

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

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<i>In re</i>	:	Chapter 11
Overseas Shipholding Group, Inc., <i>et al.</i> , ¹	:	Case No. 12-20000 (PJW)
Debtors.	:	Jointly Administered
	:	Hearing Date: May 23, 2014 at 2:00 p.m. (ET)
	:	Objections Due: May 16, 2014 at 4:00 p.m. (ET)

**DEBTORS' MOTION FOR AN ORDER AUTHORIZING THE DEBTORS TO ENTER
INTO AN EXIT FINANCING COMMITMENT LETTER AND RELATED FEE LETTER
WITH JEFFERIES FINANCE LLC, AND INCUR AND PAY CERTAIN FEES,
INDEMNITIES, COSTS AND EXPENSES IN CONNECTION THEREWITH**

Overseas Shipholding Group, Inc. ("OSG" or the "Company") and certain of its affiliates, as debtors and debtors in possession (collectively, the "Debtors"), hereby move this Court (the

The Debtors in these Chapter 11 cases, along with the last four digits of each Debtor's tax identification number, are: Overseas Shipholding Group, Inc. (7623); OSG International, Inc. (7117); OSG Bulk Ships, Inc. (2600); 1372 Tanker Corporation (4526); Africa Tanker Corporation (9119); Alcesmar Limited (5306); Alcmar Limited (5307); Alpha Suezmax Corporation (1684); Alpha Tanker Corporation (6063); Amalia Product Corporation (3808); Ambermar Product Carrier Corporation (8898); Ambermar Tanker Corporation (7100); Andromar Limited (5312); Antigmar Limited (5303); Aqua Tanker Corporation (7408); Aquarius Tanker Corporation (9161); Ariadmar Limited (5301); Aspro Tanker Corporation (4152); Atalmar Limited (5314); Athens Product Tanker Corporation (9565); Atlas Chartering Corporation (8720); Aurora Shipping Corporation (5649); Avila Tanker Corporation (4155); Batangas Tanker Corporation (8208); Beta Aframax Corporation (9893); Brooklyn Product Tanker Corporation (2097); Cabo Hellas Limited (5299); Cabo Sounion Limited (5296); Caribbean Tanker Corporation (6614); Carina Tanker Corporation (9568); Carl Product Corporation (3807); Concept Tanker Corporation (9150); Crown Tanker Corporation (6059); Delphina Tanker Corporation (3859); Delta Aframax Corporation (9892); DHT Ania Aframax Corp. (9134); DHT Ann VLCC Corp. (9120); DHT Cathy Aframax Corp. (9142); DHT Chris VLCC Corp. (9122); DHT Rebecca Aframax Corp. (9143); DHT Regal Unity VLCC Corp. (9127); DHT Sophie Aframax Corp. (9138); Dignity Chartering Corporation (6961); Edindun Shipping Corporation (6412); Eighth Aframax Tanker Corporation (8100); Epsilon Aframax Corporation (9895); First Chemical Carrier Corporation (2955); First LPG Tanker Corporation (9757); First Union Tanker Corporation (4555); Fourth Aframax Tanker Corporation (3887); Front President Inc. (1687); Goldmar Limited (0772); GPC Aframax Corporation (6064); Grace Chartering Corporation (2876); International Seaways, Inc. (5624); Jademar Limited (7939); Joyce Car Carrier Corporation (1737); Juneau Tanker Corporation (2863); Kimolos Tanker Corporation (3005); Kythnos Chartering Corporation (3263); Leo Tanker Corporation (9159); Leyte Product Tanker Corporation (9564); Limar Charter Corporation (9567); Luxmar Product Tanker Corporation (3136); Luxmar Tanker LLC (4675); Majestic Tankers Corporation (6635); Maple Tanker Corporation (5229); Maremar Product Tanker Corporation (3097); Maremar Tanker LLC (4702); Marilyn Vessel Corporation (9927); Maritrans General Partner Inc. (8169); Maritrans Operating Company L.P. (0496); Milos

“Motion”), for the entry of an order substantially in the form attached hereto as Exhibit A (the “Proposed Order”), authorizing the Debtors to (i) enter into the exit financing commitment letter attached hereto as Exhibit B (the “Commitment Letter”) and its corresponding fee letter (the “Fee Letter,”² together with the Commitment Letter, the “Exit Financing Documents”) with Jefferies Finance LLC (“Jefferies”), and (ii) perform their obligations under the Exit Financing Documents, including without limitation, their obligations to incur and pay certain fees, indemnities, costs and expenses as provided in the Exit Financing Documents. In support of this Motion, the Debtors

