

HALCON RESOURCES CORP

Form 424B5

June 17, 2013

Table of Contents

Filed Pursuant To Rule 424(b)(5)  
Registration No. 333-188640

Class of Securities Registered	Proposed	Proposed	Proposed	
	Shares Registered (1)	Offering Price Per Share	Maximum Aggregate Offering Price	Amount of Registration Fee (2)
5.75% Series A Cumulative Perpetual Convertible Preferred Stock, par value \$0.0001 per share	345,000	\$ 1,000	\$ 345,000,000	\$ 47,058
Common stock, par value \$0.0001 per share	(3)			(4)

(1) Includes 45,000 shares that the underwriters have the option to purchase to cover over-allotments, if any.

(2) The registration fee is being paid on a deferred basis in reliance upon Rules 456(b) and 457(r).

(3) An indeterminate number of shares of common stock may be issued from time to time upon conversion of the 5.75% Series A Cumulative Perpetual Convertible Preferred Stock.

(4) No additional consideration will be received for the common stock, and therefore no registration fee is required pursuant to Rule 457(i).

**Table of Contents****Prospectus supplement**

(To prospectus dated May 16, 2013)

**Halcón Resources Corporation****300,000 Shares****5.75% Series A Cumulative Perpetual Convertible Preferred Stock****(Liquidation Preference \$1,000 per share)**

We are offering 300,000 shares of our 5.75% Series A Cumulative Perpetual Convertible Preferred Stock (which we refer to as the convertible preferred stock). Holders of our convertible preferred stock will be entitled to receive, when, as and if declared by our board of directors cumulative dividends at the rate of 5.75% per annum on the liquidation preference of \$1,000 per share of convertible preferred stock, payable in cash, common stock or a combination thereof at our election, quarterly in arrears on March 1, June 1, September 1 and December 1 of each year, beginning on September 1, 2013. Dividends will accumulate from the most recent date on which dividends have been paid or, if no dividends have been paid, from the date of original issuance of the convertible preferred stock.

Holders may convert their shares of convertible preferred stock at any time based on an initial conversion rate of 162.4431 shares of our common stock for each share of convertible preferred stock, which is equivalent to an initial conversion price of approximately \$6.16 per share of our common stock. The conversion rate will be adjusted upon the occurrence of certain events as described herein, but no payment or adjustment for accumulated but unpaid dividends will be made upon conversion. In addition, if a fundamental change (as defined herein) occurs, we will be required to increase the conversion rate for a holder who elects to convert its shares of convertible preferred stock in connection with such fundamental change in certain circumstances, as described in this prospectus supplement.

The convertible preferred stock is not redeemable by us. However, at any time on or after June 6, 2018, we may give notice of our election to cause all outstanding shares of convertible preferred stock to be automatically converted into shares of our common stock, if the closing sale price of our common stock equals or exceeds 150% of the conversion price for at least 20 trading days (whether or not consecutive) in a period of 30 consecutive trading days, including the last trading day of such 30 trading day period, ending on, and including, the trading day immediately preceding the business day on which we issue a press release announcing the mandatory conversion of the convertible preferred stock, in which case each holder will receive, for each share of convertible preferred stock being converted, a number of shares of our common stock equal to the conversion rate, as described herein.

We do not intend to apply to list the convertible preferred stock on any securities exchange or any automated dealer quotation system. Our common stock is listed on the New York Stock Exchange under the symbol HK. On June 11, 2013, the last reported sale price of our common stock on the New York Stock Exchange was \$5.15 per share.

**Investing in the convertible preferred stock involves a high degree of risk. See Risk factors beginning on page S-17 of this prospectus supplement.**

	Per share	Total
Public offering price	\$ 1,000.00	\$ 300,000,000
Underwriting discounts and commissions(1)	\$ 30.00	\$ 7,693,500
Proceeds, before expenses, to us(1)	\$ 970.00	\$ 292,306,500

(1) The underwriters will not receive discounts or commissions with respect to 43,550 shares of convertible preferred stock purchased by certain officers, directors and other affiliates.

We have granted the underwriters an option, exercisable within a 30-day period beginning on, and including, the date of this prospectus supplement, to purchase up to 45,000 additional shares of convertible preferred stock, solely to cover over-allotments.

Edgar Filing: HALCON RESOURCES CORP - Form 424B5

Neither the U.S. Securities and Exchange Commission nor any state securities commission has approved or disapproved of the convertible preferred stock or determined if this prospectus supplement or the accompanying prospectus is truthful or complete. Any representation to the contrary is a criminal offense.

We expect that delivery of the convertible preferred stock will be made to investors in book-entry form through The Depository Trust Company ( DTC ) on or about June 18, 2013.

*Joint book-running managers*

**J.P. Morgan**

**Barclays**

*Joint lead managers*

**Wells Fargo Securities**

**Goldman, Sachs & Co.**

**BMO Capital Markets**

*Co-managers*

**BofA Merrill Lynch**  
**Deutsche Bank Securities**  
**RBS**  
June 13, 2013

**Capital One Southcoast**  
**ING**  
**Scotiabank / Howard Weil**

**Comerica Securities**  
**KeyBanc Capital Markets**

**Credit Agricole CIB**  
**Natixis**

**Credit Suisse**  
**RBC Capital Markets**  
**SunTrust Robinson Humphrey**

**Table of Contents**

**Table of contents**

**Prospectus Supplement**

	<b>Page</b>
<u>About this prospectus supplement</u>	S-i
<u>Where you can find more information</u>	S-iii
<u>Cautionary statement about forward-looking statements</u>	S-v
<u>Summary</u>	S-1
<u>Risk factors</u>	S-17
<u>Use of proceeds</u>	S-43
<u>Capitalization</u>	S-44
<u>Price range of common stock and dividend policy</u>	S-45
<u>Management</u>	S-46
<u>Description of convertible preferred stock</u>	S-52
<u>Description of capital stock</u>	S-73
<u>Material U.S. federal income tax considerations</u>	S-76
<u>Certain considerations for ERISA and other U.S. employee benefit plans</u>	S-84
<u>Underwriting</u>	S-85
<u>Conflicts of interest</u>	S-91
<u>Legal matters</u>	S-93
<u>Experts</u>	S-93
<u>Glossary of oil and natural gas terms</u>	S-94

**Prospectus**

	<b>Page</b>
<u>About This Prospectus</u>	1
<u>The Company</u>	1
<u>The Subsidiary Guarantors</u>	2
<u>Cautionary Statements Regarding Forward-Looking Statements</u>	3
<u>Risk Factors</u>	5
<u>Ratio of Earnings to Fixed Charges</u>	5
<u>Use of Proceeds</u>	6
<u>Description of Debt Securities</u>	7
<u>Description of Capital Stock</u>	20
<u>Description of Depositary Shares</u>	23
<u>Description of Warrants</u>	24
<u>Plan of Distribution</u>	26
<u>Legal Matters</u>	28
<u>Experts</u>	28
<u>Where You Can Find More Information</u>	29

## About this prospectus supplement

This document is in two parts. The first part is the prospectus supplement, which describes the specific terms of this offering. The second part, the accompanying prospectus, gives more general information, some of which may not apply to this offering.

If the description of the offering varies between this prospectus supplement and the accompanying prospectus, you should rely on the information in this prospectus supplement.

**We have not, and the underwriters have not, authorized anyone to provide any information other than that contained or incorporated by reference in this prospectus supplement and the accompanying prospectus or in any free writing prospectus prepared by or on behalf of us or to which we have referred you. We take no responsibility for, and can provide no assurance as to the reliability of, any other information that others may give you.**

**We are not, and the underwriters are not, making an offer of these securities in any jurisdiction where the offer is not permitted.**

S-i

**Table of Contents**

**You should not assume that the information contained in or incorporated by reference in this prospectus supplement or the accompanying prospectus is accurate as of any date other than the dates of this prospectus supplement or the accompanying prospectus or that any information we have incorporated by reference is accurate as of any date other than the date of the document incorporated by reference. Our business, financial condition, results of operations and prospects may have changed since those dates. It is important that you read and consider all of the information in this prospectus supplement and the information contained in the accompanying prospectus and any other document incorporated by reference in making your investment decision.**

Unless indicated otherwise in this prospectus supplement or the context requires otherwise:

all references to Halcón, Company, us, we, our, or ours, refer to Halcón Resources Corporation and its consolidated subsidiaries;

all references to the Williston Basin Assets refer to our acquisition of approximately 81,000 net acres prospective for the Bakken and Three Forks formations primarily located in Williams, Mountrail, McKenzie and Dunn Counties, North Dakota on December 6, 2012;

all references to GeoResources refer to GeoResources, Inc. and its consolidated subsidiaries;

all references to the GeoResources Merger refer to our acquisition of GeoResources through a merger of GeoResources into one of our wholly owned subsidiaries, effective August 1, 2012;

all references to the East Texas Assets refer to our acquisition of operated interests in 20,628 net acres of oil and gas leasehold prospective for the Woodbine formation in East Texas, which was completed on August 3, 2012;

all references to the Eagle Ford Properties refer to the properties located in Fayette and Gonzales Counties, Texas that lie within the vicinity of properties owned by Petrohawk Energy Corporation at the time of its acquisition by BHP Billiton in August 2011;

all references to HALRES refer to HALRES LLC (formerly Halcón Resources, LLC), a privately held company founded by Floyd C. Wilson; and

all references to the HALRES Transaction refer to the recapitalization of the Company by HALRES with a \$550.0 million investment structured as the purchase of \$275.0 million in new common stock, a \$275.0 million 8% senior unsecured convertible note due 2017 and five-year warrants to purchase up to an additional 36.7 million shares of our common stock at an exercise price of \$4.50 per share, which closed on February 8, 2012.

**Table of Contents**

## **Where you can find more information**

We file annual, quarterly and current reports, proxy statements and other information with the U.S. Securities and Exchange Commission, or SEC. Our SEC filings are available to the public over the Internet at the SEC's web page site at [www.sec.gov](http://www.sec.gov). You also may read and copy any document we file at the SEC's public reference room in Washington, D.C. Please call the SEC at 1-800-SEC-0330 for further information about the public reference room. Reports and other information concerning us can also be inspected at the offices of the New York Stock Exchange, 20 Broad Street, New York, New York 10005. Our common stock is listed and traded on the New York Stock Exchange under the trading symbol HK.

The SEC allows us to incorporate by reference the information we file with them, which means that we can disclose important information to you by referring you to those documents. The information incorporated by reference is an important part of this prospectus, and information that we file later with the SEC will automatically update and supersede this information. We incorporate by reference the documents listed below and any future filings we make with the SEC under Sections 13(a), 13(c), 14, or 15(d) of the Securities Exchange Act of 1934, excluding information under Item 2.02 or 7.01 furnished in Current Reports on Form 8-K, until we sell all of the securities:

our Annual Report on Form 10-K for the fiscal year ended December 31, 2012;

our Quarterly Report on Form 10-Q for the period ended March 31, 2013; and

our Current Reports on Form 8-K filed with the SEC on January 15, 2013, January 23, 2013, January 30, 2013, March 4, 2013, March 8, 2013, April 3, 2013, May 8, 2013, May 14, 2013, May 29, 2013 and June 12, 2013.

The audited financial statements for GeoResources and its subsidiaries and for SBE Partners, LP for the years ended December 31, 2011 and 2010 are incorporated herein by reference to Exhibits 99.3 and 99.4, respectively, to our Current Report on Form 8-K/A filed with the SEC on September 11, 2012.

The statements of revenues and direct operating expenses for the East Texas Assets for the period from February 1, 2011 through December 31, 2011 are incorporated herein by reference to Exhibit 99.2 to our Current Report on Form 8-K filed with the SEC on June 25, 2012.

The statements of revenues and direct operating expenses for the Williston Basin Assets for the three years in the period ended December 31, 2011 are incorporated herein by reference to Exhibit 99.2 to our Current Report on Form 8-K filed with the SEC on October 22, 2012.

You may request a copy of all incorporated filings at no cost, by making written or telephone requests for such copies to:

Halcón Resources Corporation

Attention: Investor Relations

1000 Louisiana St., Suite 6700

Houston, Texas 77002

Phone: (832) 538-0300

[investorrelations@halconresources.com](mailto:investorrelations@halconresources.com)

**Table of Contents**

We have not authorized anyone to provide any information other than that contained or incorporated by reference in this prospectus supplement or accompanying prospectus or in any free writing prospectus prepared by or on behalf of us or to which we have referred you. We take no responsibility for, and can provide no assurance as to the reliability or, any other information that others may give you. We are not making an offer of these securities in any state where the offer is not permitted. You should not assume that the information contained in this prospectus supplement or the accompanying prospectus is accurate as of any date other than the dates of this prospectus supplement or the accompanying prospectus, respectively, or that any information we have incorporated by reference is accurate as of any date other than the respective dates of those documents.

S-iv



Table of Contents

## Cautionary statement regarding forward-looking statements

This prospectus supplement, the accompanying prospectus and the documents incorporated by reference herein include forward-looking statements within the meaning of Section 27A of the Securities Act and Section 21E of the Securities Exchange Act of 1934, as amended (the Exchange Act). All statements, other than statements of historical facts are forward-looking statements and include, among other things, statements concerning planned capital expenditures, potential increases in oil and natural gas production, the number and location of wells to be drilled in the future, future cash flows and borrowings, pursuit of potential acquisition opportunities, our financial position, business strategy and other plans and objectives for future operations. These forward-looking statements may be identified by their use of terms and phrases such as may, expect, estimate, project, plan, objective, believe, predict, intend, achievable, anticipate, will, continue, and other similar terms and phrases. Although we believe that the expectations reflected in these forward-looking statements are reasonable, they do involve certain assumptions, risks and uncertainties that may cause actual results to differ materially from those anticipated in these forward-looking statements. You should consider carefully the risks discussed under the Risk factors section of this prospectus supplement, as well as those described in our Annual Report on Form 10-K for the year ended December 31, 2012, and the other risks included or incorporated by reference herein and therein, which describe factors that could cause our actual results to differ from those anticipated in the forward-looking statements, including, but not limited to, the following factors:

our ability to successfully integrate acquired oil and natural gas businesses and operations;

the possibility that acquisitions may involve unexpected costs or delays, will not achieve intended benefits and will divert management's time and energy, which could have an adverse effect on our financial position, results of operations, or cash flows;

we have substantial indebtedness and may incur more debt subject to any borrowing limitations; higher levels of indebtedness make us more vulnerable to economic downturns and adverse developments in our business;

our ability to meet certain financial tests in order to alleviate current restrictions on additional borrowings;

our ability to successfully develop our large inventory of undeveloped acreage in our resource plays;

access to and availability of water and other treatment materials to carry out planned fracture stimulations in our resource plays;

access to adequate gathering systems, transportation take-away capacity and marketing outlets to sell our production at market prices, which is necessary to fully execute our capital program;

our ability to generate sufficient cash flow from operations, borrowings or other sources to enable us to fully develop our undeveloped acreage positions;

volatility in commodity prices for oil and natural gas;

our ability to replace oil and natural gas reserves;

Edgar Filing: HALCON RESOURCES CORP - Form 424B5

the presence or recoverability of estimated oil and natural gas reserves and the actual future production rates and associated costs;

the potential for production decline rates for our wells to be greater than we expect;

S-v

**Table of Contents**

the cost and availability of goods and services, such as drilling rigs, fracture stimulation services and tubulars;

our ability to retain senior management and key technical employees;

competition, including competition for acreage in resource plays;

environmental risks;

drilling and operating risks;

exploration and development risks;

risks associated with the timing of, and potential proceeds from, divestitures;

the possibility that the industry may be subject to future regulatory or legislative actions (including additional taxes and environmental regulation);

general economic conditions, whether internationally, nationally or in the regional and local market areas in which we do business, may be less favorable than expected, including the possibility that economic conditions in the United States will worsen and that capital markets are disrupted, which could adversely affect demand for oil and natural gas and make it difficult to access financial markets;

social unrest, political instability or armed conflict in major oil and natural gas producing regions outside the United States, such as the Middle East, and armed conflict or acts of terrorism or sabotage;

other economic, competitive, governmental, regulatory, legislative, including federal, state and tribal, regulations and laws, geopolitical and technological factors that may negatively impact our business, operations or pricing;

the insurance coverage maintained by us may not adequately cover all losses that may be sustained in connection with all oil and natural gas activities;

title to the properties in which we have an interest may be impaired by title defects;

management's ability to execute our plans to meet our goals; and

we depend on the skill, ability and decisions of third party operators of the oil and natural gas properties in which we have a non-operated working interest.

All forward-looking statements attributable to us or persons acting on our behalf are expressly qualified in their entirety by the cautionary statements above and elsewhere in this prospectus supplement, the accompanying prospectus and in the documents incorporated by reference.

## Edgar Filing: HALCON RESOURCES CORP - Form 424B5

Other than as required under the securities laws, we do not assume a duty to update these forward-looking statements, whether as a result of new information, subsequent events or circumstances, changes in expectations or otherwise.

S-vi

**Table of Contents**

## Summary

*This summary highlights some of the information contained elsewhere in, or incorporated by reference into, this prospectus supplement and does not contain all of the information that may be important to you. You should read this entire prospectus supplement, the accompanying prospectus and the documents incorporated by reference herein before making an investment decision. You should carefully consider the information set forth under *Risk factors* beginning on page S-17 of this prospectus supplement as well as those risks described in our Annual Report on Form 10-K for the year ended December 31, 2012. In addition, certain statements include forward-looking information that involve risks and uncertainties. See *Cautionary statement regarding forward-looking statements*. As used in this prospectus supplement, *pro forma* and *on a pro forma basis* mean that the information is presented on a pro forma basis to give effect to the GeoResources Merger, the acquisition of the East Texas Assets and the acquisition of the Williston Basin Assets, including the issuance of \$750 million of 8% Automatically Convertible Preferred Stock, the issuance of \$750 million of 9.75% senior notes on July 16, 2012, the private placement of approximately 41.9 million shares of our common stock and the issuance of \$750 million of 8.875% senior notes on November 6, 2012, in each case as if such transactions had occurred on January 1, 2012. We have provided definitions for certain oil and natural gas terms used in this prospectus supplement in the *Glossary of oil and natural gas terms*.*

## Halcón Resources Corporation

### ***Overview***

We are an independent energy company focused on the acquisition, production, exploration and development of onshore oil and liquids-rich natural gas assets in the United States. We were incorporated in Delaware on February 5, 2004 and were recapitalized on February 8, 2012. Historically, our producing properties have been located in basins with long histories of oil and natural gas operations. During 2012 we focused our efforts on the acquisition of undeveloped leasehold and producing properties in selected prospect areas and now have an extensive drilling inventory in multiple basins that we believe allows for multiple years of profitable production growth and provides us with broad flexibility to direct our capital resources to projects with the greatest potential returns.

At December 31, 2012, our estimated total proved oil and natural gas reserves were approximately 108.8 MMBoe, of which 85% are oil and NGLs and 47% are proved developed. Average net daily production for the quarter ended March 31, 2013 was 26,022 Boe/d, of which 87% was oil and NGLs. We maintain operational control of approximately 93% of our proved reserves.

Our oil and natural gas assets consist of a combination of undeveloped acreage positions in unconventional liquids-rich basins/fields and mature liquids-weighted reserves and production in more conventional basins/fields. We have mature oil and natural gas reserves located primarily in Texas, North Dakota, Louisiana, Oklahoma and Montana. We have acquired acreage and may acquire additional acreage in the Bakken / Three Forks formations in North Dakota and Montana, the Eagle Ford formation in East Texas, the Utica / Point Pleasant formations in Ohio and

## **Table of Contents**

Pennsylvania, the Woodbine formation in East Texas, the Wilcox formation in East Texas and Louisiana and the Tuscaloosa Marine Shale formation in Louisiana, as well as several other areas.

## **Description of our properties**

### *Core Resource Plays*

At December 31, 2012, our estimated proved reserves in our core resource plays were approximately 75.6 MMBoe, of which 92% were oil and NGLs and 38% were proved developed. In general, our core resource plays are characterized by high oil and liquids-rich natural gas content in thick, continuous sections of source rock that can provide repeatable drilling opportunities and significant initial production rates. Our core resource plays are as follows:

#### *Bakken/Three Forks Formations*

We have working interests in approximately 135,000 total net acres currently prospective for the Bakken/Three Forks formations in the Williston Basin. There are multiple initiatives underway to lower costs and improve recoveries in our operated project areas. We are currently operating eight rigs in the Bakken/Three Forks. Our average daily net production for the three months ended March 31, 2013 was 13,506 Boe/d.

#### *East Texas Eagle Ford Formation El Halcón*

Internally referred to as El Halcón, we have a 55,000 net acre position across Brazos and Burleson Counties in East Texas that we believe is prospective for the Eagle Ford shale. We will focus on defining the play area throughout the balance of 2013, and expect to build an aggregate position of up to 150,000 net acres over time.

