete				
Contract revenues	$ 61,594	$ 71,779	$ 214,715	$ 218,773
Operating (loss) income	(1,846)	4,483	(94)	16,858
Depreciation and amortization expense	(2,176)	(2,229)	(6,362)	(7,005)
Total Assets	$ 155,247	$ 177,746	$ 155,247	$ 177,746
Property, Plant and Equipment, net	19,156	17,149	19,156	17,149

Intersegment revenues between the Company's two reportable segments for the three and nine months ended September 30, 2018 were less than $0.1 million and $2.4 million, respectively. There were no intersegment revenues for the three and nine months ended September 30, 2017. The marine segment had foreign revenues of $2.0 million and $3.0 million for the three months ended September 30, 2018 and 2017, respectively, and $10.3 million and $3.9 million for the nine months ended September 30, 2018 and 2017, respectively. These revenues are derived from projects in the Caribbean Basin, and were paid in U.S. dollars. There was no foreign revenue for the concrete segment.

17. Related Party Transactions

Upon the completion of the acquisition of TAS in August 2015, the Company entered into a lease arrangement with an entity in which an employee owns an interest. This lease is for office space and yard facilities used by the concrete segment. Annual lease expense was approximately $0.8 million, of which approximately less than $0.1 million and $0.5 million represented lease expense during the three and nine months ended September 30, 2017, respectively. Due to the resignation of this employee, these transactions ceased to be related party transactions as of July 31, 2017 and therefore, no related party lease expense existed after this date.

Item 2. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS

CAUTIONARY STATEMENT CONCERNING FORWARD-LOOKING STATEMENTS

Unless the context otherwise indicates, all references in this quarterly report to "Orion," "the Company," "we," "our," or "us" a to Orion Group Holdings, Inc. and its subsidiaries taken as a whole.

Certain information in this Quarterly Report on Form 10-Q, including but not limited to Management's Discussion and Analysis of Financial Condition and Results of Operations ("MD&A"), may constitute forward-looking statements as such term is defined within the meaning of the "safe harbor" provisions of Section 27A of the Securities Exchange Act of 1933, as amended, and Section 21E of the Securities Exchange Act of 1934, as amended.

All statements other than statements of historical facts, including those that express a belief, expectation, or intention are forward-looking statements. The forward-looking statements may include projections and estimates concerning the timing and success of specific projects and our future production, revenues, income and capital spending. Our forward-looking statements are generally accompanied by words such as "estimate," "project," "predict," "believe," "expect," "anticipate," "potential," "plan," "goal" or other words that convey the uncertainty of future events or outcomes.

We have based these forward-looking statements on our current expectations and assumptions about future events. While management considers these expectations and assumptions to be reasonable, they are inherently subject to significant business, economic, competitive, regulatory and other risks, contingencies and uncertainties, most of which are difficult to predict and many of which are beyond our control, including unforeseen productivity delays and other difficulties encountered in project execution, levels of government funding or other governmental budgetary constraints and contract cancellation at the discretion of the customer. These and other important factors, including those described under "Risk Factors" in Item 1A of the Company's 2017 Form 10-K may cause our actual results, performance or achievements to differ materially from any future results, performance or achievements expressed or implied by these forward-looking statements. The forward-looking statements in this quarterly report on Form 10-Q speak only as of the date of this report; we disclaim any obligation to update these statements unless required by securities law and we caution you not to rely on them unduly.

MD&A provides a narrative analysis explaining the reasons for material changes in the Company's (i) financial condition since the most recent fiscal year-end, and (ii) results of operations during the current fiscal year-to-date period and current fiscal quarter as compared to the corresponding periods of the preceding fiscal year. In order to better understand such changes, this MD&A should be read in conjunction with the Company's fiscal 2017 audited consolidated financial statements and notes thereto included in our 2017 Form 10-K, Item 7 Management's Discussion and Analysis of Financial Condition and Results of Operations included in our 2017 Form 10-K and with our unaudited consolidated financial statements and related notes appearing elsewhere in this quarterly report.

Overview

Orion Group Holdings, Inc., its subsidiaries and affiliates (hereafter collectively referred to as the "Company"), provides a broad range of specialty construction services in the infrastructure, industrial and building sectors of the continental United States, Alaska, Canada and the Caribbean Basin. The Company's marine segment services the infrastructure sector through marine transportation facility construction, marine pipeline construction, marine environmental structures, dredging of waterways, channels and ports, environmental dredging, design, and specialty services. Its concrete segment services the building sector by providing turnkey concrete construction services including pour and finish, dirt work, layout, forming, rebar, and mesh across the light commercial, structural and other associated business areas. The Company is headquartered in Houston, Texas with offices throughout its operating areas.