Product Tanker Corporation (9563); Mindanao Tanker Corporation (8192); Mykonos Tanker LLC (8649); Nedimar Charter Corporation (9566); Oak Tanker Corporation (5234); Ocean Bulk Ships, Inc. (6064); Oceania Tanker Corporation (9164); OSG 192 LLC (7638); OSG 209 LLC (7521); OSG 214 LLC (7645); OSG 215 Corporation (7807); OSG 242 LLC (8002); OSG 243 LLC (7647); OSG 244 LLC (3601); OSG 252 LLC (7501); OSG 254 LLC (7495); OSG 300 LLC (3602); OSG 400 LLC (7499); OSG America LLC (2935); OSG America L.P. (2936); OSG America Operating Company LLC (5493); OSG Car Carriers, Inc. (1608); OSG Clean Products International, Inc. (6056); OSG Columbia LLC (7528); OSG Constitution LLC (8003); OSG Courageous LLC (2871); OSG Delaware Bay Lightering LLC (4998); OSG Discovery LLC (8902); OSG Endeavor LLC (5138); OSG Endurance LLC (2876); OSG Enterprise LLC (3604); OSG Financial Corp. (8639); OSG Freedom LLC (3599); OSG Honour LLC (7641); OSG Independence LLC (7296); OSG Intrepid LLC (7294); OSG Liberty LLC (7530); OSG Lightering Acquisition Corporation (N/A); OSG Lightering LLC (0553); OSG Lightering Solutions LLC (5698); OSG Mariner LLC (0509); OSG Maritrans Parent LLC (3903); OSG Navigator LLC (7524); OSG New York, Inc. (4493); OSG Product Tankers AVTC, LLC (0001); OSG Product Tankers I, LLC (8236); OSG Product Tankers II, LLC (8114); OSG Product Tankers, LLC (8347); OSG Product Tankers Member LLC (4705); OSG Quest LLC (1964); OSG Seafarer LLC (7498); OSG Ship Management, Inc. (9004); OSG Valour Inc. (7765); Overseas Allegiance Corporation (7820); Overseas Anacortes LLC (5515); Overseas Boston LLC (3665); Overseas Diligence LLC (6681); Overseas Galena Bay LLC (6676); Overseas Houston LLC (3662); Overseas Integrity LLC (6682); Overseas Long Beach LLC (0724); Overseas Los Angeles LLC (5448); Overseas Martinez LLC (0729); Overseas New Orleans LLC (6680); Overseas New York LLC (0728); Overseas Nikiski LLC (5519); Overseas Perseverance Corporation (7817); Overseas Philadelphia LLC (7993); Overseas Puget Sound LLC (7998); Overseas Sea Swift Corporation (2868); Overseas Shipping (GR) Ltd. (5454); Overseas ST Holding LLC (0011); Overseas Tampa LLC (3656); Overseas Texas City LLC (5520); Pearlmart Limited (7140); Petromar Limited (7138); Pisces Tanker Corporation (6060); Polaris Tanker Corporation (6062); Queens Product Tanker Corporation (2093); Reyman Limited (7131); Rich Tanker Corporation (9147); Rimar Chartering Corporation (9346); Rosalyn Tanker Corporation (4557); Rosemar Limited (7974); Rubymar Limited (0767); Sakura Transport Corp. (5625); Samar Product Tanker Corporation (9570); Santorini Tanker LLC (0791); Serifos Tanker Corporation (3004); Seventh Aframax Tanker Corporation (4558); Shirley Tanker SRL (3551); Sifnos Tanker Corporation (3006); Silvermar Limited (0766); Sixth Aframax Tanker Corporation (4523); Skopelos Product Tanker Corporation (9762); Star Chartering Corporation (2877); Suezmax International Agencies, Inc. (4053); Talara Chartering Corporation (3744); Third United Shipping Corporation (5622); Tokyo Transport Corp. (5626); Transbulk Carriers, Inc. (6070); Troy Chartering Corporation (3742); Troy Product Corporation (6969); Urban Tanker Corporation (9153); Vega Tanker Corporation (3860); View Tanker Corporation (9156); Vivian Tankships Corporation (7542); Vulpecula Chartering Corporation (8718); Wind Aframax Tanker Corporation (9562). The mailing address of the Debtors is: 1301 Avenue of the Americas, 42nd Floor, New York, NY 10019.

² The Fee Letter is the subject of the Debtors’ Motion for Entry of an Order Authorizing the Debtors to File An Unredacted Form of the Exit Financing Fee Letter Under Seal, filed simultaneously herewith. A redacted version of the Fee Letter is attached hereto as Exhibit C.

submit the declaration of Matthew R. Rosenberg, Managing Director of Chilmark Partners, LLC (“Chilmark”), attached hereto as Exhibit D (the “Rosenberg Declaration”). In further support of this Motion, the Debtors respectfully represent as follows:

Preliminary Statement³

1. Concurrently with the filing of this Motion, the Debtors filed an amended plan of reorganization (the “Amended Plan”) that substantially increases recoveries for the Debtors’ existing equity holders while maintaining the recoveries for creditors with allowed claims. Subject to this Court’s approval, the Amended Plan will generally pay in full or render unimpaired allowed creditor claims, and provide a more robust recovery to Old OSG Equity Interests than the Debtors’ prior plan delivered. To enable the Debtors to fund the distributions contemplated by the Amended Plan, an ad hoc group including certain equity holders (each, a “Commitment Party”, and collectively, the “Commitment Parties”) also committed severally and not jointly to backstop a \$1,500,000,000 rights offering that will be made available to all eligible equity holders. This Motion seeks approval of the final pillar of that plan—commitments for exit financing totaling \$1,350,000,000.

2. The terms of these commitments are the product of a thorough and extensive search to ensure competitive terms. Specifically, beginning in the fall of 2013, the Debtors and their advisors engaged in an extensive process to procure the exit financing necessary to consummate the Amended Plan. After a thorough review and analysis of nearly a dozen competing proposals, the Debtors first selected Goldman Sachs Bank USA (“Goldman Sachs”) to provide exit financing and filed a motion seeking authorization to enter into an exit financing agreement with Goldman Sachs. See D.I. 2936 (the “Goldman Sachs Motion”). However, within days of filing the

³ Initially capitalized terms not otherwise defined in this preliminary statement have the meanings ascribed to them in the Amended Plan, filed concurrently with this Motion.

Goldman Sachs Motion, the Debtors received alternative exit financing proposals from three additional exit financing lenders—including Jefferies—designed to support the Amended Plan.⁴

3. Following extensive discussions between the Commitment Parties and the Debtors, it became clear that supporting the Amended Plan would provide, on the whole, superior value to the Old OSG Equity Interests. The Debtors reviewed the exit financing proposals designed to support the Amended Plan, and after thorough negotiation and analysis, selected the Jefferies Exit Financing Documents because of the advantageous terms they included and the ability provided by the Jefferies Exit Financing Documents to fund the Amended Plan and its elevated recoveries.

4. The exit financing will consist of four loan facilities, secured by different portions of the business operations of the Reorganized Debtors. Jefferies will arrange (i) a senior secured exit term loan, with OSG International Inc. (“OIN”) as borrower (the “ITL Term Facility”), and (ii) a senior secured revolving credit facility, with OIN as borrower (the “ITL Revolving Facility”, and together with the ITL Term Facility, the “ITL Facilities”). Jefferies will also arrange (i) a senior secured asset-based revolving credit facility, with OSG Bulk Ships, Inc. (“OBS”) as borrower (the “ABL Facility”), and (ii) a senior secured exit term loan facility, with OBS as borrower (the “DTL Facility”, and together with the ITL Facilities and the ABL Facility, the “Exit Facility”). The terms of the Exit Financing Documents, if approved by this Court, will ensure that the Debtors have firm commitments to obtain the exit financing they require to reorganize as expeditiously as possible.