We are currently operating five rigs in the play. Our average daily net production for the three months ended March 31, 2013 was 744 Boe/d.

#### *Utica/Point Pleasant Formations*

We currently have approximately 140,000 net acres leased or under contract in Trumbull and Mahoning Counties, Ohio, and Mercer, Venango and Crawford Counties, Pennsylvania. We believe the acreage is prospective for the Utica/Point Pleasant formations. Substantially all of our acreage in these areas is either held by production or provides for five years to drill a well plus a renewal option for an additional five years.

We are currently operating one rig in the Utica/Point Pleasant. Due to infrastructure requirements, combined with our practice of shutting in wells for up to 60 days after completion in an effort to maximize recoveries, we estimate a spud-to-production time of 120 days per well.

We are in the process of delineating and evaluating our Utica/Point Pleasant acreage position. We are focused on building an inventory of approved/permitted multi-well pads in preparation for a full scale development program to optimize drilling and completion costs.

## **Table of Contents**

### *Woodbine Formation*

We currently have approximately 210,000 net acres leased or under contract primarily in Leon, Madison, Grimes, and Polk Counties, Texas, that we believe are prospective for the Woodbine and other formations.

We plan to continue to focus our drilling efforts in the core of the Halliday Field in Leon County. A 330 square mile 3D seismic survey is currently underway across parts of Leon, Madison, Grimes and Walker Counties to assist us in further evaluation of this acreage, and we anticipate this data will be available in late 2013. We are currently operating two rigs in the Woodbine. Our average daily net production for the three months ended March 31, 2013 was 3,098 Boe/d.

### *Non-core Areas*

#### *Wilcox Formation*

We have approximately 115,000 net acres leased, optioned or under contract in Newton County, Texas and Beauregard, Allen, St. Landry and Pointe Coupee Parishes, Louisiana prospective for the Wilcox formation. Wells will initially be drilled vertically and completed using multi-stage hydraulic fracturing; however, we believe there is an opportunity to drill horizontally to exploit the resource.

Oil from this formation receives Louisiana Light Sweet pricing, which typically is at a premium to other domestic crude oil indices such as West Texas Intermediate. The formation also produces high Btu content natural gas (approximately 1,400 Btu per cubic foot), which allows NGLs to be recovered and provides a pricing uplift. Our average daily net production for the three months ended March 31, 2013 was 194 Boe/d.

#### *Eagle Ford Formation*

Our Eagle Ford Properties consist of approximately 24,000 net acres located in Fayette and Gonzales Counties, Texas. We recently executed a definitive agreement to divest these properties and closing is expected late in the second quarter or early in the third quarter of 2013. Our average daily net production for the three months ended March 31, 2013 was 1,325 Boe/d.

We also have interests in other non-core areas, including:

Tuscaloosa Marine Shale in Louisiana

Midway/Navarro in Southeast Texas

Mississippi Lime in Northern Oklahoma

Austin Chalk Trend in East Texas

Electra-Burkburnett Field in North Texas

Fitts-Allen Fields in Central Oklahoma

South Texas

South Louisiana

S-3



## **Table of Contents**

### Permian Basin

Other (includes properties in Montana, North Dakota, New Mexico, West Virginia and the Black Warrior Basin in Alabama)  
Our average daily net production for the three months ended March 31, 2013 in these areas was 7,155 Boe/d. Subject to market conditions, we intend to divest approximately 4,500 Boe/d of production from certain conventional assets in 2013 and reinvest the proceeds in our core resource plays.

### *Liquids-rich exploratory plays*

We anticipate we will continue to acquire acreage in undisclosed unconventional exploratory plays as opportunities arise. Our strategy for our exploratory projects is to use our in-house geologic expertise to identify underdeveloped areas that we believe are prospective for oil or liquids-rich production. We can provide no assurance that any exploratory plays, or any wells we subsequently drill in the formations we have targeted for exploration and development, will be successful.

### ***Our business strategies***

Our primary objective is to increase shareholder value by growing reserves, production and cash flows. To accomplish this objective, we intend to execute the following business strategies:

*Develop our resource-focused acreage positions as operator using our proven development expertise.* We plan to leverage our management team's expertise and the latest available technologies to develop our properties, with a focus on repeatable resource plays. We expect to be the operator for the majority of our acreage, which gives us more control over timing, execution and costs. It also allows us to adjust our capital expenditure plans based on drilling results and the economic environment. Our leasing strategy is to pursue long-term contracts that allow us to maintain flexible development plans and avoid short-term obligations to drill wells as have been common in other resource plays. As operator, we will also be able to evaluate industry drilling results to implement improved operating practices which may enhance our initial production rates, ultimate recovery factors and rate of return on invested capital. We currently have 16 operated rigs running in our core resource plays, and another operated rig running in one of our non-core areas.

*Manage our property portfolio actively.* We continually evaluate our property base to identify non-core, higher cost or lower volume producing properties with limited development potential. This strategy allows us to focus on a portfolio of core properties with significant potential to increase our proved reserves and production. We expect that divestitures of non-core assets will provide us with cash to reinvest in our business and repay debt we may incur, reducing our reliance on the capital markets for financing.

*Maintain strong balance sheet and financial flexibility.* We believe our cash, internally generated cash flows, expected increases in borrowing capacity, asset sales and access to the capital markets will provide us with sufficient liquidity to execute our current capital program and strategy. We have no near-term debt maturities. Our management team has a proven track record of issuing equity and debt, and selling non-core assets to maintain a strong balance sheet, including raising equity and selling assets during the 2008-2009 financial crisis to responsibly fund a large capital expenditure budget. Since February 2012, Halcón has issued in

## **Table of Contents**

the aggregate approximately \$3.4 billion of equity and debt securities. We also employ a hedging program to reduce the variability of our cash flows used to support our capital spending.

### ***Our competitive strengths***

We have a number of competitive strengths that we believe will allow us to successfully execute our business strategies:

*Proven management team with significant ownership stake.* Our management team and technical professionals, including geologists and engineers, have decades of combined experience in the industry. Our management team has successfully founded, grown, operated and sold companies in this industry sector. Floyd C. Wilson previously was Chairman and Chief Executive Officer of Petrohawk Energy Corporation, which was acquired by BHP Billiton in August 2011, Chairman and Chief Executive Officer of 3TEC Energy Corporation, which was acquired by Plains Exploration & Production Company in 2003, and Chairman and Chief Executive Officer of Hugoton Energy Corporation, which was acquired by Chesapeake Energy Corporation in 1998.

*Geographically and geologically diverse asset base.* Our proved reserves, production and resource potential are located in concentrated positions within multiple onshore U.S. basins. These basins provide exposure to a variety of reservoir formations, each of which has its own characteristics that impact the costs to drill, complete and operate as well as the composition (and therefore value) of our production and reserves. We believe that this geographic diversity provides us with broad flexibility to direct our capital resources to projects with the greatest potential returns and access to multiple key end markets which mitigates our exposure to temporary price dislocations in any one market.

*Extensive experience in resource plays.* Our team has significant experience in all aspects of the development of resource plays. Under Mr. Wilson's leadership, Petrohawk, 3TEC and Hugoton improved drilling times and reserve recoveries through innovation, the use of new technologies and a focus on controlling costs. While at Petrohawk, in developing the early shale plays, our technical team also acquired considerable expertise that is relevant in our evaluation of new opportunities. In addition to their core strength in exploration and production, our personnel have experience in building midstream infrastructure and have managed oilfield service activities. For example, Petrohawk developed extensive midstream systems serving the Eagle Ford Shale and the Haynesville Shale in order to accommodate its rapid growth in production volumes.

*Strong technical team.* We believe that there are certain competitive advantages to be gained by employing a highly skilled technical staff. Similar to prior ventures, the technical staff (including field personnel) currently represents a majority of Halcón's employee base. This team has significant experience and expertise in applying the most sophisticated technologies used in conventional and unconventional resource style plays, including 3-D seismic interpretation capabilities, horizontal drilling, deep onshore drilling, comprehensive multi-stage hydraulic fracture stimulation programs, and other exploration, production, and processing technologies. We believe this technical expertise is partly responsible for our management team's strong track record of successful exploration and development, including new discoveries and defining core producing areas in emerging plays.

## **Table of Contents**

### ***Recent developments***

#### ***2013 leasing and acquisition activity***

We have continued to expand our operating footprint in each of our core focus areas during the first half of 2013 through targeted leasing and acquisition efforts. We have closed or have under contract leasehold and property acquisitions totaling approximately \$348.6 million as of June 7, 2013. The majority of this acquisition activity has been focused on our East Texas Eagle Ford - El Halcón area but we have also been active in the Bakken/Three Forks, Utica/Point Pleasant and Woodbine areas.

#### ***Amendments to the senior credit agreement***

On May 8, 2013, we entered into a fourth amendment to our credit agreement, which provides for EBITDA to be annualized for the balance of calendar year 2013 for purposes of measuring compliance with the interest coverage test. Specifically, (i) for the fiscal quarter ending June 30, 2013, the Interest Coverage Ratio shall be calculated by utilizing EBITDA for the three month period then ended multiplied by 4; (ii) for the fiscal quarter ending September 30, 2013, the Interest Coverage Ratio shall be calculated by utilizing EBITDA for the six month period then ended multiplied by 2; and (iii) for the fiscal quarter ending December 31, 2013, the Interest Coverage Ratio shall be calculated by utilizing EBITDA for the nine month period then ended multiplied by 4/3.

Our credit agreement prohibits the payment of cash dividends to holders of our capital stock. On June 11, 2013, we entered into a fifth amendment to our credit agreement, which permits us to pay cash dividends to holders of shares of convertible preferred stock. We also obtained a waiver of the current ratio test under our senior credit agreement for the quarter ending June 30, 2013, as a precautionary measure in the event we fail to satisfy the test.

#### ***2013 drilling and completion budget***

Our 2013 drilling and completion budget is approximately \$1.2 billion. We expect to fund our 2013 drilling and completion budget with cash on hand, borrowings under our revolving credit facility, proceeds from property sales and cash flows from operations. We strive to maintain financial flexibility and may access capital markets as necessary to facilitate drilling on our large undeveloped acreage position and permit us to selectively expand our acreage position and infrastructure projects. Our 2013 drilling and completion budget is subject to change depending upon a number of factors, including economic and industry conditions at the time of drilling, prevailing and anticipated prices for oil, natural gas liquids and natural gas, the results of our development and exploration efforts, the availability of sufficient capital resources, our financial results, the availability and cost of drilling rigs and related services and our ability to obtain required permits.

**Table of Contents**

## The offering

The summary below describes the principal terms of the convertible preferred stock. Some of the terms and conditions described below are subject to important limitations and exceptions. The Description of convertible preferred stock section of this prospectus supplement contains a more detailed description of the terms and conditions of the convertible preferred stock. As used in this section, the terms us, we and our refer to Halcón Resources Corporation and not to any of its subsidiaries.

<b>Issuer</b>	Halcón Resources Corporation, a Delaware corporation.
<b>Securities</b>	300,000 shares of 5.75% Series A Cumulative Perpetual Convertible Preferred Stock (or 345,000 shares if the underwriters exercise their over-allotment option in full).
<b>Liquidation preference</b>	\$1,000 per share of convertible preferred stock, plus accumulated but unpaid dividends.
<b>Dividends</b>	<p>Holders of convertible preferred stock will be entitled to receive, when, as and if declared by our board of directors, cumulative dividends at the rate of 5.75% per annum on the liquidation preference of \$1,000 per share of convertible preferred stock, payable quarterly in arrears on March 1, June 1, September 1 and December 1 of each year, beginning on September 1, 2013. Dividends will accumulate for any period less than a full quarterly dividend period on the basis of a 360-day year consisting of twelve 30-day months from the most recent date on which dividends have been paid or, if no dividends have been paid, from the date of original issuance of the convertible preferred stock even if any of our agreements prohibits the current payment of dividends, we do not have earnings or funds legally available to pay such dividends or we do not declare the payment of dividends. Dividends may be paid in cash or, where freely transferable by any non-affiliate recipient thereof, in common stock or a combination thereof. See Description of convertible preferred stock Dividends and Description of convertible preferred stock Method of payment of dividends.</p> <p>If we elect to make any such payment, or any portion thereof, in shares of our common stock, such shares shall be valued for such purpose, in the case of any dividend payment, or portion thereof, at 95% of the market value (as defined herein) of our common stock prior to the applicable payment date for such dividend.</p> <p>We will make each dividend payment on the convertible preferred stock in cash, except to the extent we elect to make all or any portion of such payment in shares of our common stock. We will give the holders of the convertible preferred stock notice of any such election and the portion of such payment that will be made in cash and the</p>

## **Table of Contents**

portion that will be made in common stock 20 scheduled trading days prior to the applicable payment date for such dividend. See Risk factors Risks related to the convertible preferred stock We are not obligated to pay dividends on the convertible preferred stock and no payment or adjustment will be made upon conversion for accumulated dividends.

### **Ranking**

The convertible preferred stock will rank, with respect to dividend rights and rights upon our liquidation, winding-up or dissolution:

senior to all of our common stock and to all of our other capital stock issued in the future, unless the terms of that stock expressly provide that it ranks senior to, or on parity with, the convertible preferred stock;

on a parity with any of our capital stock issued in the future, the terms of which expressly provide that it will rank on parity with the convertible preferred stock (which we refer to collectively as parity stock );

junior to all of our capital stock issued in the future, the terms of which expressly provide that such stock will rank senior to the convertible preferred stock (which we refer to collectively as senior stock );

junior to all of our existing and future indebtedness; and

structurally junior to all existing and future indebtedness and other liabilities (including trade payables) of our subsidiaries and any capital stock of our subsidiaries not held by us.

The term capital stock does not include convertible or exchangeable debt securities, which, prior to conversion or exchange, rank senior in right of payment to the convertible preferred stock. We currently have no preferred stock outstanding and no capital stock that is senior to or on parity with the convertible preferred stock. See Description of convertible preferred stock Ranking.

### **Redemption**

The convertible preferred stock will not be subject to redemption by us and no sinking fund is provided for the convertible preferred stock, which means that we are not required to redeem or retire the convertible preferred stock periodically.

### **No Maturity**

The convertible preferred stock has no maturity date, and will remain outstanding unless converted by the holders or mandatorily converted by us, each as described under Conversion rights and Mandatory conversion below.

### **Conversion rights**

Holders may convert their shares of convertible preferred stock at any time based on an initial conversion rate of 162.4431 shares of our common stock per share of convertible preferred stock (which is equivalent to an initial conversion price of approximately \$6.16 per



**Table of Contents**

share of our common stock), subject to adjustment as described under Description of convertible preferred stock Conversion rate adjustments.

Upon conversion, we will deliver, for each share of convertible preferred stock being converted, a number of shares of our common stock equal to the conversion rate (together with cash in lieu of any fractional share) on the third business day immediately following the relevant conversion date.

**Mandatory conversion**

At any time on or after June 6, 2018, we may give notice of our election to cause all outstanding shares of the convertible preferred stock to be automatically converted into shares of our common stock, if the closing sale price of our common stock equals or exceeds 150% of the conversion price then in effect for at least 20 trading days (whether or not consecutive) in a period of 30 consecutive trading days, including the last trading day of such 30 trading day period, ending on, and including, the trading day immediately preceding the business day on which we issue a press release announcing the mandatory conversion of the convertible preferred stock, in which case each holder will receive, for each share of convertible preferred stock being converted, a number of shares of our common stock equal to the conversion rate, as described under Description of convertible preferred stock Mandatory conversion.

The mandatory conversion date will be no later than 10 calendar days after the date on which we issue such press release.

We may not authorize, issue a press release or give notice of any mandatory conversion unless, prior to giving the conversion notice, all accumulated and unpaid dividends on the convertible preferred stock (whether or not declared) for dividend periods ended prior to the date of such conversion notice shall have been paid.

**Fundamental**

**change**

If we undergo a fundamental change and a holder converts its convertible preferred stock at any time during the period beginning at the open of business on the trading day immediately following the effective date of such fundamental change and ending at the close of business on the 30th trading day immediately following such effective date, the holder will receive, for each share of convertible preferred stock surrendered for conversion, the greater of:

a number of shares of our common stock equal to the sum of (i) the conversion rate and (ii) the make-whole premium, if any, as calculated and described under Description of convertible preferred stock Determination of the make-whole premium; and

**Table of Contents**

a number of shares of our common stock equal to the conversion rate which will be increased to equal (i) the sum of the \$1,000 liquidation preference *plus* all accumulated and unpaid dividends to, but excluding the settlement date for such conversion, *divided by* (ii) the average of the closing sale prices of our common stock for the five consecutive trading days ending on the third business day prior to such settlement date. Notwithstanding the foregoing, the conversion rate as adjusted as described in this bullet will not exceed 292.3977 shares of common stock per share of convertible preferred stock (subject to adjustment in the same manner as the conversion rate), which is equal to the \$1,000 liquidation preference, *divided by*  $66\frac{2}{3}\%$  of the closing sale price of our common stock on June 12, 2013.

See Description of convertible preferred stock Special rights upon a fundamental change and Determination of the make-whole premium.

**Limited voting**

**rights**

Except as required by Delaware law and our amended and restated certificate of incorporation, as amended (our amended and restated certificate of incorporation ), which will include the certificate of designations for the convertible preferred stock, the holders of convertible preferred stock will have no voting rights unless dividends payable on the convertible preferred stock or any other series of preferred stock or preference securities that ranks equally with the convertible preferred stock as to payment of dividends and with similar voting rights are in arrears for six or more quarterly dividend periods (whether or not consecutive). In that event, holders of the convertible preferred stock, voting as a single class with the shares of any other series of preferred stock or preference securities having similar voting rights (and with voting rights allocated pro rata based on the liquidation preference of the convertible preferred stock and each such other series of preferred stock or preference securities), will be entitled at the next regular or special meeting of our stockholders to elect two directors to our board of directors and the number of directors that comprise our board of directors will be increased by the number of directors so elected. These voting rights and the terms of the directors so elected will continue until such time as the dividend arrearage on the convertible preferred stock has been paid in full.

So long as any shares of the convertible preferred stock remain outstanding, we will not, without the affirmative vote or consent of the holders of at least  $66\frac{2}{3}\%$  of the shares of the convertible preferred stock outstanding at the time, voting together as a single class with all series of parity stock upon which similar voting rights have been conferred and are exercisable, given in person or by proxy,



## **Table of Contents**

either in writing or at a meeting: (a) authorize or create, or increase the authorized or issued amount of, any class or series of senior stock or reclassify any of our authorized capital stock into shares of senior stock, or create, authorize or issue any obligation or security convertible into or evidencing the right to purchase any shares of senior stock; or (b) amend, alter or repeal the provisions of our charter, whether by merger, consolidation or otherwise (an Event ), so as to materially and adversely affect any right, preference, privilege or voting power of the convertible preferred stock; *provided, however*, with respect to the occurrence of any Event set forth in (b) above, so long as the convertible preferred stock remains outstanding with the terms thereof materially unchanged, the occurrence of any such Event shall not be deemed to materially and adversely affect such rights, preferences, privileges or voting power of holders of the convertible preferred stock and, provided further, that any increase in the amount of the authorized preferred stock, including the convertible preferred stock, or the creation or issuance of any additional shares of the convertible preferred stock or other series of preferred stock, or any increase in the amount of authorized shares of such series, in each case ranking on parity with or junior to the convertible preferred stock with respect to payment of dividends or the distribution of assets upon liquidation, dissolution or winding-up, shall not be deemed to materially and adversely affect such rights, preferences, privileges or voting powers.

### **Use of proceeds**

We estimate that the net proceeds from this offering will be approximately \$291.8 million (or \$335.4 million if the underwriters exercise their option to purchase additional convertible preferred stock in full), after deducting the underwriters' discounts and estimated offering expenses.

We intend to use the net proceeds from this offering to repay a portion of the outstanding borrowings under our revolving credit facility.

See "Use of proceeds" for more information.

### **Conflicts of interest**

We intend to use at least 5% of the net proceeds of this offering to repay indebtedness owed by us to certain affiliates of the underwriters who are lenders under our revolving credit facility. See "Use of proceeds." Accordingly, this offering is being made in compliance with the requirements of Rule 5121 of the Financial Industry Regulatory Authority, Inc. (FINRA). As a result of this conflict of interest and in accordance with Rule 5121, Scotia Capital (USA) Inc. is assuming the responsibilities of acting as the qualified independent underwriter in connection with this offering. For more information, see "Conflicts of interest."