Our contracts are obtained primarily through competitive bidding in response to “requests for proposals” by federal, state and local agencies and through negotiation and competitive bidding with private parties and general contractors. Our bidding activity and strategies are affected by such factors as our backlog, current utilization of equipment and other resources, job location, our ability to obtain necessary surety bonds and competitive considerations. The timing and location of awarded contracts may result in unpredictable fluctuations in the results of our operations.

Most of our revenue is derived from fixed-price contracts. We generally record revenue on construction contracts over time, measured by the percentage of actual contract costs incurred to date to total estimated costs for each contract. There are a number of factors that can create variability in contract performance and therefore, impact the results of our operations. The most significant of these include the following:

- completeness and accuracy of the original bid;
- increases in commodity prices such as concrete, steel and fuel;
- customer delays, work stoppages and other costs due to weather and environmental restrictions;
- availability and skill level of workers; and
- a change in availability and proximity of equipment and materials

All of these factors can have a negative impact on our contract performance, which can adversely affect the timing of revenue recognition and ultimate contract profitability. We plan our operations and bidding activity with these factors in mind and they generally have not had a material adverse impact on the results of our operations in the past.

Third quarter 2018 recap and 2019 Outlook

During the third quarter, the Company experienced unanticipated delays in commencing certain work due to customer schedules. The Company also experienced significant production delays in its concrete segment, primarily due to continuous rain throughout its market areas in Texas, particularly during September. As a result, the timing of certain projects and opportunities changed and the Company saw significant revenue and operating profit shortfalls in both segments for the third quarter. Although the results for the third quarter were lower than expected, the Company remains confident in its strategic plan, its long-term market outlook and its fundamental business drivers. Looking toward 2019, the Company remains focused on its strategic plan and believes its long-term outlook is strong, with solid prospects for continued bottom line growth in the future.

Marine Segment

Demand for our marine construction services remains strong. We continue to see solid demand to help maintain and expand the
infrastructure that facilitates the movement of goods and people on or over waterways. Specifically, we continue to see bid opportunities from our private sector energy-related customers as they expand their marine facilities related to the storage, transportation and refining of domestically produced energy. Over the long-term, we expect to see some bid opportunities in this sector from petrochemical-related customers, energy exporters and liquefied natural gas facilities. Opportunities from local port authorities also remain solid, many of which are related to the completion of the Panama Canal expansion project. Additionally, we expect to see some bid opportunities related to coastal restoration funded through the Resource and Ecosystems Sustainability, Tourist Opportunities, Revived Economies of the Gulf Coast States Act (the "RESTORE Act") and new U.S. Army Corps of Engineers ("USACE") disaster recovery projects in Texas throughout 2018. We believe our current equipment fleet will allow us to better meet market demand for projects from both our public and private customers in the future.

In the long-term, we see positive trends in demands for our services in our end markets, including:

- General demand to repair and improve degrading U.S. marine infrastructure;
- Improving economic conditions and increased activity in the petrochemical industry and energy-related companies will necessitate capital expenditures, including larger projects, as well as maintenance call-out work;
- Expected increases in cargo volume and future demands from larger ships transiting the Panama Canal that will require ports along the Gulf Coast and Atlantic Seaboard to expand port infrastructure as well as perform additional dredging services;
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- The Water Resources Reform and Development Act (the "WRRDA Act") authorizing expenditures for the conservation and development of the nation's waterways as well as addressing funding deficiencies within the Harbor Maintenance Trust Fund;
- Renewed focus on coastal rehabilitation along the Gulf Coast, particularly through the use of RESTORE Act funds based on fines collected related to the 2010 Gulf of Mexico oil spill;
- Funding for highways and transportation under the FAST Act, which provides authority through 2020; and
- Nearly $5 billion of federal funding provided by the USACE in connection with disaster recovery in Texas

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Concrete Segment

Our concrete segment's demand also remains strong. The Texas building sector is in solid shape as its three major metropolitan areas and expanding suburbs continue to maintain their positions as leading destinations for families and businesses to reside. Population growth throughout our markets continues to drive new distribution centers, educational and medical facilities, office expansion, retail and grocery establishments and new multi-family housing units. In Houston, the Company continues to experience competitive pressure in the market, but expects to maintain market share. The Dallas-Fort Worth office continues its efforts to expand the services it offers beyond light commercial construction and will be targeting structural construction opportunities going forward. Also, our Central Texas operations are performing well as we are seeing solid project execution and expanding market share along the I-35 corridor.

Consolidated Results of Operations

Backlog Information

Our contract backlog represents our estimate of the revenues we expect to realize under the portion of contracts remaining to be performed. Given the typical duration of our contracts, which is generally less than one year, our backlog at any point in time usually represents only a portion of the revenue that we expect to realize during a twelve-month period. Many projects that make up our backlog may be canceled at any time without penalty; however, we can generally recover actual committed costs and profit on work performed up to the date of cancellation. Although we have not been adversely affected by contract cancellations or modifications in the past, we may be in the future, especially in economically uncertain periods. Consequently, backlog is not necessarily indicative of future results. In addition to our backlog under contract, we also have a substantial number of projects in negotiation or pending award at any time.