5. All of the borrowing obligations will be effective, and the majority of the fees due under the Exit Financing Documents will be payable, at closing, which will occur on the Effective

⁴ The Debtors have exercised their right to terminate the Goldman Sachs exit financing commitment, which arose by virtue of the Debtors’ support of the Amended Plan.

Date of the Amended Plan. Therefore, neither the loan obligations nor the majority of the fees due under the Exit Financing Documents will be incurred by the Debtors prior to emergence. Some fees, costs and expenses will be fully earned and payable upon approval of this Motion after the Debtors enter into the Exit Financing Documents

6. The Debtors anticipate obtaining approval of the Exit Facility in connection with confirmation of the Amended Plan. However, Jefferies has already committed substantial resources to completing its diligence process and negotiating and finalizing the Exit Financing Documents, and it will continue to incur expenses and professional fees in connection with finalizing, documenting, and syndicating the Exit Facility prior to the Debtors' emergence. The Debtors have filed this Motion to ensure that they have appropriate authority to pay Jefferies the commitment fee and other amounts required by the Exit Financing Documents to perform in accordance therewith, pending confirmation and effectiveness.

7. The Debtors submit that entering into the Exit Financing Documents, including incurring, paying, and affording the Pre-Emergence Exit Facility Obligations (as defined below) is reasonable, appropriate, and in the best interests of the Debtors, their creditors, and their estates, and should be approved.

Jurisdiction

8. This Court has jurisdiction to consider this Motion under 28 U.S.C. §§ 157 and 1334. This matter is a core proceeding within the meaning of 28 U.S.C. § 157(b). Venue of these cases and this Motion in this district is proper under 28 U.S.C. §§ 1408 and 1409.

9. The statutory bases for the relief requested herein are sections 105(a), 107(b), 363(b), 503(b) and 507(a)(2) of Title 11 of the United States Code, 11 U.S.C. §§ 101–1532 (the

“Bankruptcy Code”) and Rule 6004 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”).

Background

A. The Debtors’ Chapter 11 Cases

10. On November 14, 2012 (the “Petition Date”), the Debtors filed voluntary petitions for relief under Chapter 11 of the Bankruptcy Code, which cases are consolidated for procedural purposes only.

11. The Debtors own or operate approximately 80 tankers around the world, enabling the safe and efficient transport of oil and petroleum products. OSG is one of the largest publicly traded tanker holding companies worldwide, based on the number of vessels, and is the only major tanker holding company with both a significant U.S. Flag and international fleet.

12. A full description of the Debtors’ corporate structure and the events leading to the Chapter 11 cases is set forth in the Declaration of Captain Robert E. Johnston in Support of Chapter 11 Petitions and First Day Motions (D.I. 2), as filed with the Court on November 14, 2012.

13. The Debtors continue to operate their businesses and manage their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. No trustee or examiner has been appointed in the Debtors’ Chapter 11 cases.

14. The Office of the United States Trustee for the District of Delaware (the “U.S. Trustee”) appointed an Official Committee of Unsecured Creditors (the “Committee”) in the Debtors’ cases on November 29, 2012 (D.I. 97), and an Official Committee of Equity Security Holders (the “Equity Committee”) on March 17, 2014 (D.I. 2641).

B. The Debtors’ Amended Plan of Reorganization

15. Simultaneously with the filing of this Motion, the Debtors filed the Amended Plan and an amended disclosure statement. The Amended Plan will generally pay in full or render

unimpaired all allowed creditor claims, and provide for a significantly larger distribution to holders of the Old OSG Equity Interests than contemplated by the Debtors' prior plan.

Distributions to creditors under the Amended Plan are premised on, among other things, the Reorganized Debtors obtaining new funds through a \$1,500,000,000 infusion of new equity capital, the reinstatement of certain of the Debtors' prepetition notes and the Exit Facility. Subject to this Court's approval, the applicable Reorganized Debtors will enter into a \$1,350,000,000 Exit Facility.

C. The Debtors' Exit Financing Process

16. In the fall of 2013, the Debtors, with the assistance of their financial advisors at Chilmark, launched an extensive process to obtain the exit financing required for emergence. Chilmark and the Debtors formulated a list of potential lenders, and Chilmark then contacted each of the potential lenders to describe the opportunity in general terms and assess overall interest. Numerous potential lenders signed confidentiality agreements and were provided access to extensive information about the Debtors' business so that they could perform their diligence. Ultimately, five of them submitted non-binding letters of intent.

17. By March 2014, following several rounds of review with their advisors and further negotiations with potential lenders, the Debtors tapped Goldman Sachs to provide exit financing necessary to fund the plan of reorganization filed by the Debtors on March 7, 2014 (D.I. 2593) (the "Bank Lender Plan") and filed the Goldman Sachs Motion. However, within days of filing the Goldman Sachs Motion, the Debtors received alternative exit financing proposals from three additional exit financing lenders—including Jefferies—designed to support the Amended Plan. After consultation with their advisors, the Debtors chose to pursue the Amended Plan because of the superior value it provided to the Debtors' estates, and then selected the current exit financing structure provided by Jefferies to help fund the Amended Plan. The Exit Facility is the result of

thorough, good-faith, arm's-length negotiations between the Debtors and Jefferies. The Debtors have determined that the Exit Facility represents the Debtors' best opportunity to obtain liquidity to fund both the Amended Plan and the Debtors' emergence from Chapter 11.

The Exit Financing Commitment

18. The Commitment Letter represents a commitment by Jefferies to provide the Reorganized Debtors with the \$1,350,000,000 required to fund the Exit Facility. The Commitment Letter provides binding terms on which Jefferies will arrange the \$600,000,000 ITL Term Facility; the \$75,000,000 ITL Revolving Facility; the \$75,000,000 ABL Facility; and the \$600,000,000 DTL Facility. The terms of the ABL Facility are set forth in the term sheet attached to the Commitment Letter as Exhibit A (the "ABL Term Sheet"), the terms of the DTL Facility are set forth in the term sheet attached to the Commitment Letter as Exhibit B (the "DTL Term Sheet"), and the terms of the ITL Facilities are set forth in the term sheet attached to the Commitment Letter as Exhibit C (the "ITL Facilities Term Sheet"; the ITL Facilities Term Sheet together with the ABL Term Sheet and the DTL Term Sheet, the "Term Sheets"). Jefferies's commitments under the Exit Financing Documents will terminate if the Exit Facility is not closed by 11:59 p.m., New York City time, on August 31, 2014. The commitments are also subject to mutual termination rights by Jefferies or the Debtors upon an occurrence of certain events described in the Commitment Letter. The Alternate Transaction Fee (as defined below) will apply in the event of termination. Both Jefferies and the Debtors expect that the syndication will be successfully completed.