**Table of Contents**

**U.S. federal income tax considerations**

The U.S. federal income tax consequences of owning and disposing of the convertible preferred stock and any common stock received upon its conversion are described in Material U.S. federal income tax considerations. Prospective investors are urged to consult their own tax advisors regarding the tax consequences of owning and disposing of the convertible preferred stock and any common stock received upon its conversion in light of their personal investment circumstances, including consequences resulting from the possibility that actual or constructive distributions on the convertible preferred stock may exceed our current and accumulated earnings and profits, as calculated for U.S. federal income tax purposes, in which case they would not be treated as dividends for U.S. federal income tax purposes.

**Book-entry delivery and form**

Initially, the convertible preferred stock will be represented by one or more permanent global certificates in definitive, fully registered form deposited with a custodian for, and registered in the name of, a nominee of DTC. Beneficial interests in the permanent global certificates will be shown on, and transfers will be effected only through, records maintained by DTC or its nominee and any such interest may not be exchanged for certificated securities, except in limited circumstances.

**New York Stock Exchange symbol for our common stock**

Our common stock is listed for trading on the New York Stock Exchange under the symbol HK.

## **Risk factors**

In evaluating an investment in our convertible preferred stock, prospective investors should carefully consider the risk factors and other cautionary statements contained in this prospectus supplement, including those described under Risk factors beginning on page S-17, along with the other information set forth or incorporated by reference in this prospectus supplement.

Table of Contents

## Summary historical and pro forma financial data

The following table shows both historical and pro forma information about our results of operation and historical information about our financial condition. The historical statement of operations and balance sheet information is derived from our audited financial statements as of and for the year ended December 31, 2012 and our unaudited financial statements as of and for the three months ended March 31, 2013. The pro forma statement of operations information for the year ended December 31, 2012 gives effect to the following transactions as if they had become effective on January 1, 2012:

the July 16, 2012 issuance of \$750 million of 9.75% senior unsecured notes due 2020;

the GeoResources Merger, which was completed on August 1, 2012;

the acquisition of the East Texas Assets, which was completed on August 3, 2012;

the November 6, 2012 issuance of \$750 million of 8.875% senior notes due 2021;

the acquisition of the Williston Basin Assets, including the issuance of \$750 million of 8% Automatically Convertible Preferred Stock, which was completed on December 6, 2012; and

the private placement of approximately 41.9 million shares of our common stock for gross proceeds of \$300 million, which was completed on December 6, 2012.

We refer to the pro forma statement of operations information in this prospectus supplement as pro forma financial information. The pro forma financial information does not give effect to the January 14, 2013 issuance of \$600 million of additional 8.875% senior notes due 2021 or the convertible preferred stock offered hereby.

The following table should be read together with, and is qualified in its entirety by, our historical financial statements, including the notes thereto, and the more detailed unaudited pro forma condensed financial information, including the notes thereto, incorporated by reference in this prospectus supplement.

The unaudited pro forma financial information, while helpful in illustrating the financial characteristics of Halcón using certain assumptions, does not reflect the impact of possible revenue enhancements, expense efficiencies and asset dispositions, among other factors that may result as a consequence of the pro forma transactions described above and, accordingly, does not attempt to predict or suggest future results. It also does not necessarily reflect what Halcón's historical results would have been had the pro forma transactions described above occurred during these periods.

**Table of Contents**

	Twelve months ended December 31, 2012	Three months ended March 31, 2012	Historical Three months ended March 31, 2013	Pro forma Twelve months ended December 31, 2012
<b>Statement of operations data:</b>				
(\$ in millions)				
<b>Operating revenues:</b>				
Oil and natural gas sales				
Oil	\$ 223.0	\$ 23.0	\$ 180.8	\$ 550.7
Natural gas	12.5	1.7	5.5	22.2
NGLs	11.1	2.2	3.8	14.7
Total oil and natural gas sales	246.6	26.9	190.1	587.6
Other	1.4		0.5	20.1
Total operating revenues	248.0	26.9	190.6	607.7
<b>Operating expenses:</b>				
Production:				
Lease operating	49.9	7.5	25.4	82.7
Workover and other	4.4	0.9	1.6	6.6
Taxes other than income	19.3	1.9	17.4	49.2
Restructuring	2.4	0.1	0.7	2.4
General and administrative	111.4	20.3	31.6	84.6
Depletion, depreciation and accretion	90.3	6.0	81.9	263.0
Total operating expenses	277.7	36.7	158.6	488.5
<b>Income (loss) from operations</b>	(29.7)	(9.8)	32.0	119.2
<b>Other income (expenses):</b>				
Interest expense and other	(31.3)	(13.0)	(4.9)	(46.1)
Net gain (loss) on derivative contracts	(6.1)	(4.9)	(18.4)	3.2
Total other income (expenses)	(37.4)	(17.9)	(23.3)	(42.9)
Income (loss) before income taxes	(67.1)	(27.7)	8.7	76.3
Income tax benefit (provision)	13.2	(5.6)	(3.3)	(41.5)
<b>Net income (loss)</b>	(53.9)	(33.3)	5.4	34.8
Non-cash preferred dividend	(88.4)	(1.1)		(155.2)
<b>Net income (loss) available to common stockholders</b>	\$ (142.3)	\$ (34.4)	\$ 5.4	\$ (120.4)

**Table of Contents**

	<b>Twelve months ended December 31, 2012</b>	<b>Three months ended March 31, 2012</b>	<b>Historical Three months ended March 31, 2013</b>
<b>Cash flow data:</b>			
Net cash provided by (used in) operating activities	\$ 118.2	\$ (9.2)	\$ 55.3
Net cash provided by (used in) investing activities	(2,866.3)	(28.4)	(454.6)
Net cash provided by (used in) financing activities	2,750.6	723.3	397.6

	<b>As of December 31, 2012</b>	<b>As of March 31, 2012</b>	<b>Historical As of March 31, 2013</b>
<b>Balance sheet data:</b>			
Current assets	\$ 287.9	\$ 704.9	\$ 342.1
Net oil and natural gas properties	4,407.6	232.4	4,841.2
Total assets	5,041.0	969.4	5,580.9
Current liabilities	678.0	23.9	738.2
Long-term debt	2,034.5	235.5	2,501.0
Stockholders equity	1,398.0	672.9	2,102.0

**Table of Contents****Summary reserves and operating data**

The following table sets forth summary information with respect to our estimated proved oil, NGL and natural gas reserves as of December 31, 2012. This information was derived from a January 31, 2013 report prepared by Netherland, Sewell & Associates, Inc., our independent petroleum reserve engineering firm. These reports were prepared in accordance with SEC rules relating to oil and natural gas reserve reporting using unweighted average first-day-of-the-month prices for oil, NGLs and natural gas for the year ended December 31, 2012.

	<b>Estimated proved reserves as of December 31, 2012</b>
Oil (MBbls)	87,378
NGL (MBbls)	5,383
Natural Gas (MMcf)	96,145
Total Proved Reserves (MBoe)(1)	108,785
% Oil and NGLs	85%
Proved Developed (MBoe)(1)	51,399
% Developed	47%
Proved Undeveloped (MBoe)(1)	57,386
% Undeveloped	53%
Standardized measure (in millions)	\$ 1,954.0

(1) Based on an equivalent ratio of one barrel of oil and NGLs to six Mcf of natural gas based on industry accepted relative energy content, which ratio does not reflect equivalent value of such reserves.

The following table sets forth summary historical information with respect to our net oil, NGLs and natural gas production for the year ended December 31, 2012 and the three months ended March 31, 2013, respectively.

	<b>Year ended</b>	<b>Three months ended</b>
	<b>December 31, 2012</b>	<b>March 31, 2013</b>
	<b>Historical</b>	<b>Historical</b>
Oil (MBbls)	2,415	1,931
NGLs (MBbls)	268	109
Natural Gas (MMcf)	4,554	1,811
Total (Mboe)(1)	3,442	2,342

(1) Based on an equivalent ratio of one barrel of oil and NGLs to six Mcf of natural gas.

**Table of Contents**

## **Risk factors**

*An investment in the convertible preferred stock involves significant risks. Before investing in our convertible preferred stock, and in consultation with your own financial and legal advisors, you should carefully consider, among other matters, the risks and uncertainties described below, as well as such information set forth elsewhere in this prospectus supplement, the accompanying prospectus and any other information that is incorporated by reference, including the risks described in the reports we file with the SEC that are incorporated by reference herein.*

### **Risks related to the convertible preferred stock**

*The convertible preferred stock ranks junior to all of our indebtedness and other liabilities.*

In the event of our bankruptcy, liquidation, reorganization or other winding-up, our assets will be available to pay obligations on the convertible preferred stock only after all of our indebtedness and other liabilities have been paid. In addition, we are a holding company and the convertible preferred stock will effectively rank junior to all existing and future indebtedness and other liabilities (including trade payables) of our subsidiaries and any capital stock of our subsidiaries not held by us. The rights of holders of the convertible preferred stock to participate in the distribution of assets of our subsidiaries will rank junior to the prior claims of that subsidiary's creditors and any other equity holders. Consequently, if we are forced to liquidate our assets to pay our creditors, we may not have sufficient assets remaining to pay amounts due on any or all of the convertible preferred stock then outstanding. We and our subsidiaries may incur substantial amounts of additional debt and other obligations that will rank senior to the convertible preferred stock.

We currently have no preferred stock outstanding and no other capital stock outstanding that is senior to or on parity with the convertible preferred stock. As of March 31, 2013, we had approximately \$2.5 billion of total debt, \$133.0 million of which was secured indebtedness under our revolving credit facility, which has a borrowing base of \$850.0 million.

*We are not obligated to pay dividends on the convertible preferred stock and no payment or adjustment will be made upon conversion for accumulated dividends.*

Quarterly dividends on the convertible preferred stock are only payable when, as and if declared by our board of directors. Our board of directors is not legally obligated to declare dividends, even if we have funds available for such purposes. Under Delaware law, dividends on capital stock may only be paid from surplus or, if there is no surplus, from the corporation's net profits for the then-current or the preceding fiscal year. Unless we operate profitably, our ability to pay dividends on the convertible preferred stock would require the availability of adequate surplus, which is defined as the excess, if any, of our net assets (total assets less total liabilities) over our capital. Further, even if adequate surplus is available to pay dividends on the convertible preferred stock, we may not have sufficient cash to pay dividends on the convertible preferred stock. We may elect to pay dividends on the convertible preferred stock in shares of our common stock; however, our ability to pay dividends in shares of our common stock may be limited by the number of shares of common stock we are authorized to issue under our amended and restated certificate of incorporation. As of June 7, 2013, we had issued 370,076,203 shares of our common stock out of 670,000,000 authorized shares under our amended and restated certificate of incorporation.

## **Table of Contents**

No allowance or adjustment will be made upon conversion for any undeclared or, subject to limited exceptions, unpaid dividends.

*The terms of our revolving credit facility, indentures and other financing agreements may limit our ability to pay dividends on the convertible preferred stock.*

Our current revolving credit facility and the indentures governing our currently outstanding senior notes contain restrictions on, and any indentures and other financing agreements that we enter into in the future may contain restrictions on, our ability to pay cash dividends on our capital stock, including the convertible preferred stock. These limitations may cause us to be unable to pay dividends on the convertible preferred stock unless we can refinance amounts outstanding under those agreements. Since we are not obligated to declare or pay dividends, we do not intend to do so to the extent we are restricted by any of our financing agreements. No allowance or adjustment will be made upon conversion for any undeclared or, subject to limited exceptions, unpaid dividends.

*Recent regulatory actions may adversely affect the trading price and liquidity of the convertible preferred stock.*

We expect that many investors in, and potential purchasers of, the convertible preferred stock will employ, or seek to employ, a convertible arbitrage strategy with respect to the convertible preferred stock. Investors that employ a convertible arbitrage strategy with respect to convertible instruments typically implement that strategy by selling short the common stock underlying the convertible instruments and dynamically adjusting their short position while they hold the convertible instruments. Investors may also implement this strategy by entering into swaps on our common stock in lieu of or in addition to short selling the common stock. As a result, any specific rules regulating equity swaps or short selling of securities or other governmental action that interferes with the ability of market participants to effect short sales or equity swaps with respect to our common stock could adversely affect the ability of investors in, or potential purchasers of, the convertible preferred stock to conduct the convertible arbitrage strategy that we believe they will employ, or seek to employ, with respect to the convertible preferred stock. This could, in turn, adversely affect the trading price and liquidity of the convertible preferred stock.

The SEC and other regulatory and self-regulatory authorities have implemented various rules and may adopt additional rules in the future that may impact those engaging in short selling activity involving equity securities (including our common stock). In particular, Rule 201 of SEC Regulation SHO generally restricts short selling when the price of a covered security triggers a circuit breaker by falling 10% or more from the security's closing price as of the end of regular trading hours on the prior day. If this circuit breaker is triggered, short sale orders can be displayed or executed for the remainder of that day and the following day only if the order price is above the then-current national best bid, subject to certain limited exceptions. Because our common stock is a covered security, these Rule 201 restrictions, if triggered, may interfere with the ability of investors in, and potential purchasers of, the convertible preferred stock, to effect short sales in our common stock and conduct a convertible arbitrage strategy.

In addition, the SEC recently approved two proposals submitted by the national securities exchanges and FINRA concerning extraordinary market volatility that may impact the ability of investors to effect a convertible arbitrage strategy. One initiative is the Limit Up-Limit Down plan, which requires securities



**Table of Contents**

exchanges, alternative trading systems, broker-dealers and other trading centers to establish policies and procedures that prevent the execution of trades or the display of bids or offers outside of specified price bands. If the bid or offer quotations for a security are at the far limit of the price band for more than 15 seconds, trading in that security will be subject to a five-minute trading pause. The Limit Up-Limit Down plan became effective, on a one-year pilot basis, on April 8, 2013.

The second initiative revised existing stock exchange and FINRA rules that establish the market-wide circuit breaker system. The market-wide circuit breaker system provides for specified market-wide halts in trading of stock for certain periods following specified market declines. The recent changes lowered the percentage-decline thresholds for triggering a market-wide trading halt and shortened the amount of time that trading is halted. Market declines under the new system are measured based on a decline in the S&P 500 Index compared to the prior day's closing value, rather than a decline in the Dow Jones Industrial Average compared to the prior quarterly closing value. The changes to the market-wide circuit breaker system became effective, on a one-year pilot basis, on April 8, 2013. The potential restrictions on trading imposed by the Limit Up-Limit Down plan and the market-wide circuit breaker system may interfere with the ability of investors in, and potential purchasers of, the convertible preferred stock to effect short sales in our common stock and conduct a convertible arbitrage strategy.

The enactment of the Dodd-Frank Act on July 21, 2010 also introduced regulatory uncertainty that may impact trading activities relevant to the convertible preferred stock. As a result of this legislation, certain interest rate swaps and credit default swaps are currently required to be cleared through regulated clearinghouses. Certain other swaps and security-based swaps are likely going to be required to be cleared through regulated clearinghouses in the future. In addition, certain swaps and security-based swaps will be required to be traded on exchanges or comparable trading facilities. Furthermore, swap dealers, security-based swap dealers, major swap participants and major security-based swap participants will be required to comply with margin and capital requirements. In addition, certain market participants are required to comply with public reporting requirements to provide transaction and pricing data on both cleared and uncleared swaps. Public reporting requirements will also apply with respect to security-based swaps in the future. These requirements could adversely affect the ability of investors in, or potential purchasers of, the convertible preferred stock to maintain a convertible arbitrage strategy with respect to the convertible preferred stock (including increasing the costs incurred by such investors in implementing such strategy). This could, in turn, adversely affect the trading price and liquidity of the convertible preferred stock. Although some of the implementing rules have been adopted and are currently effective, we cannot predict how the SEC and other regulators will ultimately implement the legislation or the magnitude of the effect that this legislation will have on the trading price or liquidity of the convertible preferred stock. Although the direction and magnitude of the effect that the amendments to Regulation SHO, FINRA and securities exchange rule changes and/or implementation of the Dodd-Frank Act may have on the trading price and the liquidity of the convertible preferred stock will depend on a variety of factors, many of which cannot be determined at this time, past regulatory actions have had a significant impact on the trading prices and liquidity of convertible instruments. For example, between July 2008 and September 2008, the SEC issued a series of emergency orders placing restrictions on the short sale of the common stock of certain financial services companies. The orders made the convertible arbitrage strategy that many convertible investors employ difficult to execute and adversely affected both the liquidity and trading price of convertible instruments issued by many of the financial services companies subject to the prohibition. Any governmental

## **Table of Contents**

action that similarly restricts the ability of investors in, or potential purchasers of, the convertible preferred stock to effect short sales of our common stock, including the amendments to Regulation SHO, FINRA and exchange rule changes and the implementation of the Dodd-Frank Act, could similarly adversely affect the trading price and the liquidity of the convertible preferred stock.

***The convertible preferred stock will be a new issuance that does not have an established trading market, which may negatively affect its market value and your ability to transfer or sell your shares.***

The shares of convertible preferred stock will be a new issue of securities with no established trading market. Since the convertible preferred stock has no stated maturity date, investors seeking liquidity will be limited to selling their shares in the secondary market. We do not intend to list the convertible preferred stock on any securities exchange. We cannot assure you that an active trading market in the convertible preferred stock will develop or, even if it develops, we cannot assure you that it will last. In either case the trading price of the convertible preferred stock could be adversely affected and your ability to transfer your shares of convertible preferred stock will be limited. We have been advised by the underwriters that they intend to make a market in the shares of our convertible preferred stock, but they are not obligated to do so and may discontinue market-making at any time without notice.

***The price of our common stock, and therefore of the convertible preferred stock, may fluctuate significantly.***

The historical market price of our common stock has fluctuated significantly, and we expect that the market price of our common stock will continue to fluctuate. Because the convertible preferred stock is convertible into shares of our common stock, volatility or depressed prices for our common stock could have a similar effect on the trading price of the convertible preferred stock. Holders who have received shares of our common stock upon conversion of their shares of convertible preferred stock will also be subject to the risk of volatility and depressed prices. The market price of our common stock may fluctuate significantly in response to many factors, including those discussed under the caption "Risk factors" in our Annual Report on Form 10-K for the fiscal year ended December 31, 2012 filed with the SEC on February 28, 2013, the factors listed in "Cautionary statement regarding forward-looking statements" in this prospectus supplement and the accompanying prospectus and:

actual or anticipated variations in our operating results or dividends;

changes in our funds from operations or earnings estimates;

publication of research reports about us or the industry, generally;

sales of a significant number of shares of our common stock by large stockholders, some of whom are currently restricted from selling the shares they hold;

increases in market interest rates;

changes in market valuations of similar companies;

adverse market reaction to any additional debt we incur in the future;

additions or departures of key management personnel;

## **Table of Contents**

actions by institutional shareholders;

speculation in the press or investment community;

the realization of any of the other risk factors included in, or incorporated by reference to, this prospectus supplement; and

general market and economic conditions.

In addition, the market price of our common stock could also be affected by possible sales of our common stock by investors who view the convertible preferred stock as a more attractive means of equity participation in us and by hedging or arbitrage trading activity that we expect to develop involving our common stock. The hedging or arbitrage could, in turn, affect the trading price of the convertible preferred stock or any common stock that holders receive upon conversion of the convertible preferred stock.

Many of the factors listed above are beyond our control. In addition, the stock market in general has experienced extreme volatility that has often been unrelated to the operating performance of a particular company. These broad market fluctuations may adversely affect the market price of our common stock. It is impossible to assure converting holders of the convertible preferred stock that the market price of our common stock will not fall in the future.

***Upon conversion of the convertible preferred stock, you may receive less valuable consideration than expected because the value of our common stock may decline after you exercise your conversion right but before we settle our conversion obligation.***

Under the convertible preferred stock, a converting holder will be exposed to fluctuations in the value of our common stock during the period from the date such holder surrenders shares of convertible preferred stock for conversion until the date we settle our conversion obligation. Upon conversion, we will be required to deliver the shares of our common stock, together with a cash payment for any fractional share, on the third business day following the relevant conversion date. Accordingly, if the price of our common stock decreases during this period, the value of the shares of common stock that you receive will be adversely affected and would be less than the conversion value of the convertible preferred stock on the conversion date.

***The conversion rate of the convertible preferred stock may not be adjusted for all dilutive events.***

The number of shares of our common stock that you are entitled to receive upon conversion of the convertible preferred stock is subject to adjustment for certain specified events, including, but not limited to, the issuance of certain stock dividends on our common stock, the issuance of certain rights or warrants, subdivisions, combinations, distributions of capital stock, indebtedness, or assets, cash dividends and certain issuer tender or exchange offers, as described under Description of convertible preferred stock Conversion rate adjustments. However, the conversion rate may not be adjusted for other events, such as the exercise of stock options held by our employees or offerings of our common stock or securities convertible into common stock (other than those set forth in Description of convertible preferred stock Conversion rate adjustments ) for cash or in connection with acquisitions, which may adversely affect the market price of our common stock. Further, if any of these other events adversely affects the market price of our common stock, we expect it to also adversely affect the market price of our convertible preferred stock. In addition, the terms of our convertible preferred stock do not

---

**Table of Contents**

restrict our ability to offer common stock or securities convertible into common stock in the future or to engage in other transactions that could dilute our common stock. We have no obligation to consider the interests of the holders of our convertible preferred stock in engaging in any such offering or transaction. If we issue additional shares of common stock, those issuances may materially and adversely affect the market price of our common stock and, in turn, those issuances may adversely affect the trading price of the convertible preferred stock.