Backlog for our marine segment at September 30, 2018 was $238.1 million, as compared with $199.0 million at September 30, 2017.

Backlog for our concrete segment at September 30, 2018 was $187.9 million, as compared with $184.1 million at September 30, 2017.

Three months ended September 30, 2018 compared with three months ended September 30, 2017

	Three months ended September 30,			
	2018		2017	
	Amount	Percent	Amount	Percent
	(dollar amounts in thousands)			
Contract revenues	$125,073	100.0 %	$140,162	100.0 %
Cost of contract revenues	119,135	95.3 %	129,405	92.3 %
Gross profit	5,938	4.7 %	10,757	7.7 %
Selling, general and administrative expenses	14,371	11.4 %	16,524	11.8 %
Gain on sale of assets, net	(1,028)	(0.8)%	(413)	(0.3)%
Operating loss from operations	(7,405)	(5.9)%	(5,354)	(3.8)%
Other (expense) income				
Other income	1,143	0.9 %	9	— %
Interest income	52	— %	11	— %
Interest expense	(3,217)	(2.6)%	(1,369)	(1.0)%
Other expense, net	(2,022)	(1.7)%	(1,349)	(1.0)%

Loss before income taxes	(9,427)	(7.6)%	(6,703)	(4.8)%
Income tax benefit	(3,071)	(2.5)%	(1,666)	(1.2)%
Net loss	$(6,356)	(5.1)%	$(5,037)	(3.6)%

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Contract Revenues. Consolidated contract revenues for the three months ended September 30, 2018 were $125.1 million as compared with $140.2 million in the prior year, which was a decrease of $15.1 million, or 10.8%. The decrease was primarily attributable to unanticipated delays in both segments. For the marine segment, the delays in commencing certain work were due to customer schedules and for the concrete segment, the delays primarily resulted from continuous rain, particularly during September.

Contract revenues generated from private sector customers for the marine segment represented 38.5% of segment contract revenues in the third quarter of 2018, or $24.4 million, as compared with $32.1 million or 46.9% for the prior year. The decrease in revenue was due to a shift in timing and mix of projects.

Contract revenues generated from public sector customers for the marine segment represented 61.5% of segment contract revenues in the third quarter of 2018, or $39.0 million, as compared with $36.3 million or 53.1%, in the comparable prior year. The increase in revenue was due to a shift in timing and mix of projects.

Contract revenues in the concrete segment are primarily derived from private sector customers. Private sector customers represent $49.3 million, or 80.1%, of total contract revenues for the concrete segment in the third quarter of 2018, compared to $56.2 million, or 78.3% in the prior year.

Gross Profit. Gross profit was $5.9 million in the three months ended September 30, 2018, as compared with $10.8 million in the prior year. Gross margin in the third quarter of 2018 was 4.7%, as compared with 7.7% in the prior year. Gross profit decreased primarily due to unanticipated delays related to unfavorable weather patterns as well as continued competitive pressure in the Houston market of the concrete segment in the third quarter of 2018.

Selling, General and Administrative Expense. Selling, general and administrative ("SG&A") expenses in the third quarter of 2018 were $14.4 million as compared with $16.5 million in the third quarter of 2017, which was a decrease of $2.2 million, or 13.0%. The decrease was driven by a reduction in certain payroll-related costs in the third quarter of 2018.

Other income, net of expense. Other expense primarily reflects interest on the Company's borrowings. For the three months ended September 30, 2018, the total net balance also includes $1.1 million of revenue on the sale of easement rights for one of the Company's properties in the Houston area as well as an increase in interest expense of $2.2 million related to recognizing unamortized debt issuance costs on extinguishment of debt in the quarter.

See Note 11 for additional discussion of the amended syndicated credit agreement, also known as the Fourth Amendment, executed on July 31, 2018.

Income Tax Expense (Benefit). The Company recorded tax benefit of $3.1 million for the three months ended September 30, 2018 and a tax benefit of $1.7 million for the three months ended September 30, 2017. The Company has estimated its effective tax rate at 32.6% for the third quarter of 2018 as compared with 24.9% during the third quarter of 2017. In the third quarter of 2018, the Company recorded $2.2 million of unamortized debt issuance costs for the extinguishment of debt, which was treated as a discrete item and tax effected at a rate of 23%.

See Note 12 for additional discussion of income taxes and the Tax Cuts and Jobs Act (the "Act"), which was enacted and signed into law on December 22, 2017.