19. A summary of the Term Sheets and the fees, costs, and indemnities to be incurred and paid in connection with the Exit Facility is provided below. The Reorganized Debtors will pay the majority of these fees and incur the borrowing obligations on the effective date of the Amended Plan (the "Effective Date"). By this Motion, the Debtors seek authority to enter into the Exit

Financing Documents and incur and pay related fees, costs, and indemnity obligations as allowed administrative expenses to the extent that they are due and payable before consummation of the Amended Plan, as described below.

A. The Exit Facility

1. The ITL Term Facility

20. Along with the proceeds from the rights offering and certain available cash, the applicable Reorganized Debtors intend to use the proceeds from the ITL Term Facility to satisfy certain refinancing costs, distributions and payment obligations under the Amended Plan. The following summarizes the key terms of the ITL Term Facility:⁵

Overview of ITL Term Facility	
Provision	Summary of Provision
Borrowers:	(A) OIN and (B) a to-be-formed limited liability company organized under the laws of the State of Delaware or another U.S. jurisdiction, which shall be a direct and wholly-owned subsidiary of OIN (together, the “ <u>OIN Borrowers</u> ”).
Lead Arranger, Sole Book Runner, and Sole Syndication Agent:	Jefferies.
Administrative and Collateral Agent:	Jefferies or another financial institution selected by Jefferies and reasonably acceptable to the Company.
Lenders:	A syndicate of banks, financial institutions and other entities (excluding Disqualified Lenders) arranged by Jefferies in consultation with the Company.
Guarantors:	(A) OSG, (B) each of OIN’s existing wholly owned restricted subsidiaries and (C) each of OIN’s subsequently acquired or organized wholly owned restricted subsidiaries (clauses (B) and (C) collectively, the “ <u>Subsidiary Guarantors</u> ”), and clauses (A), (B), and (C) collectively, the “ <u>ITL Guarantors</u> ”), as joint and several guarantors of all obligations under the ITL Facilities, subject to certain exceptions as described in the ITL Facilities Term Sheet.
Facility:	A \$600,000,000 senior secured exit term loan facility.
Maturity:	On the 5-year anniversary of the Closing Date of the ITL Facilities (the

⁵ The summary of the ITL Term Facility is provided for the benefit of the Court and other parties in interest. To the extent that there are any conflicts between this summary and the ITL Facilities Term Sheet or the other Exit Financing Documents, the terms of the Exit Financing Documents shall govern. Capitalized terms used in the following summary and otherwise not defined therein shall have the meanings set forth in the Exit Financing Documents.

	<u>“ITL Facilities Closing Date”</u>).
Collateral:	The ITL Term Facility, as well as the ITL Revolving Facility, shall be secured by a perfected first priority security interest in (a) substantially all the assets of the OIN Borrowers and the Subsidiary Guarantors (together, the <u>“ITL Credit Parties”</u>), including (i) the vessels owned by such ITL Credit Parties and (ii) the leasehold interests in vessels of such ITL Credit Parties, (b) the equity interests in the ITL Credit Parties and certain equity interests held by the ITL Credit Parties; (c) certain intercompany debt, (d) certain concentration accounts; and (e) the proceeds of the foregoing. The collateral will also be subject to certain exceptions as described in the ITL Facilities Term Sheet.
Interest:	At the Borrowers’ option, either (i) at the Base Rate plus 4.25% <i>per annum</i> ; or (ii) at the reserve adjusted Eurodollar Rate plus 5.25% <i>per annum</i> , with the terms Base Rate and reserve adjusted Eurodollar rate having meanings customary and appropriate for financings of this type, subject to a reserve adjusted Eurodollar Rate “floor” of 1.00% and a Base Rate “floor” of 2.00%.
Events of Default:	Failure to make payments when due, defaults under other debt agreements or instruments, certain events under hedging agreements, noncompliance with covenants, breaches of representations and warranties, bankruptcy (including suspension of operations whether or not in bankruptcy), judgments in excess of specified amounts, ERISA and pension matters, impairment of security interests in collateral, invalidity or inadmissibility of Guarantees or any ITL Facilities Loan Document, illegality or impossibility, and “change of control”, in each case, subject to baskets, thresholds, qualifications and customary exceptions and grace periods to be agreed.
Covenants:	Usual and customary affirmative and negative covenants.

2. ITL Revolving Facility

21. The ITL Revolving Facility will remain undrawn as of the Effective Date and will be used following the Reorganized Debtors’ emergence from Chapter 11 to finance the ongoing operations and capital needs of OIN and its subsidiaries after emergence from Chapter 11. Currently, the aggregate amount of commitments in respect of the ITL Revolving Facility is \$75,000,000. The following summarizes the key terms of the ITL Revolving Facility:⁶

⁶ The summary of the ITL Revolving Facility is provided for the benefit of the Court and other parties in interest. To the extent that there are any conflicts between this summary and the ITL Facilities Term Sheet or the other Exit Financing Documents, the terms of the Exit Financing Documents shall govern. Capitalized terms used in the