***The additional shares of our common stock deliverable for shares of convertible preferred stock converted in connection with a fundamental change may not adequately compensate you.***

If a fundamental change (as defined herein) occurs, we will under certain circumstances increase the conversion rate by a number of additional shares of our common stock for shares of convertible preferred stock converted in connection with such fundamental change as described under Description of convertible preferred stock Determination of the make-whole premium. The number of additional shares of our common stock will be determined based on the date on which the fundamental change occurs or becomes effective and the price paid (or deemed to have been paid) per share of common stock in the fundamental change as described under Description of convertible preferred stock Determination of the make-whole premium. While this feature is designed to compensate you for any lost option time value of your shares of convertible preferred stock as a result of the fundamental change, the number of additional shares due upon conversion is only an approximation of this lost option time value and may not adequately compensate you for your loss as a result of such transaction. In addition, if the stock price for such transaction (as determined under Description of convertible preferred stock Determination of the make-whole premium ) is in excess of \$25.00 per share, or if such price is less than \$5.13 per share, in each case subject to adjustment in the same manner as such stock price, no additional shares will be added to the conversion rate. In such case, the conversion rate will instead be determined in accordance with the second bullet under Description of convertible preferred stock Special rights upon a fundamental change and the conversion rate as adjusted will not exceed 292.3977 shares of common stock per share of convertible preferred stock, which is equal to the \$1,000 liquidation preference, *divided by 66<sup>2</sup>/<sub>3</sub>%* of the closing sale price of our common stock on June 12, 2013.

In addition, you will have no additional rights upon a fundamental change, other than the right to convert the convertible preferred stock into shares of our common stock plus any additional shares as described above. Any shares of common stock you receive upon a fundamental change may be worth less than the liquidation preference per share of convertible preferred stock.

Our obligation to satisfy the additional shares requirement could be considered a penalty, in which case the enforceability thereof would be subject to general principles of reasonableness and equitable remedies.

In some limited circumstances, we may not have reserved a sufficient number of shares of our common stock to issue the full amount of shares of common stock issuable upon conversion following a fundamental change.

***Some significant restructuring transactions may not constitute a fundamental change but may nevertheless result in holders of the convertible preferred stock losing option time value.***

Upon the occurrence of a fundamental change, holders will have the rights described under Description of convertible preferred stock Special rights upon a fundamental change and Description of convertible preferred stock Determination of the make-whole premium. However, these provisions will not afford protection to holders of convertible preferred stock in

---

**Table of Contents**

the event of other transactions that could adversely affect the value of the convertible preferred stock. For example, transactions such as leveraged recapitalizations, refinancings, restructurings, or acquisitions initiated by us may not constitute a fundamental change. In the event of any such transaction, holders would not have the protection afforded by the provisions described under Description of convertible preferred stock Special rights upon a fundamental change and Description of convertible preferred stock Determination of the make-whole premium, even though each of these transactions could increase the amount of our indebtedness, or otherwise adversely affect our capital structure or any credit ratings, thereby adversely affecting the holders of convertible preferred stock.

***Upon a conversion in connection with a fundamental change, you may receive consideration worth less than the \$1,000 liquidation preference per share of convertible preferred stock, plus any accumulated and unpaid dividends thereon.***

If a fundamental change described in this prospectus supplement occurs and regardless of the price paid (or deemed paid) per share of our common stock in such fundamental change, then holders of convertible preferred stock will have the right to convert their shares at an adjusted conversion rate that is designed to increase the value of the shares of our common stock deliverable upon conversion of each share of convertible preferred stock to the \$1,000 liquidation preference per share of convertible preferred stock, plus any accumulated and unpaid dividends thereon. However, if the price paid (or deemed paid) in such fundamental change is less than \$3.42 per share ( $66\frac{2}{3}\%$  of the closing sale price of our common stock on June 12, 2013), holders will receive a number of shares of common stock worth less than the \$1,000 liquidation preference per share of convertible preferred stock, plus any accumulated and unpaid dividends thereon. You will have no claim against us for the difference between the value of the consideration you receive upon a conversion in connection with a fundamental change and the \$1,000 liquidation preference per share of convertible preferred stock, plus any accumulated and unpaid dividends thereon.

***We have reserved a number of shares of our common stock for issuance upon the conversion of the convertible preferred stock equal to the aggregate conversion rate, as may be increased by the make-whole premium, which, under limited circumstances, is less than the maximum number of shares of common stock that we might be required to issue upon such conversion.***

When we issue the convertible preferred stock, we will only reserve, and be obligated under the terms of the convertible preferred stock to keep reserved at all times, a number of shares of our common stock equal to the aggregate liquidation preference divided by the closing sale price of our common stock immediately prior to the pricing of this offering (representing the aggregate conversion rate as may be increased by the make-whole premium). This is less than the maximum number of shares of our common stock issuable upon conversion of the convertible preferred stock in connection with a fundamental change where we may be required to issue upon conversion of the convertible preferred stock 292.3977 shares of common stock per share of convertible preferred stock, representing the liquidation preference per share divided by  $66\frac{2}{3}\%$  of the closing sale price of our common stock on June 12, 2013. In that circumstance, we would not have reserved the full amount of shares of our common stock issuable upon conversion of the convertible preferred stock. While we may satisfy our obligation to issue shares upon conversion of the convertible preferred shares by utilizing authorized, unreserved and unissued shares of common stock, if any, or by redesignating reserved shares or purchasing shares in the open market, there can be no assurance that we would be able to do so at that time.

## **Table of Contents**

***We may issue additional series of preferred stock that rank equally to the convertible preferred stock as to dividend payments and liquidation preference.***

Neither our amended and restated certificate of incorporation nor the certificate of designations for the convertible preferred stock prohibits us from issuing additional series of preferred stock that would rank equally to the convertible preferred stock as to dividend payments and liquidation preference. Our amended and restated certificate of incorporation provides that we have the authority to issue 1,000,000 shares of preferred stock, including the 300,000 shares (or 345,000 shares if the underwriters' over-allotment option is exercised in full) of convertible preferred stock being offered for sale pursuant to this prospectus supplement. The issuances of other series of preferred stock could have the effect of reducing the amounts available to the convertible preferred stock in the event of our liquidation, winding-up or dissolution. It may also reduce dividend payments on the convertible preferred stock if we do not have sufficient funds to pay dividends on all convertible preferred stock outstanding and outstanding parity preferred stock.

***You will have no rights with respect to the shares of our common stock underlying your convertible preferred stock until you convert your convertible preferred stock, but you may be adversely affected by certain changes made with respect to our common stock.***

You will have no rights with respect to the shares of our common stock underlying your convertible preferred stock, including voting rights, rights to respond to common stock tender offers, if any, and rights to receive dividends or other distributions on our common stock, if any (in each case, other than through a conversion rate adjustment), prior to the conversion date with respect to a conversion of your convertible preferred stock, but your investment in our convertible preferred stock may be negatively affected by these events. Upon conversion, you will be entitled to exercise the rights of a holder of common stock only as to matters for which the relevant record date occurs on or after the conversion date. For example, in the event that an amendment is proposed to our amended and restated certificate of incorporation or amended and restated bylaws, as amended, requiring stockholder approval and the record date for determining the stockholders of record entitled to vote on the amendment occurs prior to the conversion date, you will not be entitled to vote on the amendment, although you will nevertheless be subject to any changes in the powers, preferences or special rights of our common stock.

***You will have no voting rights except under limited circumstances.***

You do not have voting rights and will have no right to vote for any members of our board of directors, except in the case of certain dividend arrearages and as required by Delaware law and our amended and restated certificate of incorporation. If dividends payable on the convertible preferred stock or any other series of preferred stock or preference securities that ranks equally with the convertible preferred stock as to payment of dividends and with similar voting rights are in arrears and unpaid for six or more quarterly dividend periods (whether or not consecutive), holders of the convertible preferred stock, voting as a single class with the shares of any other series of preferred stock or preference securities having similar voting rights (and with voting rights allocated pro rata based on the liquidation preference of the convertible preferred stock and each such other series of preferred stock or preference securities), will be entitled at the next regular or special meeting of our stockholders to elect two directors and the number of directors that comprise our board of directors will be increased by the number of directors so elected, subject to the terms and limitations described in Description of convertible preferred stock Limited voting rights.

## **Table of Contents**

### ***Future issuances of preferred stock may adversely affect the market price for our common stock.***

Additional issuances and sales of preferred stock, or the perception that such issuances and sales could occur, may cause prevailing market prices for our common stock to decline and may adversely affect our ability to raise additional capital in the financial markets at times and prices favorable to us.

### ***The increased conversion rate triggered by a fundamental change could discourage a potential acquiror.***

The increased conversion rate triggered by a fundamental change, as described under Description of convertible preferred stock Special rights upon a fundamental change and Description of convertible preferred stock Determination of the make-whole premium, could discourage a potential acquiror, including potential acquirors that otherwise seek a transaction with us that would be attractive to you.

### ***We may not have sufficient earnings and profits in order for dividends on the convertible preferred stock to be treated as dividends for U.S. federal income tax purposes.***

The dividends payable by us on the convertible preferred stock may exceed our current and accumulated earnings and profits, as calculated for U.S. federal income tax purposes. If that occurs, it will result in the amount of the dividends that exceed such earnings and profits being treated for U.S. federal income tax purposes first as a return of capital to the extent of the beneficial owner's adjusted tax basis in the convertible preferred stock, and the excess, if any, over such adjusted tax basis as capital gain. Such treatment will generally be unfavorable for corporate beneficial owners and may also be unfavorable to certain other beneficial owners. See Material U.S. federal income tax considerations Consequences to U.S. holders of convertible preferred stock or common stock.

### ***We have broad discretion in the use of our net proceeds from this offering and may not use them effectively.***

Our management will have broad discretion in the application of the net proceeds from this offering and could spend the proceeds in ways that do not improve our operating results or enhance the value of our common and preferred stock. Our stockholders may not agree with the manner in which our management chooses to allocate and spend the net proceeds. The failure by our management to apply these funds effectively could result in financial losses that could have a material adverse effect on our business and cause the price of our common and preferred stock to decline. Pending their use, we may invest our net proceeds from this offering in a manner that does not produce income or that loses value. See Use of proceeds in this prospectus supplement.

### ***We are subject to anti-takeover provisions in our amended and restated certificate of incorporation and amended and restated bylaws and under Delaware law that could delay or prevent an acquisition of our company, even if the acquisition would be beneficial to our stockholders.***

Provisions in our amended and restated certificate of incorporation and amended and restated bylaws may delay or prevent an acquisition of us. These provisions may also frustrate or prevent any attempts by our stockholders to replace or remove our current management by making it more difficult for stockholders to replace members of our board of directors, who are responsible for appointing the members of our management team. Furthermore, because we are

---

**Table of Contents**

incorporated in Delaware, we are governed by the provisions of Section 203 of the Delaware General Corporation Law, or the DGCL, which prohibits, with some exceptions, stockholders owning in excess of 15% of our outstanding voting stock from merging or combining with us. Finally, our amended and restated bylaws establish advance notice requirements for nominations for election to our board of directors and for proposing matters that can be acted upon at stockholder meetings. Although we believe these provisions together provide an opportunity to receive higher bids by requiring potential acquirers to negotiate with our board of directors, they would apply even if an offer to acquire us may be considered beneficial by some stockholders. See [Description of capital stock](#) Delaware anti-takeover law and certain charter and bylaw provisions.

***You may be subject to tax if we make or fail to make certain adjustments to the conversion rate of the convertible preferred stock even though you do not receive a corresponding cash distribution.***

The conversion rate of the convertible preferred stock is subject to adjustment in certain circumstances, including the payment of cash dividends. If the conversion rate is adjusted as a result of a distribution that is taxable to our common stockholders, such as a cash dividend, you may be deemed to have received a dividend subject to U.S. federal income tax without the receipt of any cash. In addition, a failure to adjust (or to adjust adequately) the conversion rate after an event that increases your proportionate interest in us could be treated as a deemed taxable dividend to you. If a fundamental change occurs, under some circumstances, we will increase the conversion rate for shares of convertible preferred stock converted in connection with such fundamental change. Such increase may also be treated as a distribution subject to U.S. federal income tax as a dividend. See [Material U.S. federal income tax considerations](#). If you are a non-U.S. holder (as defined in [Material U.S. federal income tax considerations](#)), any deemed dividend may be subject to U.S. federal withholding tax at a 30% rate, or such lower rate as may be specified by an applicable treaty, which may be set off against subsequent payments on the convertible preferred stock. See [Material U.S. federal income tax considerations](#).

***If you are a non-U.S. holder, dividends on our convertible preferred stock that are paid in shares of our common stock may be subject to U.S. federal withholding tax in the same manner as a cash dividend, which the withholding agent might satisfy through a sale of a portion of the common shares you receive as a dividend or through withholding of other amounts payable to you.***

We may elect to pay dividends on our convertible preferred stock in shares of our common stock rather than in cash. Any such stock dividends paid to you will be taxable in the same manner as cash dividends and, if you are a non-U.S. holder (as defined in [Material U.S. federal income tax considerations](#)), may be subject to U.S. federal withholding tax (at a 30% rate, or lower treaty rate, if applicable). Any required withholding tax might be satisfied by the withholding agent through a sale of a portion of the shares you receive as a dividend or might be withheld from cash dividends or sales proceeds subsequently paid or credited to you.

***Non-U.S. holders, in certain situations, could be subject to U.S. federal income tax upon sale or other disposition of our convertible preferred stock or common stock.***

We believe that we are a U.S. real property holding corporation for U.S. federal income tax purposes. As a result, non-U.S. holders (as defined in [Material U.S. federal income tax](#)



## **Table of Contents**

considerations ) whose ownership of our convertible preferred stock or common stock exceeds certain thresholds would be subject to U.S. federal income tax on gain from the disposition of our convertible preferred stock or common stock and would also be required to file U.S. federal tax returns with respect to such gain. If our convertible preferred stock is not considered to be regularly traded for U.S. federal income tax purposes, such non-U.S. holders may also be subject to a 10% withholding tax on proceeds of a sale or other disposition of our convertible preferred stock. See Material U.S. federal income tax considerations.

***We are primarily a holding company and may require cash from our subsidiaries to make dividend payments on the convertible preferred stock.***

We are primarily a holding company for several subsidiaries. We will rely primarily on dividends and other distributions from our subsidiaries to provide funds for the payment of dividends on the convertible preferred stock to the extent declared by our board of directors. There are various legal limitations on the extent to which our subsidiaries can finance or otherwise supply funds to us (by dividend or otherwise). Although we maintain cash positions for liquidity at the holding company level, if our subsidiaries were unable to supply us with cash over time, we could be unable to pay dividends to our preferred or common shareholders. As an equity holder of our subsidiaries, our ability to participate in any distribution of assets of any subsidiary is structurally subordinate to the claims of the creditors of that subsidiary.

## **Risks related to our business**

***We will be subject to risks in connection with acquisitions, and the integration of significant acquisitions may be difficult.***

Our business plan contemplates significant acquisitions of reserves, properties, prospects and leaseholds and other strategic transactions that appear to fit within our overall business strategy, which may include the acquisition of asset packages of producing properties or existing companies or businesses operating in our industry, such as the GeoResources Merger and our acquisitions of the East Texas Assets and the Williston Basin Assets. The successful acquisition of producing properties requires an assessment of several factors, including:

recoverable reserves;

future oil, natural gas and natural gas liquids prices and their appropriate differentials;

development and operating costs; and

potential environmental and other liabilities.

The accuracy of these assessments is inherently uncertain. In connection with these assessments, we perform a review of the subject properties that we believe to be generally consistent with industry practices. Our review will not reveal all existing or potential problems nor will it permit us to become sufficiently familiar with the properties to fully assess their deficiencies and potential recoverable reserves. Inspections may not always be performed on every well, and environmental problems are not necessarily observable even when an inspection is undertaken. Even when problems are identified, the seller may be unwilling or unable to provide effective contractual protection against all or part of the problems. We are not entitled to contractual indemnification for environmental liabilities and acquire properties on an as is basis.

## **Table of Contents**

Significant acquisitions of existing companies or businesses and other strategic transactions may involve additional risks, including:

diversion of our management's attention to evaluating, negotiating and integrating significant acquisitions and strategic transactions;

the challenge and cost of integrating acquired operations, information management and other technology systems and business cultures with our own while carrying on our ongoing business;

difficulty associated with coordinating geographically separate organizations;

the challenge of integrating environmental compliance systems to meet requirements of rapidly changing regulations;

the challenge of attracting and retaining personnel associated with acquired operations; and

failure to realize the full benefit that we expect in estimated proved reserves, production volume, cost savings from operating synergies or other benefits anticipated from an acquisition, or to realize these benefits within the expected time frame.

The process of integrating operations could cause an interruption of, or loss of momentum in, the activities of our business. Members of our senior management may be required to devote considerable amounts of time to this integration process, which will decrease the time they will have to manage our business. If our senior management is not able to manage the integration process effectively, or if any significant business activities are interrupted as a result of the integration process, our business could be materially and adversely affected.

### ***Assets we acquire may prove to be worth less than we paid because of uncertainties in evaluating recoverable reserves and potential liabilities.***

Our recent growth is due significantly to acquisitions of exploration and production companies, producing properties and undeveloped and unevaluated leaseholds. We expect acquisitions may also contribute to our future growth. Successful acquisitions require an assessment of a number of factors, including estimates of recoverable reserves, exploration potential, future oil and natural gas prices, operating and capital costs and potential environmental and other liabilities. Such assessments are inexact and their accuracy is inherently uncertain. In connection with our assessments, we perform a review of the acquired properties which we believe is generally consistent with industry practices. However, such a review will not reveal all existing or potential problems. In addition, our review may not permit us to become sufficiently familiar with the properties to fully assess their deficiencies and capabilities. We do not inspect every well. Even when we inspect a well, we do not always discover structural, subsurface and environmental problems that may exist or arise. We are generally not entitled to contractual indemnification for preclosing liabilities, including environmental liabilities. Normally, we acquire interests in properties on an as is basis with limited remedies for breaches of representations and warranties. As a result of these factors, we may not be able to acquire oil and natural gas properties that contain economically recoverable reserves or be able to complete such acquisitions on acceptable terms.

## **Table of Contents**

***We have substantial indebtedness and may incur substantially more debt. Higher levels of indebtedness make us more vulnerable to economic downturns and adverse developments in our business.***

We have incurred substantial debt amounting to approximately \$2.5 billion as of March 31, 2013 (including current portion). As a result of our indebtedness, we will need to use a portion of our cash flow to pay interest, which will reduce the amount we will have available to finance our operations and other business activities and could limit our flexibility in planning for or reacting to changes in our business and the industry in which we operate. Our indebtedness under our revolving credit facility is at a variable interest rate, and so a rise in interest rates will generate greater interest expense to the extent we do not have hedging arrangements that are effective in mitigating interest rate fluctuations. The amount of our debt may also cause us to be more vulnerable to economic downturns and adverse developments in our business.

We may incur substantially more debt in the future. The indentures governing the notes and our outstanding senior notes contain restrictions on our incurrence of additional indebtedness. These restrictions, however, are subject to a number of qualifications and exceptions, and under certain circumstances, we may incur substantial additional indebtedness in compliance with these restrictions. Moreover, these restrictions do not prevent us from incurring obligations that do not constitute indebtedness under the indentures. At March 31, 2013, our revolving credit facility was a \$1.5 billion facility with a borrowing base of \$850.0 million.

Our ability to meet our debt obligations and other expenses will depend on our future performance, which will be affected by financial, business, economic, regulatory and other factors, many of which we are unable to control. If our cash flow is not sufficient to service our debt, we may be required to refinance debt, sell assets or sell additional shares of common stock on terms that we may not find attractive if it may be done at all. Further, our failure to comply with the financial and other restrictive covenants relating to our indebtedness could result in a default under that indebtedness, which could adversely affect our business, financial condition and results of operations.

***A downgrade in our credit rating or that of our senior debt could negatively impact our cost of and ability to access capital.***

Although we are not aware of any plans of any of the rating agencies to lower their respective ratings on us or our senior debt, we cannot be assured that our credit ratings will not be downgraded. A downgrade in our credit ratings could negatively impact our cost of capital and our ability to effectively execute aspects of our strategy. If our credit rating were downgraded, it could be difficult for us to raise debt in the public debt markets and the cost of that new debt could be higher than debt we could raise with our current ratings. In addition, a downgrade could impact requirements for us to provide financial assurance of performance under contractual arrangements or derivative agreements.