Nine months ended September 30, 2018 compared with nine months ended September 30, 2017

	Nine months ended September 30,			
	2018		2017	
	Amount	Percent	Amount	Percent
	(dollar amounts in thousands)			
Contract revenues	$421,682	100.0 %	$416,339	100.0 %
Cost of contract revenues	379,154	89.9 %	377,200	90.6 %
Gross profit	42,528	10.1 %	39,139	9.4 %
Selling, general and administrative expenses	46,249	11.0 %	49,031	11.8 %
Gain on sale of assets, net	(2,527)	(0.6)%	(590)	(0.1)%
Other gain from continuing operations	(5,448)	(1.3)%	—	— %
Operating income (loss) from operations	4,254	1.0 %	(9,302)	(2.3)%
Other (expense) income				
Other income	1,617	0.4 %	30	— %
Interest income	100	— %	11	— %
Interest expense	(5,899)	(1.4)%	(4,186)	(1.0)%
Other expense, net	(4,182)	(1.0)%	(4,145)	(1.0)%
Income (loss) before income taxes	72	— %	(13,447)	(3.3)%
Income tax expense (benefit)	78	— %	(4,309)	(1.0)%
Net loss	$(6)	— %	$(9,138)	(2.3)%

Contract Revenues. Consolidated contract revenues for the nine months ended September 30, 2018 were $421.7 million as compared with $416.3 million in the prior year, which was an increase of $5.3 million, or 1.3%. The increase was primarily attributable to the timing and mix of projects during the first half of 2018 as well as the unfavorable impact of project disruptions due to weather events in the third quarter of 2017. This increase was partially offset by the unanticipated delays in both segments during the third quarter 2018 related to customer schedules and continuous rain, particularly during September.

Contract revenues generated from private sector customers for the marine segment represented 52.3% of segment contract revenues in the nine months of 2018, or $108.2 million, as compared with $79.4 million or 40.2% for the prior year. The increase was due to a shift in timing and mix of projects.

Contract revenues generated from public sector customers for the marine segment represented 47.7% of segment contract revenues in the nine months of 2018, or $98.7 million, as compared with $118.1 million or 59.8%, in the prior year. The decrease was due to a shift in timing and mix of projects.

Contract revenues in the concrete segment are primarily derived from private sector customers. Private sector customers represent $171.0 million, or 79.7%, of total contract revenues for the concrete segment in the nine months of 2018, compared to $177.6 million, or 81.2% in the prior year.

Gross Profit. Gross profit was $42.5 million for the nine months ended September 30, 2018 as compared with $39.1 million in the prior year. Gross margin for the nine months was 10.1%, as compared with 9.4% in the prior year. Gross profit increased primarily due to strong operational performance, especially in the marine segment during the first half of 2018 as well as the unfavorable impact of project disruptions due to weather events in the third quarter of 2017. This increase was partially offset by unanticipated delays related unfavorable weather patterns as well as competitive pressure in the Houston market of the concrete segment in the third quarter of 2018.

Selling, General and Administrative Expense. Selling, general and administrative ("SG&A") expenses for the nine months of 2018 were $46.2 million as compared with $49.0 million in the prior year, which was a decrease of $2.8 million, or 5.7%. The decrease was driven by cost saving initiatives implemented in the fall of 2017 as well as a reduction in certain payroll-related costs in the third quarter of 2018.

Other income, net of expense. Other expense primarily reflects interest on our borrowings. For the nine months ended September 30, 2018, the total net balance also includes $1.6 million revenue on the sale of easement rights for one of the Company's properties in the Houston area as well as an increase in total interest expense of $2.2 million related to to recognizing unamortized debt issuance costs on extinguishment of debt in the third quarter of 2018.

See Note 11 for additional discussion of the amended syndicated credit agreement, also known as the Fourth Amendment, executed on July 31, 2018.

Income Tax Expense (Benefit). The Company recorded a tax expense of $0.1 million for the nine months ended September 30, 2018 and a tax benefit of $4.3 million for the nine months ended September 30, 2017. The Company has estimated its effective tax rate at 108.3% for the nine months of 2018 as compared with 32.1% during the nine months of 2017. In the third quarter of 2018, the Company recorded $2.2 million of unamortized debt issuance costs for the extinguishment of debt, which was treated as a discrete item and tax effected at a rate of 23%. In the first quarter of 2018 the Company recorded a $5.4 million gain related to the settlement of a legal matter, as discussed in Note 15, which was also treated as a discrete item and and tax effected at a rate of 23.0%.

See Note 12 for additional discussion of income taxes and the Act, which was enacted and signed into law on December 22, 2017.