Overview of ITL Revolving Facility	
Provision	Summary of Provision
Borrowers:	OIN Borrowers.
Lead Arranger, Sole Book Runner, and Sole Syndication Agent:	Jefferies.
Administrative and Collateral Agent:	Jefferies or another financial institution selected by Jefferies and reasonably acceptable to the Company.
Lenders:	A syndicate of banks, financial institutions and other entities arranged by Jefferies (excluding Disqualified Lenders) in consultation with and reasonably acceptable to OBS.
Guarantors:	The ITL Guarantors, as joint and several guarantors of all obligations under the ITL Facilities.
Facility:	A \$75,000,000 senior secured exit revolving credit facility.
Maturity:	On the four and one-half-year anniversary of the ITL Facilities Closing Date, subject to the Springing Maturity Date in the event that \$50,000,000 or more of the Company's 8.125% unsecured senior notes due 2018 remain outstanding 91 days before such stated maturity date.
Collateral:	The ITL Revolving Facility, as well as the ITL Term Facility, shall be secured by a perfected first priority security interest in (a) substantially all the assets of the ITL Credit Parties, including (i) the vessels owned by such ITL Credit Parties and (ii) the leasehold interests in vessels of such ITL Credit Parties, (b) the equity interests in the ITL Credit Parties and certain equity interests held by the ITL Credit Parties; (c) certain intercompany debt; (d) certain concentration accounts, and (e) the proceeds of the foregoing. The collateral will also be subject to certain exceptions as described in the ITL Facilities Term Sheet.
Interest:	At the Borrowers' option, either (i) at the Base Rate plus 3.50% <i>per annum</i> ; or (ii) at the reserve adjusted Eurodollar Rate plus 4.50% <i>per annum</i> , with the terms Base Rate and reserve adjusted Eurodollar rate having meanings customary and appropriate for financings of this type, subject to a reserve adjusted Eurodollar Rate "floor" of 1.00% and a Base Rate "floor" of 2.00%.
Events of Default:	Failure to make payments when due, defaults under other debt agreements or instruments, certain events under hedging agreements, noncompliance with covenants, breaches of representations and warranties, bankruptcy (including suspension of operations whether or not in bankruptcy), judgments in excess of specified amounts, ERISA and pension matters, impairment of security interests in collateral, invalidity or inadmissibility of Guarantees or any ITL Facilities Loan Document, illegality or impossibility, and "change of control", in each

following summary and otherwise not defined therein shall have the meanings set forth in the Exit Financing Documents.

	case, subject to baskets, thresholds, qualifications and customary exceptions and grace periods to be agreed.
Covenants:	Usual and customary affirmative and negative covenants.

3. ABL Facility

22. The ABL Facility will remain undrawn as of the Effective Date and will be used following the Reorganized Debtors' emergence from Chapter 11 to finance the ongoing operations and capital needs of Reorganized OSG, Reorganized OBS and their respective domestic subsidiaries. Currently, the aggregate amount of commitments in respect of the ABL Facility is \$75,000,000. The following summarizes the key terms of the ABL Facility:⁷

Overview of ABL Facility	
Provision	Summary of Provision
Borrowers:	(A) OSG Bulk Ships, Inc. and (B) one or more direct and wholly owned domestic subsidiaries of OBS that holds vessels to be pledged as collateral (together, the " <u>OBS Borrowers</u> ").
Lead Arranger, Sole Book Runner, and Sole Syndication Agent:	Jefferies.
Administrative and Collateral Agent:	Jefferies.
Lenders:	A syndicate of banks, financial institutions and other entities (excluding Disqualified Lenders) arranged by Jefferies in consultation with and reasonably acceptable to OBS.
Guarantors:	OSG and each of OSG's existing wholly owned domestic subsidiaries and each of OSG's subsequently acquired or organized wholly owned domestic subsidiaries (the " <u>ABL Guarantors</u> "), as joint and several guarantors of all ABL Facility obligations, subject to certain exceptions as described in the ABL Facility Term Sheet.
Facility:	A \$75,000,000 senior secured asset-based revolving credit facility.
Maturity:	On the four and one-half-year anniversary of the ABL Closing Date, subject to the Springing Maturity Date in the event that \$50,000,000 or more of the Company's 8.125% unsecured senior notes due 2018 shall not have been satisfied or discharged or shall otherwise remain outstanding 91 days before such stated maturity date.

⁷ The summary of the ABL Facility is provided for the benefit of the Court and other parties in interest. To the extent that there are any conflicts between this summary and the ABL Facility Term Sheet or the other Exit Financing Documents, the terms of the Exit Financing Documents shall govern. Capitalized terms used in the following summary and otherwise not defined therein shall have the meanings set forth in the Exit Financing Documents.

Collateral:	The ABL Facility will be secured by (a) a first preferred ship mortgage on certain vessels, (b) a perfected first priority security interest in certain other assets of the OBS Borrowers and the ABL Guarantors (together, the “ <u>ABL Credit Parties</u> ”), including receivables, certain deposit accounts and the contents thereof, securities, securities accounts and the contents thereof, commercial tort claims, certain inventory and related assets, certain vessels and related assets, and supporting obligations and proceeds of the foregoing (subject to certain exceptions to be agreed) (the “ <u>ABL Collateral</u> ”), and (c) perfected second priority security interests in substantially all other assets of the ABL Credit Parties, including (i) other vessels owned or leased by the ABL Credit Parties, (ii) certain bank accounts, (iii) certain intercompany debt, (iv) the equity interests in OBS and certain equity interests held by the ABL Credit Parties and (v) the proceeds of the foregoing as described in greater detail in the ABL Facility Term Sheet (the “ <u>DTL Term Collateral</u> ”), in each case, subject to certain exceptions described in the ABL Facility Term Sheet.
Interest:	At the Borrowers’ option, initially, either (i) at the Base Rate plus 1.50% <i>per annum</i> ; or (ii) at the reserve adjusted Eurodollar Rate plus 2.50% <i>per annum</i> , with the terms Base Rate and reserve adjusted Eurodollar rate having meanings customary and appropriate for financings of this type. Commencing at least 3 months after the ABL Closing Date, the applicable margin for loans under the ABL Facility will be subject to performance pricing adjustments as set forth on Attachment I attached to Exhibit C to the Commitment Letter.
Events of Default:	Based upon those in the DTL Facility, with such additional and/or different events of default as are appropriate to reflect the structure and asset-backed nature of the ABL Facility.
Covenants:	Usual and customary affirmative and negative covenants.