***We may not be able to drill wells on a substantial portion of our acreage.***

We may not be able to drill on a substantial portion of our acreage for various reasons. We may not generate or be able to raise sufficient capital to do so. Future deterioration in commodities pricing may also make drilling some acreage uneconomic. Our actual drilling activities and future drilling budget will depend on drilling results, oil and natural gas prices, the availability and cost of capital, drilling and production costs, availability of drilling services and equipment, lease expirations, gathering system and pipeline transportation constraints, regulatory approvals and

## **Table of Contents**

other factors. In addition, any drilling activities we are able to conduct may not be successful or add additional proved reserves to our overall proved reserves, which could have a material adverse effect on our future business, financial condition and results of operations.

***Part of our strategy involves drilling in shale formations, some of which are new and emerging, using horizontal drilling and completion techniques. The results of our drilling program using these techniques may be subject to more uncertainties than conventional drilling programs, especially in areas that are new and emerging. These uncertainties could result in an inability to meet our expectations for reserves and production.***

The results of our drilling in new or emerging formations, such as the Utica / Point Pleasant formations, Bakken / Three Forks formations and Woodbine and Eagle Ford formations are more uncertain initially than drilling results in areas that are more developed and have a longer history of established production. Newer or emerging formations and areas have limited or no production history and consequently we are less able to predict future drilling results in these areas. In addition, the use of horizontal drilling and completion techniques used in all of our shale formations involve certain risks and complexities that do not exist in conventional wells. Our experience, as well as that of the industry as a whole, is significant but still growing. The ultimate success of these drilling and completion strategies and techniques will be better evaluated over time as more wells are drilled and production profiles are better established.

If our drilling results are less than anticipated our investment in these areas may not be as attractive as we anticipate and we could incur material write downs of unevaluated properties and the value of our undeveloped acreage could decline in the future.

***Certain of our undeveloped leasehold acreage is subject to leases that will expire over the next several years unless production is established on units containing the acreage.***

We currently own, or have under contract, leasehold interests in approximately 135,000 net acres in areas we believe are prospective for the Bakken/Three Forks formations, approximately 55,000 net acres we believe are prospective for the Eagle Ford formation, approximately 140,000 net acres in areas we believe are prospective for the Utica/Point Pleasant formations and approximately 210,000 net acres in areas we believe are prospective for the Woodbine formation. A large portion of our acreage is not currently held by production. Unless production in paying quantities is established on units containing these leases during their terms, these leases will expire. If our leases expire, we will lose our right to develop the related properties.

Our drilling plans for these areas are subject to change based upon various factors, many of which are beyond our control, including drilling results, oil and natural gas prices, the availability and cost of capital, drilling and production costs, availability of drilling services and equipment, gathering system and pipeline transportation constraints, and regulatory approvals. Further, some of our acreage is located in sections where we do not hold the majority of the acreage and therefore it is likely that we will not be named operator of these sections. As a non-operating leaseholder we have less control over the timing of drilling and there is therefore additional risk of expirations occurring in sections where we are not the operator.

***Our ability to sell our production and/or receive market prices for our production may be adversely affected by transportation capacity constraints and interruptions.***

If the amount of natural gas, condensate or oil being produced by us and others exceeds the capacity of the various transportation pipelines and gathering systems currently available in our

## Table of Contents

operating areas, it will be necessary for new transportation pipelines and gathering systems to be built. Or, in the case of oil and condensate, it will be necessary for us to rely more heavily on trucks to transport our production, which is more expensive and less efficient than transportation via pipeline. Currently, we anticipate that additional pipeline capacity will be required in the Bakken / Three Forks formations to transport oil and condensate production, which increased substantially during 2012 and is expected to continue to increase. The construction of new pipelines and gathering systems is capital intensive and construction may be postponed, interrupted or cancelled in response to changing economic conditions and the availability and cost of capital. In addition, capital constraints could limit our ability to build gathering systems to transport our production to transportation pipelines. In such event, costs to transport our production may increase materially or we might have to shut in our wells awaiting a pipeline connection or capacity and/or sell our production at much lower prices than market or than we currently project, which would adversely affect our results of operations.

A portion of our production may also be interrupted, or shut in, from time to time for numerous other reasons, including as a result of weather conditions, accidents, loss of pipeline or gathering system access, field labor issues or strikes, or we might voluntarily curtail production in response to market conditions. If a substantial amount of our production is interrupted at the same time, it could adversely affect our cash flow.

*We may have difficulty financing our planned capital expenditures which could adversely affect our growth.*

We have experienced, and expect to continue to experience, substantial capital expenditure and working capital needs, primarily as a result of our drilling program. We intend to continue to selectively increase our acreage position, which would require capital in addition to the capital necessary to drill on our existing acreage. In addition, it is likely that we will acquire acreage in other areas that we believe are prospective for oil and natural gas production and expend capital to develop such acreage. We expect to use borrowings under our revolving credit facility, proceeds from potential asset dispositions and proceeds from potential future capital markets transactions, if necessary, to fund capital expenditures that are in excess of our cash flow and cash on hand.

Our revolving credit facility limits our borrowings to the lesser of the borrowing base and the total commitments. Our borrowing base is currently \$850.0 million. Our borrowing base is determined semi-annually, and may also be redetermined periodically at the discretion of the banks. Lower oil and natural gas prices may result in a reduction in our borrowing base. A reduction in our borrowing base could require us to repay any indebtedness in excess of the borrowing base. Additionally, the indentures governing our senior unsecured debt contain covenants limiting our ability to incur additional indebtedness, including borrowings under our revolving credit facility, unless we meet one of two alternative tests. The first test applies to all indebtedness and requires that after giving effect to the incurrence of additional debt the ratio of our adjusted consolidated EBITDA (as defined in our indentures) to our adjusted consolidated interest expense over the trailing four fiscal quarters will be at least 2.0 to 1.0. The second test applies only to borrowings under our revolving credit facility that do not meet the first test and it limits these borrowings to the greater of a fixed sum of \$750 million and 30% of our adjusted consolidated net tangible assets (as defined in all of our indentures), which is determined using discounted future net revenues from proved oil and natural gas reserves as of the end of each year. Lower oil and natural gas prices in the future could reduce our adjusted consolidated

## **Table of Contents**

EBITDA, as well as our adjusted consolidated net tangible assets, and thus could reduce our ability to incur additional indebtedness.

As of the date of this prospectus supplement, the financial covenants under our indentures limit our incurrence of additional indebtedness, including any amounts outstanding under our revolving credit facility, to approximately \$801.0 million. Accordingly, in the near term, we will be required to manage our capital expenditures within this limit, which may require us to defer or delay some of our planned expenditures. We currently expect that this limitation will be substantially alleviated when our financial results for the second quarter of 2013 become available, but there is no assurance that will be the case. We also obtained a waiver of the current ratio test under our revolving credit facility for the quarter ending June 30, 2013, as a precautionary measure in the event we fail to satisfy the test. In the event we have difficulty in meeting this ratio test in the future, we would be required to seek an additional waiver, and there is no assurance that it would be granted.

Additionally, our ability to complete future equity offerings is limited by general market conditions. If we are not able to borrow sufficient amounts under our revolving credit facility and/or are unable to raise sufficient capital to fund our capital expenditures, we may be required to curtail our drilling, development, land acquisition and other activities, which could result in a decrease in our production of oil and natural gas, forfeiture of leasehold interests if we are unable or unwilling to renew them, and could force us to sell some of our assets on an untimely or unfavorable basis, each of which could have a material adverse effect on our results and future operations.

### ***Oil and natural gas prices are volatile, and low prices could have a material adverse impact on our business.***

Our revenues, profitability and future growth and the carrying value of our properties depend substantially on prevailing oil and natural gas prices. Prices also affect the amount of cash flow available for capital expenditures and our ability to borrow and raise additional capital. The amount we will be able to borrow under our revolving credit facility will be subject to periodic redetermination based in part on current oil and natural gas prices and on changing expectations of future prices. Lower prices may also reduce the amount of oil and natural gas that we can economically produce and have an adverse effect on the value of our properties.

Historically, the markets for oil and natural gas have been volatile, and they are likely to continue to be volatile in the future. Among the factors that can cause volatility are:

the domestic and foreign supply of oil and natural gas;

the ability of members of the Organization of Petroleum Exporting Countries and other producing countries to agree upon and maintain oil prices and production levels;

social unrest and political instability, particularly in major oil and natural gas producing regions outside the United States, such as the Middle East, and armed conflict or terrorist attacks, whether or not in oil or natural gas producing regions;

the level of consumer product demand;

the growth of consumer product demand in emerging markets, such as China;

labor unrest in oil and natural gas producing regions;

**Table of Contents**

weather conditions, including hurricanes and other natural occurrences that affect the supply and/or demand of oil and natural gas;

the price and availability of alternative fuels;

the price of foreign imports;

worldwide economic conditions; and

the availability of liquid natural gas imports.

These external factors and the volatile nature of the energy markets make it difficult to estimate future prices of oil and natural gas.

***Unless we replace our reserves, our reserves and production will decline, which would adversely affect our financial condition, results of operations and cash flows.***

Producing oil and natural gas reservoirs generally are characterized by declining production rates that vary depending upon reservoir characteristics and other factors. Decline rates are typically greatest early in the productive life of a well. Estimates of the decline rate of an oil or natural gas well are inherently imprecise, and are less precise with respect to new or emerging oil and natural gas formations with limited production histories than for more developed formations with established production histories. Our production levels and the reserves that we currently expect to recover from our wells will change if production from our existing wells declines in a different manner than we have estimated and can change under other circumstances. Thus, our future oil and natural gas reserves and production and, therefore, our cash flow and results of operations are highly dependent upon our success in efficiently developing and exploiting our current properties and economically finding or acquiring additional recoverable reserves. We may not be able to develop, find or acquire additional reserves to replace our current and future production at acceptable costs. If we are unable to replace our current and future production, our cash flows and the value of our reserves may decrease, adversely affecting our business, financial condition and results of operations.

***Estimates of proved oil and natural gas reserves involve assumptions and any material inaccuracies in these assumptions will materially affect the quantities and the value of our reserves.***

This prospectus supplement, the accompanying prospectus and our other SEC filings contain estimates of our proved oil and natural gas reserves. These estimates are based upon various assumptions, including assumptions required by the SEC relating to oil and natural gas prices, drilling and operating expenses, capital expenditures, taxes and availability of funds. The process of estimating oil and natural gas reserves is complex. This process requires significant decisions and assumptions in the evaluation of available geological, geophysical, engineering and economic data for each reservoir. Therefore, these estimates are inherently imprecise.

Actual future production, oil and natural gas prices, revenues, taxes, development expenditures, operating expenses and quantities of recoverable oil and natural gas reserves will vary from those estimated. Any significant variance could materially affect the estimated quantities and the value of our reserves. Our properties may also be susceptible to hydrocarbon drainage from production by other operators on adjacent properties. In addition, we may adjust estimates of proved reserves to reflect production history, results of exploration and development, prevailing oil and natural gas prices and other factors, many of which are beyond our control.

## **Table of Contents**

At December 31, 2012, approximately 53% of our estimated reserves were classified as proved undeveloped. Recovery of proved undeveloped reserves requires significant capital expenditures and successful drilling operations. The reserve data assumes that we will make significant capital expenditures to develop our reserves. Although we have prepared estimates of these oil and natural gas reserves and the costs associated with development of these reserves in accordance with SEC regulations, actual capital expenditures will likely vary from estimated capital expenditures, development may not occur as scheduled and actual results may not be as estimated.

### ***We depend substantially on the continued presence of key personnel for critical management decisions and industry contacts.***

Our success depends upon the continued contributions of our executive officers and key employees, particularly with respect to providing the critical management decisions and contacts necessary to manage and maintain growth within a highly competitive industry. Competition for qualified personnel can be intense, particularly in the oil and natural gas industry, and there are a limited number of people with the requisite knowledge and experience. Under these conditions, we could be unable to attract and retain these personnel. The loss of the services of any of our executive officers or other key employees for any reason could have a material adverse effect on our business, operating results, financial condition and cash flows.

### ***Our business is highly competitive.***

The oil and natural gas industry is highly competitive in many respects, including identification of attractive oil and natural gas properties for acquisition, drilling and development, securing financing for such activities and obtaining the necessary equipment and personnel to conduct such operations and activities. In seeking suitable opportunities, we compete with a number of other companies, including large oil and natural gas companies and other independent operators with greater financial resources, larger numbers of personnel and facilities, and, in some cases, with more expertise. There can be no assurance that we will be able to compete effectively with these entities.

### ***Our oil and natural gas activities are subject to various risks which are beyond our control.***

Our operations are subject to many risks and hazards incident to exploring and drilling for, producing, transporting, marketing and selling oil and natural gas. Although we may take precautionary measures, many of these risks and hazards are beyond our control and unavoidable under the circumstances. Many of these risks or hazards could materially and adversely affect our revenues and expenses, the ability of certain of our wells to produce oil and natural gas in commercial quantities, the rate of production and the economics of the development of, and our investment in the prospects in which we have or will acquire an interest. Any of these risks and hazards could materially and adversely affect our financial condition, results of operations and cash flows. Such risks and hazards include:

human error, accidents, labor force and other factors beyond our control that may cause personal injuries or death to persons and destruction or damage to equipment and facilities;

blowouts, fires, hurricanes, pollution and equipment failures that may result in damage to or destruction of wells, producing formations, production facilities and equipment;

unavailability of materials and equipment;



**Table of Contents**

engineering and construction delays;

unanticipated transportation costs and delays;

unfavorable weather conditions;

hazards resulting from unusual or unexpected geological or environmental conditions;

environmental regulations and requirements;

accidental leakage of toxic or hazardous materials, such as petroleum liquids or drilling fluids, into the environment;

hazards resulting from the presence of hydrogen sulfide (H<sub>2</sub>S) or other contaminants in gas we produce;

changes in laws and regulations, including laws and regulations applicable to oil and natural gas activities or markets for the oil and natural gas produced;

fluctuations in supply and demand for oil and natural gas causing variations of the prices we receive for our oil and natural gas production;  
and

the availability of alternative fuels and the price at which they become available.

As a result of these risks, expenditures, quantities and rates of production, revenues and operating costs may be materially adversely affected and may differ materially from those anticipated by us.

***Our exploration and development drilling efforts and the operation of our wells may not be profitable or achieve our targeted returns.***

We require significant amounts of undeveloped leasehold acreage to further our development efforts. Exploration, development, drilling and production activities are subject to many risks, including the risk that commercially productive reservoirs will not be discovered. We invest in property, including undeveloped leasehold acreage, which we believe will result in projects that will add value over time. However, we cannot guarantee that our leasehold acreage will be profitably developed, that new wells drilled by us will be productive or that we will recover all or any portion of our investment in such leasehold acreage or wells. Drilling for oil and natural gas may involve unprofitable efforts, not only from dry wells but also from wells that are productive but do not produce sufficient net reserves to return a profit after deducting operating and other costs. In addition, wells that are profitable may not achieve our targeted rate of return. Our ability to achieve our target results are dependent upon the current and future market prices for oil and natural gas, costs associated with producing oil and natural gas and our ability to add reserves at an acceptable cost.

In addition, we may not be successful in controlling our drilling and production costs to improve our overall return. The cost of drilling, completing and operating a well is often uncertain and cost factors can adversely affect the economics of a project. We cannot predict the cost of drilling and completing a well, and we may be forced to limit, delay or cancel drilling operations as a result of a variety of factors, including:

unexpected drilling conditions;

pressure or irregularities in formations;

S-35

**Table of Contents**

equipment failures or accidents and shortages or delays in the availability of drilling and completion equipment and services;

adverse weather conditions, including hurricanes; and

compliance with governmental requirements.

***We are subject to complex federal, state, local and other laws and regulations that could adversely affect the cost, manner or feasibility of doing business.***

Companies that explore for and develop, produce, sell and transport oil and natural gas in the United States are subject to extensive federal, state and local laws and regulations, including complex tax and environmental, health and safety laws and the corresponding regulations, and are required to obtain various permits and approvals from federal, state and local agencies. If these permits are not issued or unfavorable restrictions or conditions are imposed on our drilling activities, we may not be able to conduct our operations as planned. We may be required to make large expenditures to comply with governmental regulations. Matters subject to regulation include:

water discharge and disposal permits for drilling operations;

drilling bonds;

drilling permits;

reports concerning operations;

air quality, noise levels and related permits;

spacing of wells;

rights-of-way and easements;

unitization and pooling of properties;

pipeline construction;

gathering, transportation and marketing of oil and natural gas;

taxation; and

waste transport and disposal permits and requirements.

## Edgar Filing: HALCON RESOURCES CORP - Form 424B5

Failure to comply with these laws may result in the suspension or termination of operations and subject us to liabilities under administrative, civil and criminal penalties. Compliance costs can be significant. Moreover, these laws or the enforcement thereof could change in ways that substantially increase the costs of doing business. Any such liabilities, penalties, suspensions, terminations or regulatory changes could materially and adversely affect our business, financial condition and results of operations. Under these laws and other environmental health and safety laws and regulations, we could be held liable for personal injuries, property damage (including site clean-up and restoration costs) and other damages. Failure to comply with these laws and regulations may also result in the suspension or termination of our operations and subject us to administrative, civil and criminal penalties, including the assessment of natural resource damages. Some laws and regulations may impose strict as well as joint and several liability for environmental contamination, which could subject us to liability for the conduct of others or for

S-36

---

**Table of Contents**

our own actions that were in compliance with all applicable laws at the time such actions were taken. Environmental and other governmental laws and regulations also increase the costs to plan, design, drill, install, operate and abandon oil and natural gas wells. Moreover, public interest in environmental protection has increased in recent years, and environmental organizations have opposed, with some success, certain drilling projects. Part of the regulatory environment in which we operate includes, in some cases, federal requirements for performing or preparing environmental assessments, environmental impact studies and/or plans of development before commencing exploration and production activities. In addition, our activities are subject to the regulation by oil and natural gas-producing states relating to conservation practices and protection of correlative rights. These regulations affect our operations and limit the quantity of oil and natural gas we may produce and sell. Delays in obtaining regulatory approvals or necessary permits, the failure to obtain a permit or the receipt of a permit with excessive conditions or costs could have a material adverse effect on our ability to explore on, develop or produce our properties. Additionally, the oil and natural gas regulatory environment could change in ways that might substantially increase the financial and managerial costs to comply with the requirements of these laws and regulations and, consequently, adversely affect our profitability.

***Federal and state legislation and regulatory initiatives relating to hydraulic fracturing could result in increased costs and additional operating restrictions or delays.***

Legislation was proposed in the last Congress to amend the federal Safe Drinking Water Act to require the disclosure of chemicals used by the oil and natural gas industry in the hydraulic fracturing process. Hydraulic fracturing involves the injection of water, sand and chemicals under pressure into rock formations to stimulate oil and natural gas production. We engage third parties to provide hydraulic fracturing or other well stimulation services to us in connection with many of the wells for which we are the operator. If similar legislation is ultimately adopted, it could establish an additional level of regulation at the federal or state level that could lead to operational delays or increased operating costs and could result in additional regulatory burdens that could make it more difficult to perform hydraulic fracturing and increase our costs of compliance and doing business. Certain states have adopted or are considering similar disclosure legislation.

In March 2010, the EPA announced that it would conduct a wide-ranging study on the effects of hydraulic fracturing on drinking water resources. In December 2012, the EPA issued a progress report describing its ongoing study, and announcing its expectation that a final draft report will be released for public comment and peer review in 2014. The agency also announced that one of its enforcement initiatives for 2011 to 2013 would be to focus on environmental compliance by the energy extraction sector. This study and enforcement initiative could result in additional regulatory scrutiny that could make it difficult to perform hydraulic fracturing and increase our costs of compliance and doing business.

***Regulation related to global warming and climate change could have an adverse effect on our operations and demand for oil and natural gas.***

Studies over recent years have indicated that emissions of certain gases may be contributing to warming of the Earth's atmosphere. In response to these studies, governments have begun adopting domestic and international climate change regulations that requires reporting and reductions of the emission of greenhouse gases. Methane, a primary component of natural gas, and carbon dioxide, a byproduct of the burning of oil, natural gas and refined petroleum

## Table of Contents

products, are considered greenhouse gases. Internationally, the United Nations Framework Convention on Climate Change, and the Kyoto Protocol address greenhouse gas emissions, and several countries including those comprising the European Union have established greenhouse gas regulatory systems. In the United States, at the state level, many states, either individually or through multi-state regional initiatives, have begun implementing legal measures to reduce emissions of greenhouse gases, primarily through the planned development of emission inventories or regional greenhouse gas cap and trade programs or have begun considering adopting greenhouse gas regulatory programs.