Segment Results

The following table sets forth, for the periods indicated, statements of operations data by segment, segment revenues as a percentage of consolidated revenues and segment operating income (loss) as a percentage of segment revenues:

Three months ended September 30, 2018 compared with three months ended September 30, 2017

	Three months ended September 30,			
	2018		2017	
	Amount	Percent	Amount	Percent
	(dollar amounts in thousands)			
Contract revenues				
Marine Segment	$63,479	50.8 %	$68,383	48.8 %
Concrete Segment	61,594	49.2 %	71,779	51.2 %
Total	$125,073	100.0 %	$140,162	100.0 %
Operating (loss) income				
Marine Segment	$(5,559)	(8.8)%	$(9,837)	(14.4)%
Concrete Segment	(1,846)	(3.0)%	4,483	6.2 %
Total	$(7,405)		$(5,354)	

Marine Segment

Revenues for the marine segment for the three months ended September 30, 2018 were $63.5 million compared to $68.4 million for the three months ended September 30, 2017, a decrease of $4.9 million, or 7.2%. The decrease is primarily attributable to unanticipated delays in commencing certain work due to customer schedules.

Operating loss for the marine segment for the three months ended September 30, 2018 was $5.6 million, compared to $9.8 million of operating loss for the three months ended September 30, 2017, a decrease of $4.3 million. The decrease is primarily due to continued strong operational performance in the third quarter of 2018 and the unfavorable impact of project disruptions due to weather events in the third quarter of 2017. As a percentage of revenues, operating loss for our marine segment was (8.8)% for the three months ended September 30, 2018 compared to (14.4)% of operating loss for the three months ended September 30, 2017.

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Concrete Segment

Revenues for our concrete segment for the three months ended September 30, 2018 were $61.6 million compared to $71.8 million for the three months ended September 30, 2017, a decrease of $10.2 million, or 14.2%. The decrease in revenue was primarily due to production delays resulting from continuous rain throughout the market areas in Texas, particularly in September.

Operating loss for our concrete segment for the three months ended September 30, 2018 was $1.8 million, compared to operating income of $4.5 million for the three months ended September 30, 2017, a decrease of $6.3 million. The decrease was primarily driven by production delays resulting from continuous rain throughout the market areas in Texas, particularly in September, as well as continued competitive pressure in the Houston market in the third quarter of 2018. As a percentage of revenues, operating loss for our concrete segment was (3.0)% for the three months ended September 30, 2018 compared to operating income of 6.2% for the three months ended September 30, 2017.

Nine months ended September 30, 2018 compared with nine months ended September 30, 2017

	Nine months ended September 30,			
	2018		2017	
	Amount	Percent	Amount	Percent
	(dollar amounts in thousands)			
Contract revenues				
Marine Segment	$206,967	49.1 %	$197,566	47.5 %
Concrete Segment	214,715	50.9 %	218,773	52.5 %
Total	$421,682	100.0 %	$416,339	100.0 %
Operating income (loss)				
Marine Segment	$4,348	2.1 %	$(26,160)	(13.2)%
Concrete Segment	(94)	— %	16,858	7.7 %
Total	$4,254		$(9,302)	

Marine Segment

Revenues for the marine segment for the nine months ended September 30, 2018 were $207.0 million compared to $197.6 million for the nine months ended September 30, 2017, an increase of $9.4 million, or 4.8%. The increase is primarily attributable to the timing and mix of projects, partially offset by unanticipated delays in commencing certain work due to customer schedules in the third quarter of 2018.

Operating income for the marine segment for the nine months ended September 30, 2018 was $4.3 million, compared to $26.2 million of operating losses for the nine months ended September 30, 2017, an increase of $30.5 million. The increase is primarily due to solid operational performance of the segment and the unfavorable impact of project disruptions due to weather events in the third quarter of 2017. Additionally, the Company recognized a $5.4 million gain on the settlement of a legal matter in the first quarter of 2018. As a percentage of revenues, operating income for the marine segment was 2.1% for the nine months ended September 30, 2018 compared to (13.2)% of operating loss for the nine months ended September 30, 2017.

Concrete Segment

Revenues for our concrete segment for the nine months ended September 30, 2018 were $214.7 million compared to $218.8 million for the nine months ended September 30, 2017, a decrease of $4.1 million, or 1.9%. The decrease in revenue was primarily due to production delays resulting from unfavorable weather patterns experienced during the first and third quarters of 2018, partially offset by the acquisition of TBC in April 2017.

Operating loss for our concrete segment for the nine months ended September 30, 2018 was less than $0.1 million, compared to operating income of $16.9 million for the nine months ended September 30, 2017, a decrease of $17.0 million. The decrease was primarily driven by production delays resulting from unfavorable weather patterns experienced during the first and third quarters of 2018 as well as continued competitive pressure in the Houston market. As a percentage of revenues, operating loss for our concrete segment was 0.0% for the nine months ended September 30, 2018 compared to operating income of 7.7% for the nine months ended September 30, 2017.