4. DTL Facility

23. The DTL Facility will be used by the Reorganized Debtors in accordance with the Amended Plan to fund, in part, certain refinancing costs, distributions and payment obligations under the Amended Plan. Currently, the aggregate amount of commitments in respect of the DTL Facility is \$ 600,000,000. The following summarizes the key terms of the DTL Facility:⁸

⁸ The summary of the DTL Term Facility is provided for the benefit of the Court and other parties in interest. To the extent that there are any conflicts between this summary and the DTL Term Facility Term Sheet or the other Exit Financing Documents, the terms of the Exit Financing Documents shall govern. Capitalized terms used in the

Overview of DTL Facility	
Provision	Summary of Provision
Borrower:	OSG Bulk Ships, Inc.
Lead Arranger, Sole Book Runner, and Sole Syndication Agent:	Jefferies.
Administrative and Collateral Agent:	Jefferies or another financial institution selected by Jefferies and reasonably acceptable to the Company.
Lenders:	A syndicate of banks, financial institutions and other entities (excluding Disqualified Lenders) arranged by Jefferies in consultation with the Company.
Guarantors:	OSG and each of OSG's existing wholly owned domestic subsidiaries and each of OSG's subsequently acquired or organized wholly owned restricted domestic subsidiaries (collectively with OBS, the " <u>DTL Term Loan Parties</u> "), as joint and several guarantors of all DTL Facility obligations, subject to certain exceptions as described in the DTL Facility Term Sheet.
Facility:	A \$600,000,000 senior secured exit term loan facility.
Maturity:	On the 5-year anniversary of the DTL Term Closing Date.
Collateral:	The DTL Facility will be secured by (a) perfected first priority security interests in the DTL Term Collateral <i>and</i> (b) a perfected second priority security interest in the ABL Collateral, in each case, subject to certain exceptions described in the DTL Facility Term Sheet.
Interest:	At the Borrowers' option, either (i) at the Base Rate plus 3.75% <i>per annum</i> ; or (ii) at the reserve adjusted Eurodollar Rate plus 4.75% <i>per annum</i> , with the terms Base Rate and reserve adjusted Eurodollar rate having meanings customary and appropriate for financings of this type, subject to a reserve adjusted Eurodollar Rate "floor" of 1.00% and a Base Rate "floor" of 2.00%.
Events of Default:	Failure to make payments when due, defaults under other debt agreements or instruments, certain events under hedging agreements, noncompliance with covenants, breaches of representations and warranties, bankruptcy (including suspension of operations whether or not in bankruptcy), judgments in excess of specified amounts, ERISA and pension matters, impairment of security interests in collateral, invalidity or inadmissibility of Guarantees or any DTL Facility Loan Document, illegality or impossibility, and "change of control", in each case, subject to baskets, thresholds, qualifications and customary exceptions and grace periods to be agreed.
Covenants:	Usual and customary affirmative and negative covenants.

following summary and otherwise not defined therein shall have the meanings set forth in the Exit Financing Documents.

B. Fees, Indemnities, Costs and Expenses to Be Incurred Under the Exit Financing Documents

24. Entry into the Exit Financing Documents obligates the Debtors to incur and pay certain fees and costs, and furnish certain indemnities in connection with the Exit Facility, as set forth in the Commitment Letter and the Fee Letter. The Debtors seek authority to incur and pay or reimburse all of the fees, indemnities, costs and expenses set forth in the Exit Financing Documents as and when such amounts are incurred and become due and payable. Certain of these payment obligations are to be incurred by the Debtors prior to the effective date of the Amended Plan (and may become payable prior to the effective date) (the “Pre-Emergence Exit Facility Obligations”) and include the following:⁹

1. Reimbursement of Costs and Expenses: As more fully set forth in the Exit Financing Documents (and subject to the limitations set forth therein), and whether or not the Exit Facilities are funded, the Debtors are required to reimburse Jefferies periodically for their reasonable documented out-of-pocket costs and expenses incurred in connection with the Exit Facility, including expenses associated with the syndication of the Exit Facility, fees and expenses relating to appraisals and field examinations and the expenses and the reasonable fees and disbursements of its attorneys and advisors (including a single maritime insurance advisor), plus any sales, use or similar taxes (including additions to such taxes, if any) arising in connection with any matter referred to in the Exit Financing Documents.
2. Indemnification: As more fully set forth in Annex A to the Commitment Letter, the Debtors are required to periodically reimburse Jefferies, any of its affiliates or any of their respective partners, members, officers, directors, employees, agents or controlling persons (as defined in the Exit Financing Documents, each an “Indemnified Person”), in the event that an Indemnified Person becomes involved in any capacity in any action, proceeding or investigation brought by or against any person, including shareholders, partners, members or other equity holders of the

⁹ This summary of the Exit Financing Documents obligations is provided for the benefit of the Court and other parties in interest. To the extent that there are any conflicts between this summary and the Exit Financing Documents, the terms of the Exit Financing Documents shall govern. Capitalized terms used in the following summary and otherwise not defined therein shall have the meanings set forth in the Exit Financing Documents.

Company or any of its subsidiaries in connection with or as a result of either the arrangements set forth in the Commitment Letter or any matter referred to in the Commitment Letter or Fee Letter (as defined in Annex A to the Commitment Letter, a “Claim”). The Debtors are required, subject to certain limitations, to periodically reimburse each Indemnified Person for its reasonable documented or invoiced out-of-pocket legal and other expenses (including the cost of any investigation and preparation) incurred in connection with any such Claim; provided, however, that no Indemnified Person will be indemnified for costs, expenses, or liability to the extent that they have been found by a final and non-appealable judgment of a court of competent jurisdiction to have resulted from (i) the gross negligence or willful misconduct by such Indemnified Person, (ii) a material breach of any express obligations of such Indemnified Person under the Commitment Letter or the Fee Letter, or (iii) any proceeding solely between or among any Indemnified Persons not arising from any act or omission by the Debtors or any of their subsidiaries or affiliates (other than against Jefferies, in its capacity as sole lead arranger, sole bookrunner, sole syndication agent or similar role, or any of the Agents (as defined in the Commitment Letter) in their respective capacities as such).

3. Ticking Fee: For the purpose of allocating such amounts to prospective investors in order to facilitate syndication of the Exit Facility, the Exit Financing Documents contemplate a ticking fee (the “Ticking Fee”) equal to a specified ticking fee rate (expressed as a percentage per annum) multiplied by the maximum amount of commitments under the DTL Facility and the ABL Facility, in the case of OSG and OBS, and the ITL Term Facility and the ITL Revolving Facility, in the case of OIN, which fee will accrue, with respect to each facility, from a date specified in the Fee Letter through the earlier of (i) the date of termination or expiration of the Commitment Letter in accordance with its terms and (ii) the Closing Date.
4. Alternate Transaction Fee: The Exit Financing Documents contemplate that Jefferies will be entitled to a fee (the “Alternate Transaction Fee”) in an amount equal to a specified percentage of the Commitment Fees (as defined in the Fee Letter) that would have been payable to it on the closing date of the Exit Facility in certain limited circumstances relating to the consummation of an alternate exit financing transaction.