The EPA has issued greenhouse gas monitoring and reporting regulations that went into effect January 1, 2010, and required reporting by regulated facilities by March 2011 and annually thereafter. In November 2010, the EPA issued a final rule requiring companies to report certain greenhouse gas emissions from oil and natural gas facilities. On July 19, 2011, the EPA amended the oil and natural gas facility greenhouse gas reporting rule to require reporting beginning in September 2012. Beyond measuring and reporting, the EPA issued an Endangerment Finding under section 202(a) of the Clean Air Act, concluding greenhouse gas pollution threatens the public health and welfare of current and future generations. The finding serves as a first step to issuing regulations that would require permits for and reductions in greenhouse gas emissions for certain facilities. On July 28, 2011, the EPA proposed four new regulations for the oil and natural gas industry, with the potential to affect our business. On August 16, 2012, the EPA issued its final rule, which includes: a new source performance standard for volatile organic compounds (VOCs); a new source performance standard for sulfur dioxide; an air toxics standard for oil and natural gas production; and an air toxics standard for natural gas transmission and storage. The final rule includes the first federal air standards for natural gas wells that are hydraulically fractured, or refractured, as well as requirements for several sources, such as storage tanks and other equipment, and limits methane emissions from these sources. Compliance with these regulations will impose additional requirements and costs on our operations.

In the courts, several decisions have been issued that may increase the risk of claims being filed by governments and private parties against companies that have significant greenhouse gas emissions. Such cases may seek to challenge air emissions permits that greenhouse gas emitters apply for and seek to force emitters to reduce their emissions or seek damages for alleged climate change impacts to the environment, people, and property.

Any laws or regulations that may be adopted to restrict or reduce emissions of greenhouse gases could require us to incur additional operating costs, such as costs to purchase and operate emissions control systems, and additional compliance costs.

***Operations on the Fort Berthold Indian Reservation of the Three Affiliated Tribes in North Dakota are subject to various federal and tribal regulations and laws, any of which may increase our costs and delay our operations.***

Various federal agencies within the U.S. Department of the Interior, particularly the Office of Natural Resources Revenue (formerly the Minerals Management Service) and the Bureau of Indian Affairs, along with the Three Affiliated Tribes, promulgate and enforce regulations pertaining to operations on the Fort Berthold Indian Reservation on which we hold approximately 43,000 net acres. In addition, the Three Affiliated Tribes is a sovereign nation having the right to enforce laws and regulations independent from federal, state and local statutes and regulations. These tribal laws and regulations include various taxes, fees and other conditions that apply to lessees, operators and contractors conducting operations on Native

---

**Table of Contents**

American tribal lands. Lessees and operators conducting operations on tribal lands are generally subject to the Native American tribal court system. One or more of these factors may increase our costs of doing business on the Fort Berthold Indian Reservation and may have an adverse impact on our ability to effectively transport products within the Fort Berthold Indian Reservation or to conduct our operations on such lands.

***Recent federal legislation could have an adverse impact on our ability to use derivative instruments to reduce the effects of commodity prices, interest rates and other risks associated with our business.***

Historically, we have entered into a number of commodity derivative contracts in order to hedge a portion of our oil and natural gas production and, periodically, interest expense. On July 21, 2010, President Obama signed into law the Dodd-Frank Wall Street Reform and Consumer Protection Act, or the Dodd-Frank Act which requires the SEC, the Commodity Futures Trading Commission (or CFTC) to promulgate rules and regulations implementing the new legislation. The CFTC has issued regulations setting position limits for certain futures and option contracts in the major energy markets and for swaps that are their economic equivalents. Certain bona fide hedging transactions are exempt from these limits. The CFTC also finalized other regulations implementing the new legislation; however, some regulations remain to be finalized and it is not possible at this time to predict when the CFTC will adopt final rules. The Dodd-Frank Act and regulations may require compliance with margin requirements and with certain clearing and trade-execution requirements in connection with certain derivative activities. The legislation may also require the counterparties to our commodity derivative contracts to spinoff some of their derivatives activities to a separate entity, which may not be as creditworthy as the current counterparty.

The new legislation and any new regulations could significantly increase the cost of some commodity derivative contracts (including through requirements to post collateral, which could adversely affect our available liquidity), materially alter the terms of some commodity derivative contracts, reduce the availability of some derivatives to protect against risks we encounter, reduce our ability to monetize or restructure our existing commodity derivative contracts and potentially increase our exposure to less creditworthy counterparties. If we reduce our use of derivatives as a result of the new legislation and regulations, our results of operations may become more volatile and our cash flows may be less predictable, which could adversely affect our ability to plan for and fund capital expenditures. Increased volatility may make us less attractive to certain types of investors. Finally, the Dodd-Frank Act was intended, in part, to reduce the volatility of oil and natural gas prices, which some legislators attributed to speculative trading in derivatives and commodity instruments related to oil and natural gas. If the new legislation and regulations result in lower commodity prices, our revenues could be adversely affected. Any of these consequences could adversely affect our business, financial condition and results of operations.

***We cannot be certain that the insurance coverage maintained by us will be adequate to cover all losses that may be sustained in connection with all oil and natural gas activities.***

We maintain general and excess liability policies, which we consider to be reasonable and consistent with industry standards. These policies generally cover:

personal injury;

bodily injury;

**Table of Contents**

third party property damage;

medical expenses;

legal defense costs;

pollution in some cases;

well blowouts in some cases; and

workers compensation.

As is common in the oil and natural gas industry, we will not insure fully against all risks associated with our business either because such insurance is not available or because we believe the premium costs are prohibitive. A loss not fully covered by insurance could have a materially adverse effect on our financial position, results of operations and cash flows. There can be no assurance that the insurance coverage that we maintain will be sufficient to cover every claim made against us in the future.

***Title to the properties in which we have an interest may be impaired by title defects.***

We generally obtain title opinions on significant properties that we drill or acquire. However, there is no assurance that we will not suffer a monetary loss from title defects or title failure. Additionally, undeveloped acreage has greater risk of title defects than developed acreage. Generally, under the terms of the operating agreements affecting our properties, any monetary loss is to be borne by all parties to any such agreement in proportion to their interests in such property. If there are any title defects or defects in assignment of leasehold rights in properties in which we hold an interest, we will suffer a financial loss.

***The unavailability or high cost of drilling rigs, pressure pumping equipment and crews, other equipment, supplies, water, personnel and oil field services could adversely affect our ability to execute our exploration and development plans on a timely basis and within our budget.***

Our industry is cyclical and, from time to time, there is a shortage of drilling rigs, equipment, supplies, water or qualified personnel. During these periods, the costs and delivery times of rigs, equipment and supplies are substantially greater. In addition, the demand for, and wage rates of, qualified drilling rig crews rise as the number of active rigs in service increases. Increasing levels of exploration and production may increase the demand for oilfield services and equipment, and the costs of these services and equipment may increase, while the quality of these services and equipment may suffer. The unavailability or high cost of drilling rigs, pressure pumping equipment, supplies or qualified personnel can materially and adversely affect our operations and profitability. In order to secure drilling rigs and pressure pumping equipment, we have entered into certain contracts that extend over several months and or years. If demand for drilling rigs and pressure pumping equipment subside during the period covered by these contracts, the price we are required to pay may be significantly more than the market rate for similar services.

***We depend on the skill, ability and decisions of third party operators of the oil and natural gas properties in which we have a non-operated working interest.***

The success of the drilling, development and production of the oil and natural gas properties in which we have or expect to have a non-operating working interest is substantially dependent upon the decisions of such third-party operators and their diligence to comply with various laws,



---

**Table of Contents**

rules and regulations affecting such properties. The failure of any third-party operator to make decisions, perform their services, discharge their obligations, deal with regulatory agencies, and comply with laws, rules and regulations, including environmental laws and regulations in a proper manner with respect to properties in which we have an interest could result in material adverse consequences to our interest in such properties, including substantial penalties and compliance costs. Such adverse consequences could result in substantial liabilities to us or reduce the value of our properties, which could negatively affect our results of operations.

***Hedging transactions may limit our potential gains and increase our potential losses.***

In order to manage our exposure to price risks in the marketing of our oil, natural gas, and natural gas liquids production, we have entered into oil, natural gas, and natural gas liquids price hedging arrangements with respect to a portion of our anticipated production and we may enter into additional hedging transactions in the future. While intended to reduce the effects of volatile oil, natural gas and natural gas liquids prices, such transactions may limit our potential gains and increase our potential losses if oil, natural gas and natural gas liquids prices were to rise substantially over the price established by the hedge. In addition, such transactions may expose us to the risk of loss in certain circumstances, including instances in which:

our production is less than expected;

there is a widening of price differentials between delivery points for our production; or

the counterparties to our hedging agreements fail to perform under the contracts.

***We may be required to take non-cash asset write downs if oil and natural gas prices decline.***

We may be required under full cost accounting rules to write down the carrying value of oil and natural gas properties if oil and natural gas prices decline or if there are substantial downward adjustments to our estimated proved reserves, increases in our estimates of development costs or deterioration in our exploration results. We utilize the full cost method of accounting for oil and natural gas exploration and development activities. Under full cost accounting, we are required by SEC regulations to perform a ceiling test each quarter. The ceiling test is an impairment test and generally establishes a maximum, or ceiling, of the book value of oil and natural gas properties that is equal to the expected after tax present value (discounted at 10%) of the future net cash flows from proved reserves, including the effect of cash flow hedges when hedge accounting is applied, calculated using the unweighted arithmetic average of the first day of each month for the 12-month period ending at the balance sheet date. If the net book value of oil and natural gas properties (reduced by any related net deferred income tax liability and asset retirement obligation) exceeds the ceiling limitation, SEC regulations require us to impair or write down the book value of our oil and natural gas properties.

As of March 31, 2013, our net book value of oil and natural gas properties did not exceed our ceiling amount using the WTI unweighted 12-month average price \$92.63 per Bbl for oil and natural gas liquids and the Henry Hub unweighted 12-month average of \$2.95 per Mmbtu for natural gas. As ceiling test computations depend upon the calculated unweighted arithmetic average prices, it is impossible to predict the likelihood, timing and magnitude of any future impairments. Depending on the magnitude, a ceiling test write down could negatively affect our results of operations.

Costs associated with unevaluated properties, which were approximately \$2.5 billion at March 31, 2013, are not initially subject to the ceiling test limitation. Rather, we assess all items classified as

**Table of Contents**

unevaluated property on a quarterly basis for possible impairment or reduction in value based upon our intentions with respect to drilling on such properties, the remaining lease term, geological and geophysical evaluations, drilling results, the assignment of proved reserves, and the economic viability of development if proved reserves are assigned. These factors are significantly influenced by our expectations regarding future commodity prices, development costs, and access to capital at acceptable cost. During any period in which these factors indicate impairment, the cumulative drilling costs incurred to date for such property and all or a portion of the associated leasehold costs are transferred to the full cost pool and are then subject to amortization and the ceiling test limitation. Accordingly, a significant change in these factors, many of which are beyond our control, may shift a significant amount of cost from unevaluated properties into the full cost pool that is subject to amortization and the ceiling test limitation.

*Our results of operations could be adversely affected as a result of non-cash goodwill impairments.*

In conjunction with the recording of the purchase price allocation for the GeoResources Merger, we recorded goodwill which represents the excess of the purchase price paid by us plus liabilities assumed, including deferred taxes recorded in connection with the acquisition, over the estimated fair market value of the tangible net assets acquired. The Financial Accounting Standard Board's (FASB) Accounting Standards Codification (ASC) 350, *Intangibles - Goodwill and Other* (ASC 350) requires that intangible assets with indefinite lives, including goodwill, be evaluated on an annual basis for impairment or more frequently if an event occurs or circumstances change that could potentially result in impairment. The goodwill impairment test requires the allocation of goodwill and all other assets and liabilities to reporting units. If the fair value of the reporting unit is less than the book value (including goodwill), then goodwill is reduced to its implied fair value and the amount of the write down is charged against earnings. The assumptions we used in calculating our reporting unit fair value at the time of the test include our market capitalization and discounted future cash flows based on estimated reserves and production, future costs and future oil and natural gas prices. Adverse changes to any of these factors could lead to an impairment of all or a portion of our goodwill in future periods.

Table of Contents

## Use of proceeds

We estimate the net proceeds of this offering will be approximately \$291.8 million (or \$335.4 million if the underwriters exercise their option to purchase additional convertible preferred stock in full) after deducting the underwriters' discounts and estimated offering expenses. We intend to use the net proceeds from this offering to repay a portion of the outstanding borrowings under our revolving credit facility, which totaled approximately \$591.0 million as of June 7, 2013. Borrowings under our revolving credit facility bear interest at LIBOR plus a margin ranging from 1.5% to 2.5% based on a percentage of usage or at ABR plus 0.5% to 1.5%. Amounts repaid under our revolving credit facility may be reborrowed, subject to the terms of the facility. Our revolving credit facility matures on February 8, 2017. Affiliates of each of the underwriters are lenders under our revolving credit facility, and, accordingly, will receive a portion of the proceeds from this offering pursuant to the repayment of borrowings under such facility. See [Conflicts of interest](#).

S-43

**Table of Contents****Capitalization**

The following table sets forth our capitalization as of March 31, 2013 on an actual basis and as adjusted to reflect this offering and the application of the proceeds thereof. This table should be read in conjunction with Use of proceeds, Summary historical and pro forma financial data and the other financial information incorporated by reference in this prospectus supplement.

(in millions)	As of March 31, 2013	
	Actual	As adjusted
Cash and cash equivalents	\$ 0.8	\$ 159.6
<b>Long-term debt</b>		
Revolving credit facility(1)	133.0	
8% senior unsecured convertible note due 2017(2)	253.6	253.6
9.75% senior notes due 2020(3)	740.4	740.4
8.875% senior notes due 2021(4)	1,374.0	1,374.0
Total long-term debt	\$ 2,501.0	\$ 2,368.0
<b>Stockholders' equity</b>		
5.75% convertible preferred stock, \$0.0001 par value, 300,000 shares outstanding (as adjusted); aggregate liquidation preference of \$300.0 million.		
Common stock, \$0.0001 par value, 670.0 million shares authorized and 369.8 million shares outstanding		
Additional paid-in capital	2,371.0	2,662.8
Treasury stock		
Accumulated deficit	(269.0)	(269.0)
Total stockholders' equity	\$ 2,102.0	\$ 2,393.8
Total capitalization	\$ 4,603.0	\$ 4,761.8

(1) As of June 7, 2013, Halcón had approximately \$591.0 million in borrowings outstanding under the revolving credit facility. As of the date of this prospectus supplement, the financial covenants under our indentures limit our incurrence of additional indebtedness, including any amounts outstanding under our revolving credit facility, to approximately \$801.0 million. We currently expect that this limitation will be substantially alleviated when our financial results for the second quarter of 2013 become available but there is no assurance that will be the case.

(2) The 8% senior unsecured convertible note due 2017 is reflected net of an unamortized discount from the initial principal amount of approximately \$36.1 million as of March 31, 2013.

(3) \$750.0 million principal amount, net of a \$9.6 million unamortized discount at March 31, 2013.

(4) Includes \$1.35 billion principal amount, including the net \$23.9 million issue premium on such notes.

**Table of Contents****Price range of common stock and dividend policy*****Dividend policy***

The holders of our common stock are entitled to receive dividends if and when declared by our board of directors out of legally available funds. We have never paid any cash dividends on our common stock. We do not expect to declare or pay any cash or other dividends in the foreseeable future on our common stock. The agreements governing our revolving credit facility and our senior unsecured debt restrict our ability to pay cash dividends on our common stock, and we may also enter into credit agreements or other borrowing arrangements in the future that restrict our ability to declare cash dividends on our common stock.

***Price range of our common stock***

Our common stock trades on the New York Stock Exchange under the symbol HK. The following table sets forth the high and low sales prices per share of our common stock on the New York Stock Exchange for the periods indicated. The high and low sale prices for periods prior to February 10, 2012 have been adjusted to reflect the one-for-three reverse split of our outstanding common stock that occurred on such date.

	<b>High</b>	<b>Low</b>
<b>2011:</b>		
First Quarter	\$ 7.74	\$ 4.59
Second Quarter	6.66	3.48
Third Quarter	3.90	1.80
Fourth Quarter	9.72	1.95
<b>2012:</b>		
First Quarter	\$ 13.35	\$ 8.19
Second Quarter	11.24	8.21
Third Quarter	9.70	6.26
Fourth Quarter	7.50	5.26
<b>2013:</b>		
First Quarter	\$ 8.28	\$ 6.22
Second Quarter (through June 7, 2013)	8.12	5.05

On June 7, 2013, the closing sale price of our common stock as quoted on the New York Stock Exchange was \$5.33 per share.

**Table of Contents****Management**

Our executive officers and directors are as follows:

<b>Name</b>	<b>Age</b>	<b>Position(s) Held</b>
Floyd C. Wilson	66	Chairman of the Board and Chief Executive Officer
Stephen W. Herod	54	President
Mark J. Mize	41	Executive Vice President, Chief Financial Officer and Treasurer
David S. Elkouri	59	Executive Vice President and General Counsel
Charles E. Cusack, III	54	Executive Vice President, Chief Operating Officer
Larry L. Helm	65	Executive Vice President, Corporate Affairs
Joseph S. Rinando, III	41	Vice President and Chief Accounting Officer
Tucker S. Bridwell(1)(4)	61	Director
James W. Christmas(2)(3)	65	Director
Thomas R. Fuller(2)(4)	65	Director
Kevin E. Godwin(3)	46	Director
David S. Hunt(4)	50	Director
James L. Irish III*(3)	68	Director
David B. Miller	63	Director
Daniel A. Rioux(1)(2)	45	Director
Stephen P. Smiley(1)(3)	64	Director
Michael A. Vlastic(1)	52	Director
Mark A. Welsh IV(2)(4)	33	Director

(1) Member of the compensation committee.

(2) Member of the nominating and corporate governance committee.

(3) Member of the audit committee.

(4) Member of the reserves committee.

\* Lead Independent Director

*Floyd C. Wilson* became our Chairman and Chief Executive Officer in February 2012 as a result of the HALRES Transaction. Prior to February 2012, Mr. Wilson was President of HALRES LLC, an oil and natural gas company that he founded in October 2011. Mr. Wilson served as Chairman of the Board and Chief Executive Officer of Petrohawk Energy Corporation from May 25, 2004 until BHP Billiton acquired

## Edgar Filing: HALCON RESOURCES CORP - Form 424B5

Petrohawk for \$15.1 billion, including assumed debt, in August 2011. Mr. Wilson also served as President of Petrohawk from May 25, 2004 until September 8, 2009. Prior to May 25, 2004, he was President and Chief Executive Officer of PHAWK, LLC which he founded in June 2003. Mr. Wilson was the Chairman and Chief Executive Officer of 3TEC Energy Corporation from August 1999 until its merger with Plains Exploration & Production Company in June 2003. Mr. Wilson founded W/E Energy Company L.L.C., formerly known as 3TEC Energy Company L.L.C. in 1998 and served as its President

S-46

**Table of Contents**

until August 1999. Mr. Wilson began his career in the energy business in Houston, Texas in 1970 as a completion engineer. He moved to Wichita, Kansas in 1976 to start an oil and gas operating company, one of several private energy ventures which preceded the formation of Hugoton Energy Corporation in 1987, where he served as Chairman, President and Chief Executive Officer. In 1994, Hugoton completed an initial public offering and was merged into Chesapeake Energy Corporation in 1998.

*Stephen W. Herod* has served as President since May 2012. Mr. Herod served as Executive Vice President Corporate Development and Assistant Secretary of Petrohawk Energy Corporation from August 2005 until BHP Billiton acquired Petrohawk in August 2011. Mr. Herod served as Vice President Corporate Development of Petrohawk from May 2004 until August 2005. Prior to joining Petrohawk, Mr. Herod was employed by PHAWK, LLC from its formation in June 2003 until May 2004. He served as Executive Vice President Corporate Development for 3TEC Energy Corporation from December 1999 until its merger with Plains Exploration & Production Company in June 2003 and as Assistant Secretary from May 2001 until June 2003. Mr. Herod also served as a director of 3TEC from July 1997 until January 2002 and as the Treasurer of 3TEC from 1999 until 2001. From July 1997 to December 1999, Mr. Herod was Vice President Corporate Development of 3TEC. Mr. Herod served as President and a director of Shore Oil Company from April 1992 until the merger of Shore with 3TEC's predecessor in June 1997. He joined Shore's predecessor as Controller in February 1991. Mr. Herod was employed by Conquest Exploration Company from 1984 until 1991 in various financial management positions, including Operations Accounting Manager. From 1981 to 1984, Superior Oil Company employed Mr. Herod as a financial analyst.