Liquidity and Capital Resources

Our primary liquidity needs are to finance our working capital, fund capital expenditures and pursue strategic acquisitions. Historically, our source of liquidity has been cash provided by our operating activities and borrowings under our Credit Facility (as defined in Note 11 and below).

Our working capital position fluctuates from period to period due to normal increases and decreases in operational activity. At September 30, 2018, our working capital was $68.0 million, as compared with $69.8 million at December 31, 2017. As of September 30, 2018, we had cash on hand of $2.6 million. Our borrowing capacity at September 30, 2018 was approximately $61.3 million.

We expect to meet our future internal liquidity and working capital needs, and maintain or replace our equipment fleet through capital expenditure purchases and major repairs from funds generated by our operating activities for at least the next 12 months. We believe our cash position is adequate for our general business requirements discussed above and to service our debt.

The following table provides information regarding our cash flows and our capital expenditures for the nine months ended September 30, 2018 and 2017:

	Nine months ended September 30,	
	2018	2017
Cash flows (used in) provided by operating activities	$(5,239)	$31,855
Cash flows used in investing activities	$(11,707)	$(7,860)
Cash flows provided by (used in) financing activities	$10,454	$(21,641)
Capital expenditures (included in investing activities above)	$(15,043)	$(7,234)

Operating Activities. In the nine months ended September 30, 2018, the Company's operations used approximately $5.2 million of net cash, as compared with cash provided by operations in the prior year period of approximately $31.9 million. The decrease in cash between periods of $37.1 million was primarily attributable to changes in working capital driven by decreases in the accounts payable and the billings in excess of costs and estimated earnings balances as well as an increase in the costs and estimated earnings in excess of billings on uncompleted contracts.

Changes in working capital are normal within our business and are not necessarily indicative of any fundamental change within working capital components or trend in the underlying business.

Investing Activities. Capital asset additions and betterments to our fleet were $15.0 million in the nine months ended September 30, 2018, as compared with $7.2 million in the comparable prior year period. The increase is primarily a result of timing of purchase of capital assets. The Company remains on track to meet its projected capital expenditures budget for the current fiscal year as a significant portion of the capital spending incurred during the second quarter of 2018 was a result of timing of projects.

Financing Activities. Through the nine months ended September 30, 2018, we drew down $29.9 million from our revolving line of credit. We repaid $13.9 million on the revolver, as well as made our regularly scheduled debt payment on the term loan of $7.5 million, for a total of $21.4 million in debt payments. In the comparable prior year period, we drew down $52.0 million from our revolving line of credit. Additionally we repaid $60.0 million on the revolver, as well as made our regularly scheduled debt payments and an additional payment on the term loan of $14.4 million for a total of $74.4 million in debt payments.

Sources of Capital

The Company entered into an amended syndicated credit agreement (the "Credit Agreement" also known as the “Fourth Amendment”) on July 31, 2018 with Regions Bank, as administrative agent and collateral agent, and the following co-syndication agents: Bank of America, N.A., BOKF, NA dba Bank of Texas, KeyBank National Association, NBH Bank, IBERIABANK, Trustmark National Bank, First Tennessee Bank NA, and Branch Banking and Trust Company. With the execution of the Credit Agreement (known to Regions Bank and co-syndication agents as the Fourth Amendment), the prior indebtedness was treated as an extinguishment of debt and accounted for under the guidelines of ASC 470-05, Debt, Modifications and Extinguishments. The primary purpose of the Credit Agreement was to provide the Company with greater financing flexibility by providing a new amortization schedule, an extended maturity date, increased availability under the revolving line of credit, and a reduction in overall costs.

The Credit Agreement, which may be amended from time to time, provides for borrowings under a revolving line of credit and swingline loans with a commitment amount of $100 million and a term loan with a commitment amount of $60 million (together, the “Credit Facility”). The Credit Facility is guaranteed by the subsidiaries of the Company, secured by the assets of the Company, including stock held in its subsidiaries, and may be used to finance general corporate and working capital purposes, to finance capital expenditures, to refinance existing indebtedness, to finance permitted acquisitions and associated fees and to pay for all related expenses to the Credit Facility. Interest is due and is computed based on the designation of the loan, with the option of a Base Rate Loan (the base rate plus the Applicable Margin) or an Adjusted LIBOR Rate Loan (the adjusted LIBOR rate plus the Applicable Margin). Interest is due on the last day of each quarter end for Base Rate Loans and at the end of the LIBOR rate period for Adjusted LIBOR Rate Loans. Principal balances drawn under the Credit Facility may be prepaid at any time, in whole or in part, without premium or penalty. Amounts repaid under the revolving line of credit may be re-borrowed. The Credit Facility matures on July 31, 2023.

See Note 11 in the Notes to the Financial Statements (of this Form 10-Q) for further discussion on the Company's debt.