25. In addition to these payment obligations, the Exit Financing Documents obligate the Reorganized Debtors to pay to Jefferies and each of the Lenders (as defined in the

Commitment Letter) certain fees in connection with the Exit Facility, including certain commitment and agency fees (together with all other amounts any Reorganized Debtor is obligated to pay pursuant to the Exit Financing Documents, the “Exit Facility Fees”), which shall be fully earned and nonrefundable when paid. Except with respect to the Pre-Emergence Exit Facility Obligations, these Exit Facility Fees will be payable by the Reorganized Debtors in connection with the consummation of the Amended Plan and the Exit Facility on the Effective Date.

Relief Requested

26. By this Motion, the Debtors seek an order substantially in the form of Exhibit A attached hereto, pursuant to sections 363(b)(1) and 503(b) of the Bankruptcy Code, and Bankruptcy Rule 6004, (a) approving the Exit Financing Documents; (b) authorizing the Debtors to enter into and perform under the Exit Financing Documents (including, but not limited to entering into any related documentation contemplated by the Exit Financing Documents to effectuate the Exit Financing Documents’ terms), and incur and pay the Pre-Emergence Exit Facility Obligations in connection with and on the terms provided for in the Exit Financing Documents as administrative priority expenses pursuant to sections 503 and 507 of the Bankruptcy Code (and not subject to disgorgement); (c) authorizing the Reorganized Debtors, as of the Effective Date and with respect to consummation of the Exit Facility, to incur and pay all other Exit Facility Fees in connection with the Exit Financing Documents; and (d) granting such other and further relief as is just and proper.

Basis for Relief

- A. Entering Into the Exit Financing Documents and Incurring the Pre-Emergence Exit Facility Obligations is a Sound Exercise of Debtors' Business Judgment

27. Section 363(b)(1) of the Bankruptcy Code provides, in relevant part, that a debtor, "after notice and a hearing, may use, sell, or lease, other than in the ordinary course of business, property of the estate." 11 U.S.C. § 363(b)(1). Courts should approve a non-ordinary-course transaction if the proposed use of the estate assets falls within the debtor's reasonable business judgment. See, e.g., In re Martin, 91 F.3d 389, 395 (3d Cir. 1996) (stating that a court generally defers to the trustee's judgment so long as there is a legitimate business justification). "In evaluating whether a sound business purpose justifies the use, sale or lease of property under Section 363(b), courts consider a variety of factors, which essentially represent a 'business judgment test.'" Dai-Ichi Kangyo Bank, Ltd. v. Montgomery Ward Holding Corp. (In re Montgomery Ward Holding Corp.), 242 B.R. 147, 153 (D. Del. 1999).

28. Entering into the Exit Financing Documents and incurring and paying the Pre-Emergence Exit Facility Obligations is a sound exercise of the Debtors' business judgment. The Debtors, with the assistance of their professionals, have performed an in-depth review of their post-emergence capital needs and have determined that they require a sizeable exit facility to emerge from Chapter 11. Without the exit financing contemplated in the Commitment Letter, Debtors will be unable to effectuate the terms of the Amended Plan. Moreover, the Debtors selected the terms of the Exit Facility after performing a thorough market search, with the assistance of Chilmark, to identify parties capable of providing the financing required by the Reorganized Debtors at market terms and with minimal execution risk. The Exit Financing Documents were the subject of extensive, good-faith, arm's-length negotiations between the Debtors and Jefferies and their principals and advisors. The Exit Financing Documents include the

best-available, reasonable terms currently obtainable by the Debtors and the Debtors believe such terms are fair and reasonable.

29. Furthermore, this Court regularly authorizes debtors to enter into agreements like the one proposed here. See In re Cooper Standard, No. 09-12743 (Bankr. D. Del. Apr. 19, 2010) (PJW) (D.I. 1243) (order approving motion to enter into anticipated exit financing agreements and incur and pay related fees); see also, e.g., In re LCI Holding Co., Inc., No. 12-13319 (Bankr. D. Del. May 21, 2013) (D.I. 767); In re NewPage Corp., No. 11-12804 (Bankr. D. Del. Nov. 6, 2012) (D.I. 2626); In re AbitibiBowater Inc., No. 09-11296 (Bankr. D. Del. July 14, 2010) (D.I. 2636); In re Smurfit-Stone Container Corp., No. 09-10235 (Bankr. D. Del. Jan. 14, 2010) (D.I. 4138); In re Spansion, Inc., No. 09-10690 (Bankr. D. Del. Jan. 7, 2010) (D.I. 2197); In re Buffets Holdings, Inc., No. 08-10141 (Bankr. D. Del. Mar. 4, 2009) (D.I. 2181).

30. Without authorization to satisfy their obligations under the Exit Financing Documents, the Debtors' prospects to fully fund their Amended Plan are uncertain. Therefore, the Debtors respectfully submit that it is in the best interest of their estates, their creditors, their equity security holders and other parties in interest for the Court to authorize entry into the Exit Financing Documents.

B. The Pre-Emergence Exit Facility Obligations—Actual, Necessary Costs and Expenses of Preserving the Debtors' Estate—are Administrative Expenses under Section 503(b) of the Bankruptcy Code

31. As noted above, the Exit Financing Documents obligate the Debtors to incur and pay the Pre-Emergence Exit Facility Obligations. The Pre-Emergence Exit Facility Obligations constitute "necessary costs and expenses of preserving the estate." 11 U.S.C. § 503(b)(1)(A).

32. First, without payment of the relevant reimbursable expenses and agreement to indemnify each of the Indemnified Persons, the Debtors would be unable to secure Jefferies's

commitment to arrange the Exit Facility. This would jeopardize the Debtors' ability to consummate the Amended Plan and seek an expedited emergence from Chapter 11, thereby impairing the value of the Debtors' businesses to the detriment of their stakeholders. These obligations, therefore, should be awarded administrative expense status under section 503(b)(1) of the Bankruptcy Code.