*Mark J. Mize* has served as Executive Vice President, Chief Financial Officer and Treasurer since February 2012. Mr. Mize served as Executive Vice President Chief Financial Officer and Treasurer of Petrohawk Energy Corporation from August 2007 until BHP Billiton acquired Petrohawk in August 2011. Mr. Mize served as the Chief Ethics Officer and Insider Trading Compliance Officer for Petrohawk until June 2009. Additionally, he served as Vice President, Chief Accounting Officer and Controller at Petrohawk from July 2005 until August 2007. Mr. Mize first joined Petrohawk on November 29, 2004 as Controller. Prior to working at Petrohawk, Mr. Mize was the Manager of Financial Reporting of Cabot Oil & Gas Corporation, a public oil and gas exploration company, from January 2003 to November 2004. Prior to his employment at Cabot Oil & Gas Corporation, he was an Audit Manager with PricewaterhouseCoopers LLP from 1996 to 2002. Mr. Mize is a Certified Public Accountant.

*David S. Elkouri* has served as Executive Vice President and General Counsel since May 2012. Mr. Elkouri served as EVP General Counsel and Secretary of Petrohawk Energy Corporation from 2007 until BHP Billiton acquired Petrohawk in August 2011. He also served as Chief Ethics Officer and Insider Trading Compliance Officer of Petrohawk. From 2004 to 2007, he served as lead outside counsel for Petrohawk. Prior to that, Mr. Elkouri served as lead outside counsel for 3TEC Energy Corporation from 1999 to 2003. He also served as lead outside counsel for Hugoton Energy Corporation from 1994 to 1998. Mr. Elkouri is a co-founder of Hinkle Law Firm LLC where he practiced for 20 years prior to joining Petrohawk. Mr. Elkouri is a graduate of the University of Kansas School of Law where he served as a Research Editor of the Kansas Law Review.

*Charles E. Cusack III* has served as Executive Vice President, Chief Operating Officer since May 2013. Mr. Cusack served as Executive Vice President, Exploration from October 2012 to May 2013. His responsibilities include overseeing all of the geological efforts for all of the areas where we are active, as well as bringing in new opportunities. Mr. Cusack served as Vice President Exploration at Petrohawk Energy Corporation from 2005 until its sale to BHP Billiton in 2011,



**Table of Contents**

where he continued his role until joining us in 2012. Prior to joining Petrohawk, he was employed by PHAWK, LLC from its formation in 2003 until 2004. Mr. Cusack held various technical and management positions at 3TEC Energy Corporation, Cockrell Oil, Amerada Hess, Chevron and Tenneco Oil. Mr. Cusack began his career as a geologist with Gulf Oil in 1983 and holds a Bachelor of Science degree in engineering geology from Texas A&M University.

*Larry L. Helm* has served as Executive Vice President, Corporate Affairs since February 2013. Mr. Helm served as Executive Vice President Finance and Administration of Petrohawk Energy Corporation from August 2007 until its sale to BHP Billiton in August 2011, where he served as Vice President Transition until joining us in 2013. Mr. Helm served as Vice President Chief Administrative Officer of Petrohawk from July 2004 until August 2005, and as Executive Vice President Chief Administrative Officer of Petrohawk from August 2005 until August 2007. Prior to serving as an executive officer, Mr. Helm served on Petrohawk's board of directors for approximately two months. Mr. Helm was employed with Bank One Corporation from December 1989 through December 2003. Mr. Helm served as Executive Vice President of Middle Market Banking from October 2001 to December 2003. From April 1998 to August 1999, he served as Executive Vice President of the Energy and Utilities Banking Group. Prior to joining Bank One, he worked for 16 years in the banking industry primarily serving the oil and gas sector. He served as director of 3TEC Energy Corporation from 2000 to June 2003.

*Joseph S. Rinando, III* has served as Vice President and Chief Accounting Officer since May 2012. Mr. Rinando initially joined Halcón as Director, Finance in February 2012. Mr. Rinando served as Vice President and Chief Financial Officer of Wilson Industries, a Schlumberger company, since March 2010. Prior to joining Wilson, he served as Executive Vice President and Chief Financial Officer for Foxxe Energy Services, LLC, a private-equity owned international drilling rig contractor, from January 2009 to March 2010. Prior to Foxxe, Mr. Rinando served as Vice President and Corporate Controller of Smith International, Inc. from 2006 through 2009 and as Director of Financial Reporting from 2003 through 2006. From 1995 to 2003, he was in the Energy Practice of PricewaterhouseCoopers, LLP, most recently as an Audit Senior Manager, serving clients focused on exploration and production, natural gas transmission, power and utilities, petrochemicals and refining, and drilling. Mr. Rinando has a BBA in Accounting from Lamar University and is a Certified Public Accountant in the State of Texas.

*Tucker S. Bridwell* became a director in February 2012 as a result of the HALRES Transaction. Mr. Bridwell served as a director of Petrohawk Energy Corporation from May 2004 until December 2010. Mr. Bridwell has been the President of Mansefeldt Investment Corporation and the Dian Graves Owen Foundation since September 1997 and manages investments in both entities. He has been in the energy business in various capacities for over 27 years, focusing on oil and gas private equity and public oil and gas investments with extensive experience in managing both public and private energy companies. Mr. Bridwell is a Certified Public Accountant and has practiced public accountancy, specializing in oil and gas. He earned a Bachelor of Business Administration degree and a Master of Business Administration degree from Southern Methodist University. He has also served on the audit committees of numerous businesses, including Petrohawk and non-profit organizations. Currently, he serves on the board of directors of Concho Resources, Inc. and First Financial Bankshares, Inc. He is also Lead Director and Chairman of the Nominating and Corporate Governance Committee of First Financial Bankshares, Inc. Mr. Bridwell previously served as chairman of First Permian, LLC from 2000 until its sale to Energen Corporation in April 2002.

*James W. Christmas* became a director in February 2012 as a result of the HALRES Transaction. Mr. Christmas began serving as a director of Petrohawk Energy Corporation on July 12, 2006,

---

**Table of Contents**

effective upon the merger of KCS Energy, Inc. ( KCS ) into Petrohawk. He continued to serve as a director, and as Vice Chairman of the Board of Directors, for Petrohawk until BHP Billiton acquired all of Petrohawk in August 2011. He also served on the Audit Committee and the Nominating and Corporate Governance Committee. Currently, Mr. Christmas serves as a member of the Board of Directors of Petrohawk, a wholly-owned subsidiary of BHP Billiton, and as chair of the Financial Reporting Committee of such board. He also serves on the Advisory Board of the Tobin School of Business of St. John's University and as a Senior Financial Advisor to a private oil and gas company. He served as President and Chief Executive Officer of KCS from 1988 until April 2003 and Chairman of the Board and Chief Executive Officer of KCS until its merger into Petrohawk. Mr. Christmas was a Certified Public Accountant in New York and was with Arthur Andersen & Co. from 1970 until 1978 before leaving to join National Utilities & Industries ( NUI ), a diversified energy company, as Vice President and Controller. He remained with NUI until 1988, when NUI spun out its unregulated activities that ultimately became part of KCS. As an auditor and audit manager, controller and in his role as CEO of KCS, Mr. Christmas was directly or indirectly responsible for financial reporting and compliance with SEC regulations, and as such has extensive experience in reviewing and evaluating financial reports, as well as in evaluating executive and board performance and in recruiting directors.

*Thomas R. Fuller* became a director in February 2012 as a result of the HALRES Transaction. Mr. Fuller served as a director at Petrohawk Energy Corporation from March 6, 2006 until BHP Billiton acquired Petrohawk in August 2011. Mr. Fuller served on Petrohawk's Reserves Committee and was the Chairman of the Nominating and Corporate Governance Committee. Since December 1988, Mr. Fuller has been a principal of Diverse Energy Management Co. (or related Diverse companies), a private upstream acquisition, drilling and production company which also invests in other energy-related companies. Mr. Fuller has earned degrees from the University of Wyoming and the Louisiana State University School of Banking of the South and is a Registered Professional Engineer in Texas. He has 43 years of experience as a petroleum engineer, specializing in economic and reserves evaluation. He has served as an employee, officer, partner or director of various companies, including ExxonMobil, First City National Bank, Hillin Oil Co., Diverse Energy Management Co. and Rimco Royalty Partners. Mr. Fuller also has extensive experience in energy-related merger and acquisition transactions, having generated and closed over 90 producing property acquisitions during his career. As a primary lending officer to many independent energy companies, Mr. Fuller has extensive experience in analyzing and evaluating financial, business and operational strategies for energy companies.

*Kevin E. Godwin* became a director in December 2012 in connection with the closing of the private placement of common stock to CPPIB. Mr. Godwin currently serves as a Senior Portfolio Manager of Canada Pension Plan Investment Board in its Relationship Investments group, a position he has held since 2008. From 2005 to 2008, Mr. Godwin served as a Principal of Birch Hill Equity Partners L.P. From 1995 to 2005, he worked at TD Securities then TD Capital Group Limited, ultimately serving as Vice President and Director. Mr. Godwin began his professional career in 1989 with ICI Explosives then Stuart Energy serving as a Project Engineer. Mr. Godwin is a graduate of Queen's University (Kingston, Ontario), having received a Bachelor's Degree in Applied Science (Mechanical Engineering) in 1989. He also received a Masters Degree in Business Administration in 1995 from the Richard Ivey School of Business, University of Western Ontario. In 2012, Mr. Godwin received the ICD.D designation from the Institute of Corporate Directors. Mr. Godwin has served on the board of directors of several private companies.

*David S. Hunt* became a director in December 2012 in connection with the closing of the acquisition of the Williston Basin Assets. Mr. Hunt is the founder and Managing Partner of

**Table of Contents**

Genesis Acquisition Partners, L.P., an independent oil and gas acquisition, development and production company headquartered in Dallas, Texas, since 1995. He has been an active investor in the oil and gas exploration, oil service and midstream sectors for more than 25 years. Mr. Hunt has made numerous equity and debt investments in companies ranging from private start-ups to later stage public companies across a number of different industries. Mr. Hunt was a director of Cornerstone Natural Gas, Inc. (AMEX: CGA) from November 1993, when the company emerged from bankruptcy reorganization, until June 1996 when Cornerstone was sold to El Paso Natural Gas Company. Mr. Hunt graduated from the University of Texas with a BA in Business in 1985.

*James L. Irish III* became a director in February 2012 as a result of the HALRES Transaction. Mr. Irish served as a director of Petrohawk Energy Corporation from May 25, 2004 until BHP Billiton acquired Petrohawk in August 2011. Mr. Irish served as Petrohawk's Chairman of the Audit Committee and as its Lead Director (Petrohawk's lead independent director). Mr. Irish served as a director of 3TEC Energy Corporation from 2002 until June 2003, and has served as an advisory director of EnCap Investments L.P. since October 2007. For over 30 years, until his retirement in December 2001, Mr. Irish practiced law with Thompson & Knight LLP, a Texas-based law firm that represents multinational and independent oil and gas companies, host government oil and gas companies, large utilities, private power plants, energy industry service companies, refineries, petrochemical companies, financial institutions, and multinational drilling contractors and construction companies. Mr. Irish's practice specialized in the area of energy finance and focused on the representation of insurance companies, pension plan managers, foundations and other financial institutions with respect to their equity and debt oil and gas investments and their related legal, regulatory and structural issues. Mr. Irish has also represented energy companies in connection with project financings, joint ventures, master limited partnerships and similar matters and has represented banks and other financial institutions with issues of revolving credit, project, term and other oil and gas loans. Mr. Irish served as chair of the energy group of Thompson & Knight LLP and was its sole Vice President or Managing Partner for over ten years prior to his retirement. Mr. Irish has been named since 1987 in Corporate Law by The Best Lawyers in America and has been included as a Texas Super Lawyer by Texas Monthly in Energy & Natural Resources and Securities & Corporate Finance.

*David B. Miller* became a director in February 2012 as a result of the HALRES Transaction. Mr. Miller currently serves as a Managing Partner of EnCap Investments L.P. From 1988 to 1996, Mr. Miller served as President of PMC Reserve Acquisition Company, a partnership jointly-owned by EnCap and Pitts Energy Group. Prior to the establishment of EnCap, he served as Co-Chief Executive Officer of MAZE Exploration Inc., a Denver-based oil and gas company he co-founded in 1981. Mr. Miller began his professional career with Republic National Bank of Dallas, ultimately serving as Vice President and Manager of the bank's wholly-owned subsidiary, Republic Energy Finance Corporation. Mr. Miller is a graduate of Southern Methodist University, having received Bachelors and Masters Degrees in Business Administration in 1972 and 1973, respectively. In 2004, Mr. Miller was appointed to the National Petroleum Council, an advisory body to the Secretary of Energy, and he is a member of the Board of Advisors of the Maguire Energy Institute. Additionally, he is a member of the Independent Petroleum Association of America, the Texas Independent Producers and Royalty Owners Association and the Western Energy Alliance. Mr. Miller currently serves on the board of trustees for Southern Methodist University and of the board of directors of several EnCap portfolio companies.

*Daniel A. Rioux* became a director in February 2012 as a result of the HALRES Transaction. Mr. Rioux is the current Co-President and Chief Executive Officer of Liberty Energy Holdings, LLC. From 2001 to 2008, Mr. Rioux served as Vice President of Liberty Energy Holdings, LLC, where he

**Table of Contents**

managed the company's private equity and direct oil and gas working interest portfolios. From 1993 until 2000, Mr. Rioux was employed by Liberty Energy Corporation, a subsidiary of Liberty Energy Holdings, LLC and currently serves as a director of Axia Energy, LLC, a Denver-based exploration and production company, as well as a manager of Wildcat Midstream Holdings LLC, a company focused on the development, acquisition and operation of gas gathering and midstream oil and gas assets. Mr. Rioux previously served as a Director of Petrohawk Energy Corporation from 2004 to 2006 and as a director of Energy Transfer Equity from 2002 to 2006. He also served as a director of the Independent Petroleum Association of America from 2003 to 2011. Mr. Rioux holds a B.S. in Finance from Bryant College and an M.B.A. from Babson College.

*Stephen P. Smiley* became a director in February 2012 as a result of the HALRES Transaction. Mr. Smiley served as a director of Petrohawk Energy Corporation from April 5, 2010 until BHP Billiton acquired Petrohawk in August 2011. Mr. Smiley served on Petrohawk's Audit Committee and the Nominating and Corporate Governance Committee. Upon his retirement from Hunt Private Equity Group in September 2010, Mr. Smiley founded and is the sole partner of Madison Lane Partners, LLC, an advisory and investment company. Mr. Smiley was the Co-founder and had been President of Hunt Private Equity Group, Inc. since 1996. During his time at Hunt Private Equity Group, he raised and managed a private equity fund to invest in leveraged buyouts and growth financings for various middle market companies. At Hunt Private Equity Group he was also responsible for managing relationships with institutional, family and individual investors, and for sourcing, evaluating, financing and managing the portfolio. Mr. Smiley also serves on the boards of Signature Financial Management, a registered investment adviser where he serves on the Compensation Committee. Before he joined Hunt Private Equity Group, from 1991 to 1995 he co-founded and served as the chief executive officer of Cypress Capital Corporation where he raised and managed a multi-million dollar fund to invest in leveraged buyouts, industry consolidations and growth financings in the middle market. From 1989 to 1991 Mr. Smiley worked in the venture capital group at Citicorp/Citibank, N.A. Mr. Smiley holds a Bachelor of Arts from the University of Virginia and a Master of Business Administration from the College of William and Mary and has 30 years of corporate finance and investing experience and over 20 years of corporate governance experience.

*Michael A. Vlastic* became a director in August 2012 as a result of the GeoResources Merger. Immediately prior to his election to the Company's board of directors, Mr. Vlastic had served on the board of directors of GeoResources, Inc. since April 2007. He also served on the board of managers of Southern Bay Energy, LLC from its inception in 2004 until it was acquired by GeoResources in April 2007. He previously was a Director of Texoil, Inc., a company with a class of equity securities registered under the Exchange Act, where he served on its executive committee from 1997 until its sale to Ocean Energy Inc. in 2001. For more than the past nine years he has been Chief Executive Manager of Vlastic Investments L.L.C. He is founder and Chairman of the Board of MAV Development Company. Mr. Vlastic serves on the board of Bessemer Trust Company and some of its affiliates. He is a 1982 graduate of Brown University and holds an MBA from the University of Michigan.

*Mark A. Welsh IV* became a director in February 2012 as a result of the HALRES Transaction. Mr. Welsh currently serves as a Director of EnCap Investments L.P. Mr. Welsh has 12 years of experience in private equity, including seven years with EnCap. Prior to joining EnCap, Mr. Welsh served as a financial analyst with The Blackstone Group L.P. and as a Vice President with Adam Corporation. Mr. Welsh received a Bachelor of Business Administration degree in Finance from Texas A&M University, where he was recognized with the Brown-Rudder Award as the outstanding graduate in his class. Mr. Welsh serves on the board of directors of several EnCap portfolio companies.

**Table of Contents**

## **Description of convertible preferred stock**

The following is a summary of certain provisions of the certificate of designations for our 5.75% Series A Cumulative Perpetual Convertible Preferred Stock (which we refer to as the convertible preferred stock). A copy of the certificate of designations and the form of the convertible preferred stock share certificate are available upon request from us at the address set forth under Where you can find more information. The following summary of the terms of convertible preferred stock does not purport to be complete and is subject to, and qualified in its entirety by reference to, the provisions of the certificate of designations. As used in this section, the terms us, we and our refer to Halcón Resources Corporation and not to any of its subsidiaries.

### **General**

Under our amended and restated certificate of incorporation, as amended, our board of directors is authorized, without further stockholder action, to issue up to 1,000,000 shares of preferred stock, par value \$0.0001 per share, in one or more series, and to fix for each such series such voting powers, full or limited, and such designations, preferences and relative, participating, optional or other special rights, and such qualifications, limitations or restrictions thereof, as shall be set forth in the resolutions providing therefor and as may be permitted by the DGCL. We currently have no preferred stock outstanding and no capital stock that is senior to or on parity with the convertible preferred stock. At the consummation of this offering, we will designate and issue 300,000 shares of convertible preferred stock. In addition, we have granted the underwriters an option to purchase up to 45,000 additional shares of convertible preferred stock, solely to cover over-allotments. The series of convertible preferred stock is initially limited to 300,000 shares (or 345,000 shares if the underwriters exercise their over-allotment option in full), subject to our right to designate additional preferred stock as convertible preferred stock. See Description of capital stock.

When issued, the convertible preferred stock and any common stock issued upon the conversion of the convertible preferred stock will be fully paid and non-assessable. The holders of the convertible preferred stock will have no preemptive or preferential right to purchase or subscribe to stock, obligations, warrants or other securities of us of any class. The transfer agent, registrar, redemption, conversion and dividend disbursing agent for shares of both the convertible preferred stock and common stock is Broadridge Corporate Issuer Solutions, Inc.

The convertible preferred stock is subject to mandatory conversion, as described below in Mandatory conversion, but is not redeemable by us and does not otherwise have the benefit of any sinking fund (which means that we are not required to redeem or retire the convertible preferred stock periodically).

### **Ranking**

The convertible preferred stock, with respect to dividend rights or rights upon our liquidation, winding-up or dissolution, ranks:

senior to all classes of our common stock and each other class of capital stock or series of preferred stock established after the date of original issuance of the convertible preferred stock, the terms of which do not expressly provide that such class or series ranks senior to or on a parity with the convertible preferred stock as to dividend rights or rights upon our liquidation, winding-up or dissolution (which we refer to collectively as junior stock);

## **Table of Contents**

on parity, in all respects, with any class of capital stock or series of preferred stock established after the date of original issuance of the convertible preferred stock, the terms of which expressly provide that such class or series will rank on parity with the convertible preferred stock as to dividend rights or rights upon our liquidation, winding-up or dissolution (which we refer to collectively as parity stock );

junior to each class of capital stock or series of preferred stock established after the date of original issuance of the convertible preferred stock, the terms of which expressly provide that such class or series will rank senior to the convertible preferred stock as to dividend rights or rights upon our liquidation, winding-up or dissolution (which we refer to collectively as senior stock );

junior to all of our existing and future indebtedness; and

structurally junior to all existing and future indebtedness and other liabilities (including trade payables) of our subsidiaries and any capital stock of our subsidiaries not held by us.

The term capital stock does not include convertible or exchangeable debt securities, which, prior to conversion or exchange, rank senior in right of payment to the convertible preferred stock. As of the date hereof we had no capital stock that ranked senior to or on parity with the convertible preferred stock.

While any shares of convertible preferred stock are outstanding, we may not authorize or issue any class or series of senior stock (or any security convertible into senior stock) without the affirmative vote or consent of the holders of at least  $66\frac{2}{3}\%$  of the outstanding shares of convertible preferred stock. Without the consent of any holder of convertible preferred stock, however, we may authorize, increase the authorized amount of, or issue any class or series of, parity stock (including additional convertible preferred stock) or junior stock. See Limited voting rights below.