Financial covenants

Restrictive financial covenants under the Credit Facility include:
- A consolidated Fixed Charge Coverage Ratio as of the end of any fiscal quarter to not be less than 1.25 to 1.00.
- A consolidated Leverage Ratio as of the end of any fiscal quarter to not exceed 3.00 to 1.00.

As of September 30, 2018, the Company was in compliance with all financial covenants.

In addition, the Credit Facility contains events of default that are usual and customary for similar arrangements, including non-payment of principal, interest or fees; breaches of representations and warranties that are not timely cured; violation of covenants; bankruptcy and insolvency events; and events constituting a change of control.

The Company expects to meet its future internal liquidity and working capital needs, and maintain or replace its equipment fleet through capital expenditure purchases and major repairs, from funds generated by its operating activities for at least the next 12
months. The Company believes that its cash position and available borrowings together with cash flow from its operations is
adequate for general business requirements and to service its debt.

Derivative Financial Instruments

On September 16, 2015, the Company entered into a series of receive-variable, pay-fixed interest rate swaps to hedge the variability in the interest payments on 50% of the aggregate principal amount of the Regions Term Loan outstanding, beginning with a notional amount of $67.5 million There are a total of five sequential interest rate swaps to achieve the hedged position and each year on August 31, with the exception of the final swap, the existing interest rate swap is scheduled to expire and will be immediately replaced with a new interest rate swap until the expiration of the final swap on July 31, 2020. At inception, these interest rate swaps were designated as a cash flow hedge for hedge accounting, and as such, the effective portion of unrealized changes in market value are recorded in accumulated other comprehensive income (loss) and reclassified into earnings during the period in which the hedged forecasted transaction affects earnings. Gains and losses from hedge ineffectiveness are recognized in current earnings. The change in fair market value of the swaps for the nine months ended September 30, 2018 was $0.4 million, net of tax. The fair market value of the swaps as of September 30, 2018 was $0.5 million and net of tax was $0.4 million, which is reflected as an asset included in the balance of "Other non-current assets" on the Consolidated Balance Sheets. See Note 8 for more information regarding the fair value of the Company's derivative instruments.

Bonding Capacity

We are generally required to provide various types of surety bonds that provide additional security to our customers for our performance under certain government and private sector contracts. Our ability to obtain surety bonds depends on our capitalization, working capital, past performance and external factors, including the capacity of the overall surety market. At September 30, 2018, our maximum capacity under our current bonding arrangement was $500 million, with approximately $137 million of remaining

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availability. We believe our strong balance sheet and working capital position will allow us to continue to access our bonding capacity.

Effect of Inflation

We are subject to the effects of inflation through increases in the cost of raw materials and other items, such as fuel, concrete and steel. Due to the relative short-term duration of our projects, we are generally able to include anticipated price increases in the cost of our bids.

Item 3. Quantitative and Qualitative Disclosures about Market Risk

In the normal course of business, our results of operations are subject to risks related to fluctuation in commodity prices and fluctuations in interest rates. Historically, our exposure to foreign currency fluctuations has not been material and has been limited to temporary field accounts located in foreign countries where we perform work. Foreign currency fluctuations were immaterial in this reporting period.

Commodity price risk
We are subject to fluctuations in commodity prices for such items as concrete, steel products and fuel. Although we routinely attempt to secure firm quotes from our suppliers, we generally do not hedge against increases in prices for commodity products. Commodity price risks may have an impact on our results of operations due to the fixed-price nature of many of our contracts, although the short-term duration of our projects may allow us to include price increases in the costs of our bids.

Interest rate risk
At September 30, 2018, we had $97.3 million in outstanding borrowings under our credit facility, with a weighted average interest rate over the three-month period of 3.69%. Also we have entered into a series of receive-variable, pay-fixed interest rate swaps to hedge the variability in the interest payments on 50% of the aggregate principal amount of the term loan component of the credit facility outstanding, beginning with a notional amount of $67.5 million. At inception, these interest rate swaps were designated as a cash flow hedge for hedge accounting. Our objectives in managing interest rate risk are to lower our overall borrowing costs and limit interest rate changes on our earnings and cash flows. To achieve this, we closely monitor changes in interest rates and, if warranted, we utilize cash from operations to reduce our debt position.

Item 4. Controls and Procedures

- Evaluation of Disclosure Controls and Procedures. As required, the Company’s management, with the participation of its Chief Executive Officer and Chief Financial Officer, have conducted an evaluation of the effectiveness of the Company's disclosure controls and procedures (as such term is defined in Rules 13a-15(e) and 15d-15(e) under the Securities Exchange Act of 1934, as amended) as of the end of the period covered by this quarterly report. Based on that evaluation, the Chief Executive Officer and Chief Financial Officer have concluded that the Company's disclosure controls and procedures are effective as of September 30, 2018.
- Changes in Internal Controls. As of January 1, 2018 , we implemented new controls related to the adoption of Accounting Standards Codification Topic 606, Revenue from Contracts with Customers, and the related Accounting Standards Updates. There were no other changes to our internal controls over financial reporting that have materially affected, or are reasonably likely to materially affect, our internal controls over financial reporting.