33. In addition, the Alternate Transaction Fee should be approved under section 503(b) of the Bankruptcy Code as necessary to preserve the value of the Debtors' estates. The legal standard governing the award of "break-up fees" and similar fees in the Third Circuit was established in Calpine Corp. v. O'Brien Env'tl. Energy, Inc. (In re O'Brien Env'tl. Energy, Inv.), 181 F.3d 527 (3d Cir. 1999); see also In re Reliant Energy Channelview, LP, 403 B.R. 308, 311 (D. Del. 2009), affirmed by 594 F.3d 200 (3d Cir. 2010) (citing O'Brien as outlining the relevant legal standard governing break-up fees in the Third Circuit). In O'Brien, the Third Circuit surveyed different approaches to break-up fees and concluded that none of the different approaches taken by other courts "offer[ed] a compelling justification for treating an application for break-up fees and expenses under § 503(b) differently from other applications for administrative expenses under the same provision." Id. at 535. The Third Circuit went on to state: "the allowability of break-up fees, like that of other administrative expenses, depends upon the requesting party's ability to show that the fees were actually necessary to preserve the value of the estate." Id. (emphasis added).

34. The Exit Financing Documents represent the best financing available to the Debtors under current market conditions and are critical to the consummation of the Amended Plan and are "actually necessary to preserve the value of the estate." Importantly, the Exit Financing Documents ensure that the Debtors have the necessary financing to consummate the Amended Plan, if approved, and emerge expeditiously from Chapter 11. Therefore, the ability to

lock in a commitment for their exit financing provides a tremendous benefit to the Debtors' estates. Furthermore, the Alternate Transaction Fee is limited to a substantially discounted portion of the commitment fees that would otherwise be payable under the Exit Facility, and the circumstances in which such a fee would become payable are entirely within the Debtors' control. The Alternate Transaction Fee was the subject of the extensive negotiation process between the Debtors and Jefferies.

35. Furthermore, not only was the Alternate Transaction Fee the subject of an extensive negotiation process between the Debtors and Jefferies, it is well within the acceptable range for fees of this sort. The "rule of thumb" is that permissible "break-up" type fees and expense reimbursements should not exceed more than 3 to 5 percent of the proposed deal value.¹⁰ Here, the proposed Alternate Transaction Fee is under any circumstance less than 3 percent of the overall commitment. Because Jefferies requires the Alternate Transaction Fee to enter into the Exit Financing Documents, and because the Exit Facility is essential to the Debtors' ability to consummate the Amended Plan, the Alternate Transaction Fee is "necessary to preserve the value of the estate[s],"¹¹ and the Debtors should be authorized to effectuate the Exit Financing Documents.

¹⁰ See, e.g., *In re Muzak Holdings LLC*, Case No. 09-10422 (KJC) (Bankr. D. Del. Dec. 21, 2009) (Docket No. 732) (approving a 3.5 percent break-up fee and an undisclosed expense reimbursement); *In re Fairchild Corp.*, Case No. 09-10899 (CSS) (Bankr. D. Del. Apr. 17, 2009) (Docket No. 169) (approving a combined 4.5 percent break-up and expense reimbursement, including a 1.5 percent expense reimbursement); *In re Tallygenicom, L.P.*, Case No. 09-10266 (CSS) (Bankr. D. Del. Feb. 19, 2009) (Docket No. 130) (approving a combined 4.1 percent break-up fee and expense reimbursement, including a 2.0 percent expense reimbursement); *In re Monaco Coach Corp.*, Case No. 09-10750 (KJC) (Bankr. D. Del. Apr. 20, 2009) (Docket No. 240) (approving a combined 5.8 percent break-up fee and expense reimbursement, including a 2.4 percent expense reimbursement); *In re Nortel Networks Inc.*, Case No. 09-10138 (Bankr. D. Del. Feb. 27, 2009) (Docket No. 386) (approving a combined 5.9 percent break-up fee and expense reimbursement, including a 2.3 percent expense reimbursement); *In re Hines Horticulture Inc.*, Case No. 08-11922 (KJC) (Bankr. D. Del. Dec. 9, 2008) (Docket No. 355) (approving a combined 3.9 percent break-up fee and expense reimbursement, including a 1.3 percent expense reimbursement).

¹¹ *O'Brien*, 181 F.3d at 535.

Waiver of Bankruptcy Rule 6004(h)

36. Although Bankruptcy Rule 6004(h) provides that an “order authorizing the use, sale, or lease of property . . . is stayed until the expiration of 14 days after the entry of the order, unless the court orders otherwise,” a court may waive this stay period “when there is a sufficient business need to close the transaction.” In re Boscov’s, Inc., 2008 WL 4975882, *2 (Bankr. D. Del. Nov. 21, 2008).

37. There is no reason to delay the effectiveness of the Proposed Order. Working in good faith with the Debtors, Jefferies has already incurred diligence and professional expenses with respect to negotiating the Exit Financing Documents. Furthermore, Jefferies will incur further pre-effective date expenses and professional fees in finalizing the documentation for, and syndicating, the Exit Facility—all of which is necessary to allow the Debtors to emerge as expeditiously as possible. Thus, it is important that the Exit Financing Documents become effective immediately to give Jefferies the certainty that it can move forward with the process, assured that it will be compensated for incurring the related costs. This will allow the parties to focus on completing the definitive documentation for the Exit Facility and help ensure the Debtors’ expeditious exit from Chapter 11. Accordingly, waiver of the 14-day stay period under Bankruptcy Rule 6004(h) is appropriate.

Notice

38. Notice of the Motion has been provided via hand delivery or first class mail to (i) the U.S. Trustee; (ii) counsel to the Committee; (iii) counsel to the Equity Committee; (iv) counsel to Jefferies; and (v) counsel to those entities that are required to be noticed in accordance with Bankruptcy Rule 2002. The Debtors submit that no other or further notice need be given.

No Prior Request

39. No previous motion or application for the relief sought in the Motion has been made to this Court or any other Court.

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Conclusion

WHEREFORE, the Debtors respectfully request the Court enter an Order, substantially in the form attached hereto as Exhibit A, granting the Motion and such other relief as may be just or proper.

Dated: May 2, 2014
Wilmington, Delaware

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