## **Dividends**

Holders of shares of convertible preferred stock will be entitled to receive, when, as and if declared by our board of directors out of funds legally available for payment, cumulative cash dividends at the rate per annum of 5.75% per share on the liquidation preference of \$1,000 per share of convertible preferred stock. Dividends on the convertible preferred stock will be payable quarterly in arrears on March 1, June 1, September 1 and December 1 of each year, beginning on September 1, 2013 (each, a dividend payment date ) at such annual rate, and shall accumulate from the most recent date to which dividends have been paid, or if no dividends have been paid, the date of original issuance of the convertible preferred stock even if any of our agreements prohibits the current payment of dividends, we do not have earnings or funds legally available to pay such dividends or we do not declare the payment of dividends. Dividends may be paid in cash or, where freely transferable by any non-affiliate recipient thereof, in common stock as provided below under Method of payment of dividends. Dividends will be payable to holders of record as they appear on our stock register at the close of business on the February 15, May 15, August 15 or November 15, as the case may be, immediately preceding the relevant dividend payment date (each, a regular record date ).

Accumulated and unpaid dividends for any past dividend periods may be declared and paid at any time to holders of record not more than 30 nor less than 10 calendar days immediately

**Table of Contents**

preceding any dividend payment date and will not bear interest. We will provide not less than 20 scheduled trading days' notice prior to such dividend payment date. Dividends payable on the convertible preferred stock for any period less than a full quarterly dividend period (based upon the number of days elapsed during the period) will be computed on the basis of a 360-day year consisting of twelve 30-day months.

No dividend will be declared or paid upon, or any sum set apart for the payment of dividends upon, any outstanding share of the convertible preferred stock with respect to any dividend period unless all dividends for all preceding dividend periods have been declared and paid, or declared and a sufficient sum has been set apart for the payment of such dividend, upon all outstanding shares of convertible preferred stock.

No dividends or other distributions (other than a dividend or distribution payable solely in shares of parity stock or junior stock (in the case of parity stock) or junior stock (in the case of junior stock) and cash in lieu of fractional shares) may be declared, made or paid, or set apart for payment upon, any parity stock or junior stock, nor may any parity stock or junior stock be redeemed, purchased or otherwise acquired for any consideration (or any money paid to or made available for a sinking fund for the redemption of any parity stock or junior stock) by us or on our behalf (except by (i) conversion into or exchange for shares of parity stock or junior stock (in the case of parity stock) or junior stock (in the case of junior stock) and cash solely in lieu of fractional shares of parity stock or junior stock (in the case of parity stock) or junior stock (in the case of junior stock) and (ii) payments in connection with the satisfaction of employees' tax withholding obligations pursuant to employee benefit plans or outstanding awards (and payment of any corresponding requisite amounts to the appropriate governmental authority)), unless all accumulated and unpaid dividends have been or contemporaneously are declared and paid, or are declared and a sum sufficient for the payment thereof is set apart for such payment, on the convertible preferred stock and any parity stock for all dividend payment periods ending on or prior to the date of such declaration, payment, redemption, purchase or acquisition. Notwithstanding the foregoing, if full dividends have not been paid on the convertible preferred stock and any parity stock, dividends may be declared and paid on the convertible preferred stock and such parity stock so long as the dividends are declared and paid pro rata so that the amounts of dividends declared per share on the convertible preferred stock and such parity stock will in all cases bear to each other the same ratio that accumulated and unpaid dividends per share on the shares of the convertible preferred stock and such parity stock bear to each other. Holders of shares of the convertible preferred stock will not be entitled to any dividend, whether payable in cash, property or stock, in excess of full cumulative dividends.

If any dividend payment date falls on a day that is not a business day, the required payment will be on the next succeeding business day and no interest or dividends on such payment will accrue or accumulate, as the case may be, in respect of the delay. The term 'business day' means any day other than Saturday, a Sunday or a day on which the Federal Reserve Bank of New York is authorized or required by law or executive order to close or be closed.

Our ability to declare and pay dividends and make other distributions with respect to our capital stock, including the convertible preferred stock, may be limited by the terms of our existing and future indebtedness and may be limited by applicable Delaware law. For example, our current revolving credit facility and the indentures governing our currently outstanding senior notes contain, and any credit facilities we enter into in the future may contain, restrictions on our ability to make cash dividend payments if we fail to maintain customary financial ratios or if we

## **Table of Contents**

are otherwise in default under the credit facilities. In addition, our ability to declare and pay dividends on the convertible preferred stock in shares of our common stock may be limited by applicable Delaware law. See **Risk factors** **Risks related to the convertible preferred stock** We are not obligated to pay dividends on the convertible preferred stock and no payment or adjustment will be made upon conversion for accumulated dividends.

### **Method of payment of dividends**

Subject to certain restrictions, we may elect to pay any dividend on the convertible preferred stock:

in cash;

by delivery of shares of our common stock; or

through any combination of cash and our common stock.

If we elect to make a dividend payment, or any portion thereof, in shares of our common stock, such shares shall be valued for such purpose, in the case of any dividend payment, or portion thereof, at 95% of the market value (as defined below under **Conversion rate adjustments** ) as determined on the second trading day immediately prior to the applicable payment date for such dividend.

We will make each dividend payment on the convertible preferred stock in cash, except to the extent we elect to make all or any portion of such payment in shares of our common stock. We will give the holders of the convertible preferred stock notice of any such election and the portion of such payment that will be made in cash and the portion that will be made in common stock 20 scheduled trading days prior to the applicable payment date for such dividend.

Notwithstanding the above, we may not pay any portion of a dividend on the convertible preferred stock by delivery of common stock unless (i) the common stock to be delivered as payment therefor is freely transferable by the recipient without further action on its behalf, other than by reason of the fact that such recipient is our affiliate, or (ii) a shelf registration statement relating to that common stock has been filed with the SEC and is effective to permit the resale of that common stock by the holders thereof. It is our current belief that any common stock we would deliver in connection with a dividend payment would be freely transferable by the recipient, other than by reason of the fact that such recipient is our affiliate. Further, because of certain restrictions on our available cash, we currently expect to elect to make dividend payments in shares of our common stock. See **Risk factors** We are not obligated to pay dividends on the convertible preferred stock and no payment or adjustment will be made upon conversion for accumulated dividends.



## **Table of Contents**

### **Liquidation preference**

In the event of our voluntary or involuntary liquidation, winding-up or dissolution, each holder of convertible preferred stock will be entitled to receive and to be paid out of our assets available for distribution to our stockholders, before any payment or distribution is made to holders of junior stock (including our common stock), a liquidation preference of \$1,000 per share, plus accumulated and unpaid dividends on the shares to the date fixed for liquidation, winding-up or dissolution. If, upon our voluntary or involuntary liquidation, winding-up or dissolution, the amounts payable with respect to the liquidation preference of the convertible preferred stock and all parity stock are not paid in full, the holders of the convertible preferred stock and the parity stock will share equally and ratably in any distribution of our assets in proportion to the full liquidation preference and accumulated and unpaid dividends to which they are entitled. After payment of the full amount of the liquidation preference and accumulated and unpaid dividends to which they are entitled, the holders of the convertible preferred stock will have no right or claim to any of our remaining assets. Neither the sale of all or substantially all our assets or business (other than in connection with our liquidation, winding-up or dissolution), nor our merger or consolidation into or with any other person, will be deemed to be our voluntary or involuntary liquidation, winding-up or dissolution.

The certificate of designations will not contain any provision requiring funds to be set aside to protect the liquidation preference of the convertible preferred stock even though it is substantially in excess of the par value thereof.

### **Limited voting rights**

The holders of the convertible preferred stock will have no voting rights except as described below or as otherwise required by Delaware law.

If dividends on the convertible preferred stock or any other series of preferred stock or preference securities that ranks equally with the convertible preferred stock as to payment of dividends and with similar voting rights are in arrears and unpaid for six or more quarterly dividend periods (whether or not consecutive and including the dividend period beginning on the date of original issuance of the convertible preferred stock and ending on September 1, 2013), the holders of the convertible preferred stock, voting as a single class with any other series of preferred stock or preference securities having similar voting rights that are exercisable (and with voting rights allocated *pro rata* based on the liquidation preference of the convertible preferred stock and each such other series of preferred stock or preference securities), will be entitled at our next regular or special meeting of stockholders to elect two additional directors to our board of directors. Upon the election of any additional directors, the number of directors that comprise our board of directors shall be increased by such number of additional directors. Such voting rights and the terms of the directors so elected will continue until such time as the dividend arrearage on the convertible preferred stock has been paid in full.

So long as any shares of the convertible preferred stock remain outstanding, we will not, without the affirmative vote or consent of the holders of at least  $66\frac{2}{3}\%$  of the shares of the convertible preferred stock outstanding at the time, voting together as a single class with all series of parity stock upon which similar voting rights have been conferred and are exercisable, given in person or by proxy, either in writing or at a meeting: (a) authorize or create, or increase the authorized or issued amount of, any class or series of senior stock or reclassify any of our authorized capital stock into shares of senior stock, or create, authorize or issue any obligation or security

## **Table of Contents**

convertible into or evidencing the right to purchase any shares of senior stock; or (b) amend, alter or repeal the provisions of our charter, whether by merger, consolidation or otherwise (an Event), so as to materially and adversely affect any right, preference, privilege or voting power of the convertible preferred stock; *provided, however*, with respect to the occurrence of any Event set forth in (b) above, so long as the convertible preferred stock remains outstanding with the terms thereof materially unchanged, the occurrence of any such Event shall not be deemed to materially and adversely affect such rights, preferences, privileges or voting power of holders of the convertible preferred stock and, provided further, that any increase in the amount of the authorized preferred stock, including the convertible preferred stock, or the creation or issuance of any additional shares of the convertible preferred stock or other series of preferred stock, or any increase in the amount of authorized shares of such series, in each case ranking on parity with or junior to the convertible preferred stock with respect to payment of dividends or the distribution of assets upon liquidation, dissolution or winding-up, shall not be deemed to materially and adversely affect such rights, preferences, privileges or voting powers.

In all cases in which the holders of convertible preferred stock shall be entitled to vote, each share of convertible preferred stock shall be entitled to one vote.

## **No maturity**

The convertible preferred stock has no maturity date, and will remain outstanding unless converted by the holders or mandatorily converted by us, each as described under Conversion rights and Mandatory conversion below.

## **Conversion rights**

Holders may convert their shares of convertible preferred stock at any time based on an initial conversion rate of 162.4431 shares of our common stock per share of convertible preferred stock (which is equivalent to an initial conversion price of approximately \$6.16 per share of our common stock), subject to adjustment as described under Conversion rate adjustments. The conversion price at any time means \$1,000, *divided by* the conversion rate in effect at such time.

Upon conversion, we will deliver for each share of convertible preferred stock being converted a number of shares of our common stock equal to the conversion rate (together with a cash payment in lieu of any fractional share) on the third business day immediately following the relevant conversion date.

The holders of shares of convertible preferred stock at the close of business on a regular record date will be entitled to receive the dividend payment on those shares on the corresponding dividend payment date notwithstanding the conversion of such shares following such regular record date or our default in payment of the dividend due on such dividend payment date. However, notwithstanding the foregoing, shares of convertible preferred stock surrendered for conversion during the period between the close of business on any regular record date and the close of business on the business day immediately preceding the corresponding dividend payment date must be accompanied by payment of an amount equal to the dividend payable on such shares on such dividend payment date; *provided*, that no such payment is required in respect of a mandatory conversion during such period or if the special rights end date occurs

## **Table of Contents**

during such period. Except as provided above with respect to a voluntary conversion, we will make no payment or allowance for unpaid dividends, whether or not in arrears, on converted shares or for dividends on the shares of common stock issued upon conversion.

If you hold a beneficial interest in a global share of convertible preferred stock, to convert you must comply with DTC's procedures for converting a beneficial interest in a global security and, if required, pay funds equal to any dividend payable on the next dividend payment date to which you are not entitled (as described in the preceding paragraph).

If you hold a certificated share of convertible preferred stock, to convert you must:

complete and manually sign the conversion notice on the back of the certificated share, or a facsimile of the conversion notice;

deliver the conversion notice, which is irrevocable, and the certificated share to the conversion agent;

if required, furnish appropriate endorsements and transfer documents; and

if required, pay funds equal to any dividend payable on the next dividend payment date to which you are not entitled (as described in the preceding paragraph).

We will pay any documentary, stamp or similar issue or transfer tax on the issuance of the shares of our common stock upon conversion of the convertible preferred stock, unless the tax is due because the holder requests such shares to be issued in a name other than the holder's name, in which case the holder will pay the tax.

We refer to the date you comply with the relevant procedures for conversion described above as the conversion date.

Each conversion will be deemed to have been effected as to any shares of convertible preferred stock surrendered for conversion on the conversion date, and the person in whose name the shares of our common stock shall be issuable upon such conversion will become the holder of record of such shares as of the close of business on such conversion date.

## **Mandatory conversion**

At any time on or after June 6, 2018, we may give notice of our election to cause all outstanding shares of the convertible preferred stock to be automatically converted into shares of common stock, if the closing sale price of our common stock equals or exceeds 150% of the conversion price for at least 20 trading days (whether or not consecutive) in a period of 30 consecutive trading days, including the last trading day of such 30 trading day period, ending on, and including, the trading day immediately preceding the business day on which we issue a press release announcing the mandatory conversion of the convertible preferred stock as described below, in which case each holder will receive, for each share of convertible preferred stock being converted, a number of shares of our common stock equal to the conversion rate.

A trading day means a day during which trading in our common stock generally occurs on the New York Stock Exchange or, if our common stock is not listed on the New York Stock Exchange, on the principal other national or regional securities exchange on which our common stock is then listed or, if our common stock is not listed on a national or regional securities exchange, on the principal other market on which our common stock is then listed or admitted for trading. If our common stock is not so listed or admitted for trading, trading day means a business day.

## Table of Contents

The closing sale price of our common stock on any date means the closing sale price per share (or if no closing sale price is reported, the average of the closing bid and ask prices or, if more than one in either case, the average of the average closing bid and the average closing ask prices) on such date as reported in composite transactions for the principal United States national or regional securities exchange on which our common stock is traded or, if our common stock is not listed for trading on a United States national or regional securities exchange on the relevant date, the closing sale price will be the last quoted bid price for our common stock in the over-the-counter market on the relevant date as reported by OTC Markets Group Inc. or a similar organization. In the absence of such a quotation, the closing sale price will be the average of the mid-point of the last bid and ask prices for our common stock on the relevant date from each of at least three nationally recognized independent investment banking firms selected by us for this purpose.

To exercise the mandatory conversion right described above, we must issue a press release for publication on the Dow Jones News Service or Bloomberg Business News (or if either such service is not available, another broadly disseminated news or press release service selected by us) prior to the open of business on the first trading day immediately following any date on which the condition described in the first paragraph of this Mandatory conversion section is met, announcing such a mandatory conversion. We will also give notice by mail or by publication (with subsequent prompt notice by mail) to the holders of the convertible preferred stock (not later than three business days after the date of the press release) of the mandatory conversion announcing our intention to convert the convertible preferred stock. The conversion date will be a date selected by us (which we refer to as the mandatory conversion date ) that will be no later than 10 calendar days after the date on which we issue such press release.

In addition to any information required by applicable law or regulation, the press release and notice of a mandatory conversion shall state, as appropriate:

the mandatory conversion date;

the number of shares of common stock to be issued upon conversion of each share of convertible preferred stock; and

that dividends on the convertible preferred stock to be converted will cease to accrue on the mandatory conversion date.

On and after the mandatory conversion date, dividends will cease to accrue on the convertible preferred stock called for a mandatory conversion and all rights of holders of such convertible preferred stock will terminate except for the right to receive the shares of common stock issuable upon conversion thereof. The full amount of any dividend payment with respect to the convertible preferred stock called for a mandatory conversion on a date during the period beginning at the close of business on any regular record date for the payment of dividends and ending at the close of business on the corresponding dividend payment date will be payable on such dividend payment date to the record holder of such share at the close of business on such regular record date if such share has been converted after such regular record date and prior to such dividend payment date. Except as provided in the immediately preceding sentence with respect to a mandatory conversion, no payment or adjustment will be made upon conversion of convertible preferred stock for accumulated and unpaid dividends or dividends with respect to the common stock issued upon such conversion thereon.

**Table of Contents**

We may not authorize, issue a press release or give notice of any mandatory conversion unless, prior to giving the conversion notice, all accumulated and unpaid dividends on the convertible preferred stock (whether or not declared) for dividend periods ended prior to the date of such conversion notice shall have been paid.

**No fractional shares**

No fractional shares of common stock or securities representing fractional shares of common stock will be delivered upon conversion, whether voluntary or mandatory, or in respect of dividend payments on the convertible preferred stock made in common stock, of the convertible preferred stock. Instead, we will deliver a cash payment to each holder that would otherwise be entitled to a fractional share based on the closing sale price of our common stock on the relevant conversion date.

**Conversion rate adjustments**

The conversion rate will be adjusted, without duplication, upon the occurrence of any of the following events:

- (1) If we exclusively issue shares of our common stock as a dividend or distribution on all shares of our common stock, or if we effect a share split or share combination, the conversion rate will be adjusted based on the following formula:

$$CR_1 = CR_0 \times \frac{OS_1}{OS_0}$$

where,

$CR_0$  = the conversion rate in effect immediately prior to the close of business on the record date (as defined below) for such dividend or distribution, or immediately prior to the open of business on the effective date of such share split or share combination, as the case may be;

$CR_1$  = the conversion rate in effect immediately after the close of business on the record date for such dividend or distribution, or immediately after the open of business on the effective date of such share split or share combination, as the case may be;

$OS_0$  = the number of shares of our common stock outstanding immediately prior to the close of business on the record date for such dividend or distribution, or immediately prior to the open of business on the effective date of such share split or share combination, as the case may be; and

$OS_1$  = the number of shares of our common stock outstanding immediately after giving effect to such dividend or distribution, or such share split or share combination, as the case may be.

Any adjustment made under this clause (1) shall become effective immediately after the close of business on the record date for such dividend or distribution, or immediately after the open of business on the effective date for such share split or share combination, as the case may be. If any dividend or distribution of the type described in this clause (1) is declared but not so paid or

**Table of Contents**

made, the conversion rate shall be immediately readjusted, effective as of the date our board of directors determines not to pay such dividend or distribution, to the conversion rate that would then be in effect if such dividend or distribution had not been declared.

- (2) If we distribute to all or substantially all holders of our common stock any rights, options or warrants entitling them, for a period expiring not more than 60 days immediately following the announcement date of such distribution, to purchase or subscribe for shares of our common stock at a price per share that is less than the average of the closing sale prices of our common stock over the 10 consecutive trading day period ending on, and including, the trading day immediately preceding the ex-date of such distribution, the conversion rate will be increased based on the following formula:

$$CR_1 = CR_0 \times \frac{OS_0 + X}{OS_0 + Y}$$

where,

$CR_0$  = the conversion rate in effect immediately prior to the close of business on the record date for such distribution;

$CR_1$  = the conversion rate in effect immediately after the close of business on the record date for such distribution;

$OS_0$  = the number of shares of our common stock outstanding immediately prior to the close of business on the record date for such distribution;

X = the total number of shares of our common stock issuable pursuant to such rights, options or warrants; and

Y = the number of shares of our common stock equal to the aggregate price payable to exercise such rights, options or warrants, *divided* by the average of the closing sale prices of our common stock over the 10 consecutive trading day period ending on, and including, the trading day immediately preceding the ex-date of such distribution.

Any increase made under this clause (2) will be made successively whenever any such rights, options or warrants are distributed and shall become effective immediately after the close of business on the record date for such distribution. To the extent that shares of common stock are not delivered after the expiration of such rights, options or warrants, the conversion rate shall be readjusted, effective as of the date of such expiration, to the conversion rate that would then be in effect had the increase with respect to the distribution of such rights, options or warrants been made on the basis of delivery of only the number of shares of common stock actually delivered. If such rights, options or warrants are not so distributed, the conversion rate shall be decreased, effective as of the date our board of directors determines not to make such distribution, to be the conversion rate that would then be in effect if such record date for such distribution had not occurred. If such rights, options or warrants are only exercisable upon the occurrence of certain triggering events, then the conversion rate shall not be adjusted until the triggering events occur.

In determining whether any rights, options or warrants entitle the holders to subscribe for or purchase shares of our common stock at less than such average of the closing sale prices of our

**Table of Contents**

common stock for the 10 consecutive trading day period ending on, and including, the trading day immediately preceding the ex-date of such distribution, and in determining the aggregate offering price of such shares of our common stock, there shall be taken into account any consideration received by us for such rights, options or warrants and any amount payable on exercise or conversion thereof, the value of such consideration, if other than cash, to be determined by our board of directors