PART II - Other Information

Item 1. Legal Proceedings

For information about litigation involving the Company, see Note 15 to the consolidated financial statements in Part I of this report, which we incorporate by reference into this Item 1 of Part II.

Item 1A. Risk Factors

There have been no material changes to the risk factors previously disclosed in Part I, Item 1A, "Risk Factors", of our 2017 Form 10-K.

Item 2. Unregistered Sales of Equity Securities and Use of Proceeds

There were no sales or repurchases of equity securities in the period ended September 30, 2018.

Item 3. Defaults Upon Senior Securities

None.

Item 4. Mine Safety Disclosures

Not applicable.

Item 5. Other Information

None.

Item 6. Exhibits

Exhibit Number	Description
2.1	Stock Purchase Agreement dated April 9, 2017 by and among Anthony James Bagliore III and Lori Sue Bagliore and T.A.S. Commercial Concrete Construction, LLC (Schedules, exhibits and similar attachments to the Agreement that are not material have been omitted pursuant to Item 601(b)(2) of Regulation S-K. The Company will furnish supplementally a copy of any omitted schedule, exhibit or similar attachment to the SEC upon request) (incorporated herein by reference to Exhibit 2.1 to the Company's Current Report on Form 8-K, filed with the Securities and Exchange Commission on April 13, 2017 (File No. 1-33891)).
3.1	Amended and Restated Certificate of Incorporation of Orion Group Holdings, Inc. (incorporated herein by reference to Exhibit 3.1 to the Company's Quarterly Report on Form 10-Q for the quarter ended June 30, 2016, filed with the Securities and Exchange Commission on August 5, 2016 (File No. 1-33891)).
3.2	Amended and Restated Bylaws of Orion Group Holdings, Inc. (incorporated herein by reference to Exhibit 3.2 to the Company's Quarterly Report on Form 10-Q for the quarter ended June 30, 2016, filed with the Securities and Exchange Commission on August 5, 2016 (File No. 1-33891)).
4.1	Registration Rights Agreement by and between Friedman, Billings, Ramsey & Co., Inc. and Orion Marine Group, Inc. dated May 17, 2007 (incorporated herein by reference to Exhibit 4.1 to the Company's Registration Statement on Form S-1 filed with the Securities and Exchange Commission on August 20, 2007 (File No. 333-145588)).
10.1	Fourth Amendment, effective July 31, 2018, to the Credit Agreement dated as of August 5, 2015 among Orion Marine Group, Inc. as Borrower, Certain Subsidiaries of the Borrower Party Hereto From Time to Time, as Guarantors, the Lenders Party Hereto, Regions Bank, as Administrative Agent and Collateral Agent, and Bank of America, N.A., BOKF, NA DBA Bank of Texas, and Branch Banking and Trust Company, as Co-syndication Agents, Regions Capital Markets, a division of Regions Bank, as Lead Arranger and Book Manager (incorporated herein by reference to Exhibit 10.1 to the Company's Quarterly Report on Form 10-Q for the quarter ended June 30, 2018, filed with the Securities and Exchange Commission on August 3, 2018 (File No. 1-33891)).
* 31.1	Certification of the Chief Executive Officer Pursuant to Rules 13a-14(a)/15d-14(a) of the Securities Exchange Act of 1934, as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.
* 31.2	Certification of the Chief Financial Officer Pursuant to Rules 13a-14(a)/15d-14(a) of the Securities Exchange Act of 1934, as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.
† 32.1	Certification of the Chief Executive Officer and the Chief Financial Officer pursuant to Title 18 U.S.C. 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.
*101.INS	XBRL Instance Document.
*101.SCH	XBRL Taxonomy Extension Schema Document.
*101.CAL	XBRL Taxonomy Extension Calculation Linkbase Document.
*101.DEF	XBRL Taxonomy Extension Definition Linkbase Document.
*101.LAB	XBRL Taxonomy Extension Label Linkbase Document.
*101.PRE	XBRL Taxonomy Extension Presentation Linkbase Document.

* filed herewith
† furnished herewith

SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the Registrant has duly caused this report to be signed on its behalf by the undersigned thereunto duly authorized.

	ORION GROUP HOLDINGS, INC.
By:	/s/ Mark R. Stauffer
November 2, 2018	Mark R. Stauffer
	President and Chief Executive Officer
By:	/s/ Christopher J. DeAlmeida
November 2, 2018	Christopher J. DeAlmeida
	Executive Vice President and Chief Financial Officer

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